

CHAPTER 28
Subdivision Ordinance

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28.01. Authority and Jurisdiction.

28.01.01. Authority.

Pursuant to the authority granted by SDCL 11-4 and 11-6, as amended, the following regulations are hereby adopted by the Common Council of the City of Hot Springs, South Dakota.

28.01.02. Purpose.

These regulations are adopted to provide for the harmonious development of the City and its environs; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the comprehensive plan; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, and convenience through the provision for an adequate scale of streets, or roads, sanitary, water, utility and other improvements as land is subdivided.

28.01.03. Jurisdiction.

These regulations shall govern all subdivisions of land within the jurisdiction of the City of Hot Springs. Subdivisions governed are hereinafter defined under 28.02.

28.02. Definitions.

28.02.01. Definitions.

1. "Alley". A minor public way having a narrow right-of-way and affording a secondary means of access to abutting properties.
2. "Auditor". The Finance Officer of Hot Springs, South Dakota.
3. "Bond". Security consisting of a cash deposit, surety bond, personal guarantee, collateral, property, or instrument of credit in an amount and form satisfactory to and approved by the Common Council whenever a bond is required by these regulations.
4. "Certificate of Occupancy". The instrument issued by the Building Inspector when a building has been inspected and found to meet adopted codes and ordinances relating to construction. Such certificate authorizes occupancy of said building.
5. "Comprehensive/Development Plan". Any legally adopted part or element of the comprehensive/development plan of the City of Hot Springs. This may include but is not limited to: zoning ordinance, subdivision ordinance, community facilities plan, major street plan, improvements program, and land use plan.
6. "Cul-de-sac". A local street with only one (1) outlet and having an appropriate turn-around at its terminus for the safe and convenient reversal of traffic.
7. "Easement". A right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation, or particular persons for specified uses.
8. "Engineer".
 - a. The duly designated engineer acting in behalf of the governing body.
 - b. The Public Works Engineer
9. "Final Plat". A plat of a tract of land which meets the requirements of these regulations and is in form for recording in the office of the Register of Deeds of Fall River County.

10. "Fuelbreak". A strategically located strip or block of land varying in width, on which some vegetation has been modified to reduce the rate of fire spread to provide a safe place for fire fighters to work and where fires may be more readily controlled. A fuelbreak usually provides all wheel drive access and an advantageous area for quickly and safely constructing and manning a fire line
11. "Governing Body". The duly elected officials of a corporate political entity to whom authority is given to make, adopt, and amend subdivision regulations.
12. "Health Department". South Dakota Department of Environment and Natural Resources. (SD-DENR)
13. "Hammerhead Turn-A-Round". A 'Tee' at a driveway, road or street intersection that is at least twenty feet (20') wide and where each leg is at least thirty feet (30') long An area sufficient to provide a turn-a-round for emergency response vehicles.
14. "Lanes". Residential streets servicing low-density residential districts that typically receive localized low-traffic patterns.
15. "Lot". A platted parcel of land intended to transfer ownership or for building development.
16. "Low Density". Subdivisions having an average density of one and one-half (1½) lots per acre or less.
17. "Major Street Plan". The major street plan adopted as an element of the comprehensive/development plan.
18. "Major Subdivision". All subdivisions of four (4) or more lots.
19. "Master Drainage and Flood Control Plan". The City of Hot Springs' Erosion and Sediment Control Ordinance.
20. "Minor Subdivision". Any subdivision containing no more than three (3) lots.
21. "Mountain Subdivision". All subdivisions located within the limits of the Black Hills Fire District of South Dakota and also any subdivision where contours for any given cross section of the subdivision indicate an average cross slope greater than fifteen percent (15%).
22. "Owner's Engineer". The registered Land Surveyor or the Civil Engineer registered and in good standing with the South Dakota Board of Professions who is the agent of

- the owner of land which is proposed to be subdivided or which is in the process of being subdivided.
23. "Planning and Zoning Commission". The City of Hot Springs Planning and Zoning Commission, also herein referred to as 'Commission' or 'the Commission' or 'the Planning Commission'.
 24. "Preliminary Plat". The map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of this ordinance, to permit the evaluation of the proposal prior to detailed engineering and design.
 25. "Register of Deeds". The duly designated Register of Deeds of Fall River County, South Dakota.
 26. "Sketch Plan". The sketch map or maps of a proposed subdivision, drawn and submitted in accordance with the requirements of this ordinance, to evaluate feasibility and design characteristics at an early stage in the planning.
 27. "Specifications". The specifications which have been adopted by the governing body.
 28. "Street". A tract of land, dedicated to public use, which affords the primary means of access to the abutting property, but excluding the private driveways serving only one (1) parcel of land.
 29. "Street, Collector". A road intended to move traffic from residential streets to minor arterial streets.
 30. "Street, Major Arterial". A road of considerable continuity, which is primarily a through-traffic artery for interconnection among large areas.
 31. "Street, Minor Arterial". A road supplementary to the major streets and primarily a means of interconnection between minor traffic-generating areas. These streets carry traffic from collector streets to the major arterial streets.
 32. "Street, Residential". A lane, a minor, major or low-density residential street intended to provide access to other streets or roads.
 33. "Subdivider". The person(s), firm(s), or corporation(s), owning land in the process of creating a subdivision of said land.

34. “Subdivision”. Any division of any parcel or parcels of land for the purpose of transfer of ownership, which creates two (2) or more smaller parcels of land (hereinafter referred to as lots). The use of the term “subdivision” includes:
 - a. the dedication of a road, highway, street, or alley, within the subdivided land;
 - b. a re-subdivision of a previously subdivided parcel of land (a lot);
 - c. any building development project involving subdivided land;
 - d. the establishment of a deeded private driveway. When appropriate, the term “subdivision” shall relate to:
 - i. the process of subdividing;
 - ii. a parcel of land which is being or has been subdivided.
35. “Utilities”. Municipal and franchised utilities.
36. “Vicinity Map”. A map indicating the location of the whole planned subdivision in relation to the City of Hot Springs or other immediately recognizable and distinguishable subdivision or landmark.
37. “Zoning Administrator”. The official designated by the City Council to administer the City’s zoning regulations.
38. “Zoning Ordinance”. The zoning ordinance of the City of Hot Springs, South Dakota

28.03. Outline of Procedure.

28.03.01. General.

The applicant or a designated agent shall attend each meeting where action is requested. If represented by an agent, such designation shall be in writing and filed with the application.

28.03.02. Vicinity map, street names.

- A. A vicinity map shall accompany or be shown on the preliminary plan or sketch plan at a legible scale showing all existing subdivision streets, tract lines or acreage parcels adjoining the proposed subdivision. It shall show how streets in the proposed subdivision connect with existing and proposed streets in adjoining subdivisions and future street openings to undeveloped property, to produce the most advantageous development of the adjoining area.
- B. The subdivider shall submit proposed street names for E-911 approval with the preliminary plat or sketch plan.
 1. Minor subdivision. A sketch plan may be submitted as a preliminary plat for a minor subdivision. If the property proposed for development involves areas where it would be desirable to impose additional requirements, the administrative official may require some or all the data contained in the requirements for preliminary plat for major subdivisions.
 2. Major subdivision. The plat submitted shall be of such scale that all survey, mathematical information, and all other details are clearly and legibly shown. Each lot and block shall be lettered or numbered. The area in square feet and dimensions of all boundaries of each lot shall be shown. The plat shall also show:
 - a. Proposed legal description.

- b. The proposed name of the subdivision.
- c. North arrow, scale.
- d. The boundary line (accurate in scale) of the tract to be subdivided.
- e. If deemed appropriate by the Commission, a topographic map with minimum five-foot contours shall be provided.
- f. Drainage plan and, if applicable, a FEMA floodplain map overlay.
- g. The names of adjacent property owners and lot descriptions.
- h. The location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract.
- i. All parcels of land intended to be dedicated for public use or reserved in the deeds for use of all property owners in the proposed subdivision, together with the purpose of conditions or limitations of such reservation, if any.
- j. The layout, names (if previously approved), and widths of existing and pro-posed streets and easements.
- k. When required by the Commission, the preliminary plat shall be accompanied by:

- i. The profile of each street with tentative grades for a reasonable distance beyond the limits of the subdivision.
- ii. The cross section of proposed streets showing the width of roadways, locations and width of sidewalks. All elevations shall be based upon mean sea level datum.

3. Where a replat of an existing plat is being submitted for consideration, the location of the existing plat shall be indicated by insertion of

broken lines and a statement, where appropriate, vacating the former plat.

C. Floodplain revisions. At the time of preliminary plat submittal, the applicant shall provide a copy of the Letter of Map Change request as submitted to the Flood Emergency Management Agency (FEMA). If there is no floodplain on the subject property, this requirement may be waived if not applicable. The city may refuse to accept a preliminary plat without this letter and may also refuse to accept a preliminary plat where a flood plain may exist and the Floodplain Administrator has made a written determination that a Letter of Map Revision is required.

28.03.04. Administrative Procedures.

In addition to the requirements established herein, all new plats, re-plats, subdivision plats and the vacating of any improved street, alley or right-of-way shall be reviewed by the City of Hot Springs Planning and Zoning Commission to ensure compliance with the City of Hot Springs Comprehensive Plan.

A. Governing body approval of plats.

1. Minor subdivision:

- a. Application shall be made in the form of a letter of intent outlining the nature and purpose of the subdivision. Such application and required documentation shall be presented to the Zoning Administrator no less than fifteen (15) days prior to the next scheduled meeting of the Commission;
- b. For all properties where changes in the floodplain are proposed, written verification from FEMA that the Letter of Map Revision has been approved;

- c. Sketch plan approval by the Zoning Administrator;
- d. Commission review of proposed subdivision with recommendations to Council within thirty (30) days of review;
- e. Applicant shall submit a final plat and submit mylar, one (1) full-size copy (to scale) and one (1) 11x17 copy, to the Zoning Administrator for Council review.
- f. Approval or disapproval by the common council within thirty (30) days of review.
- g. Recording.

2. Major subdivision:

- a. Application shall be made in the form of a letter of intent outlining the nature and purpose of the subdivision. Such application and required documentation shall be presented to the Zoning Administrator no less than fifteen (15) days prior to the next scheduled meeting of the Commission;
- b. For all properties where changes in the floodplain are proposed, written verification from FEMA that the Letter of Map Revision has been approved;
- c. Sketch plan approval by the Zoning Administrator;
- d. Commission's preliminary review of proposed subdivision. Establish development requirements;
- e. When required by the Commission, submit copies of the plat for distribution and review of applicable utility companies and city, county, state and federal agencies. Such agencies shall have thirty (30) days to respond.

- f. Commission's final review. Recommendation to the common council within thirty (30) days of final review;
- g. Applicant shall submit a final plat and submit mylar, one (1) full-size copy (to scale) and one (1) 11x17 copy, to the Zoning Administrator for Council review.
- h. Approval or disapproval by the common council within thirty (30) days of review;
- i. Recording.

28.03.05. Infrastructure completion prior to recording of final plat.

A. No final plat of a Major Subdivision may be recorded before the installation and city approval of all public improvements including, but not limited to: paved streets, curb, gutter, sidewalk, water lines, sewer lines (including sanitary district lines) and drainage improvements. The City Council may grant a special exception to allow a delay in the laying of asphalt during times of the year when asphalt is not available per the following conditions:

- 1. A letter of credit, bond, or other guarantee for asphalt paving is provided and names the City of Hot Springs as the beneficiary.
- 2. All building permits issued will contain a clause stating that no structure may be occupied before street paving is complete and accepted by the city.
- 3. Where no street improvements exist but a final plat is recorded, these provisions shall not prohibit the city from issuing a building permit provided that the permit is issued with notice to the contractor/owner that no garbage collection or plowing of the street can take place until final street improvements are installed.

B. The Commission may also require additional bonding where necessary to ensure the completion of infrastructure, drainage or landscaping requirements.

28.03.06. Final Plats.

A. The final plat shall be submitted in the form of one (1) mylar, one (1) full-size copy (to scale), one (1) 11x17 copy. The final plat shall be drawn to scale of not more than one (1) inch equals one hundred (100) feet and shall show:

1. Name and legal description of subdivision.
2. Name and address of the owner.
3. North arrow, scale.
4. The boundary lines with accurate distances and bearings, the exact location and widths of all existing or recorded streets and ways intersecting the boundary of the tract.
5. True bearings and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat; municipal, township, county or section lines accurately tied to the lines of the subdivision by distances and bearings.
6. An accurate vicinity map of the subdivision in reference to the real estate records of the county including names of adjacent recorded owners of property.
7. Streets and alleys together with approved names.
8. The length of all arcs, radii, internal angles and points of curvature.
9. All existing and proposed easements and rights-of-way provided for public services, utilities or access and any limitations of the easements.

10. All block indications, lot numbers and lot lines with accurate dimensions in feet and hundredths, and bearings or angles in degrees, minutes and seconds.
11. The accurate location, material and approximate size of all monuments.
12. The designation of easements and rights-of-way and all property which is offered for dedication for the public use, with the purpose indicated thereon, and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision.
13. Monuments shall be located and/or set at each angle and curve point on the outside boundary lines of the plat, at all block corners and at all intermediate points on the block lines indicating a change of direction in the lines. The plat shall indicate that the monuments have been set or found.

28.04. Design Standards.

28.04.01. Conformity to Comprehensive Development Plan.

Designs shall conform to the City of Hot Springs Comprehensive Development Plan. The following requirements of design and development are to be considered as minimum standards.

28.04.02. Duties of subdivider.

- A. Provide typical sections and profiles of the proposed streets showing widths and grades of roadways, types of surfacing, curb locations and width and location of sidewalks.

- B. Provide preliminary layout plan and profiles of proposed sanitary and storm sewers, with tentative grades, pipe sizes and the location of appurtenances.
- C. Provided preliminary layout plan and profiles of the proposed water distribution system showing tentative pipe sizes and location of appurtenances.
- D. Provide Lighting plan.

28.04.03. Relation to adjoining street system.

- A. A subdivision shall provide for the continuation of the principal streets existing in the adjoining subdivisions or of their proper projection when adjoining property is not subdivided, and such streets shall be of a width not less than the minimum requirements for streets set forth in the regulations of this chapter.
- B. Where the plat submitted covers only a part of the subdivider's tract, drawing of the prospective future street system of the entire tract shall be furnished and the street system of the part submitted shall be considered in light of conformity to the street system of the entire tract.
- C. Where a tract is subdivided into lots of an acre or more, the planning commission may require an arrangement of lots and streets such as to permit a later subdivision in conformity to the street requirements and other requirements contained in this chapter.
- D. No lane, road, avenue, street or platted street or right-of-way shall be accessed through any privately owned property or by any subdivision or development except where that access has been reviewed by the Planning Commission and accepted by the City as a deeded or platted access, and in no case shall any lane, road, avenue or street receive traffic flow greater than its intent and design.

28.04.04. Street Plan.

A. In order to provide for roads of suitable location, width, and improvement to accommodate prospective traffic and afford satisfactory access to emergency services, snow removal, sanitation, and road maintenance equipment and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following minimum design standards for roads are hereby required.

1. Minimum Designs Standards.

Residential streets Table 28.04.04(A)(1)(a)

	Lane	Minor Residential	Major Residential*	Low Density Residential
Volume (ADT)	100	Up to 300	Up to 1,000	
Design Speed	15 mph	20 mph	25 mph	30 mph
ROW Width	30'	50'	60'	60'
Traveled Width	20'	29'	38'	24', 2-ft paved shoulders
Parking	No	One side	Both sides	No
Curb/Gutter (see 28.05.03)	No	Yes	Yes	No
Sidewalk 5'	No	One side	Both sides	No

* Minimum standard for districts with average density greater than five (5) lots per acre.

Arterial streets Table 28.04.04(A)(1)(b)

	Residential Collector	Major Arterial	Minor Arterial
Volume (ADT)	up to 3,000	up to 5,000	up to 3,000
Design Speed	25 mph	35 mph+	35 mph
ROW Width	60'	70'	60'
Traveled Width	40'	48' *	36' *
Parking	Optional*	No	No
Curb/Gutter (see 28.05.03)	Yes	Yes	Yes
Sidewalk (5')	Both sides	Both sides	Both sides
*12' moving lanes	*Parking may or may not be allowed, on a case-by-case basis, upon recommendation by the street superintendant and chief of police.		

Industrial Roads Table 28.04.04(A)(1)(c)

Design Speed	30 mph
ROW Width	60'
Traveled Width	36', 2-ft. paved shoulders
Parking	No
Curb/gutter (see 28.05.03)	No
Sidewalk (5')	No

2. Additional Criteria.

- a. Cul-de-sacs:
 - i. Minimum property line radius—Fifty (50) feet.
 - ii. Traveled surface radius—Forty (40) feet.

- b. Hammerhead turn-a-round: (allowed only on lanes)
 - i. Traveled width—Twelve (12) feet, thirty (30) feet to centerline.
 - ii. ROW—Ten (10) feet all sides.
 - iii. Radius—Sixteen (16) feet.

- c. Residential traveled street width is based on moving lanes of ten (10) feet, parking lanes of nine (9) feet.

- d. Traveled width does not include gutter, when required. Gutter width is included in width of parking lanes.

- e. Where required, sidewalk width shall be five (5) feet, setback five (5) feet from curb or edge of pavement. Wheelchair ramps shall be provided at all intersections.

- f. ADT (average daily traffic) is based on four (4) trips per single-family residential dwelling unit, per day.

- g. All streets shall be improved with a wearing surface approved by the city.
- h. Curb/gutter is not required only when a drainage plan for surface water discharge has been approved by the public works administrator.

28.04.05. Street grades and condition.

- A. The grades of streets shall not exceed ten (10) percent, except under unavoidable conditions approved by the planning commission at the time of preliminary plat approval.
- B. All streets shall have at least a three-tenths (0.3) percent grade.

28.04.06. Street curves.

- A. Minimum centerlines of curvature, tangents, curb radiuses and sight distances shall be based on design speed as per the Institute of Transportation Engineers, Traffic Engineering Handbook, current edition.

28.04.07. Alleys.

- A. Alleys may be required in commercial and industrial districts, except that the Planning Commission may waive this requirement where another definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with zoning ordinance requirements. Such alleys shall have a minimum of twenty feet (20') of right-of-way and shall be dedicated to the public.
- B. Alleys are not permitted in residential districts except when the Planning Commission determines special conditions warrant a secondary means of access.

28.04.08. Sidewalks. As required in Tables (a), (b), and (c) in 28.04.04(A)(1), and as required in 28.04.04(A)(2)(e).

28.04.09. Names.

- A. No street names shall be used which will duplicate by spelling or sound, or will otherwise be confused with the names of existing streets. Street names are subject to the approval of the Planning Commission.
- B. Subdivision names and apartment project names shall not duplicate or be confused with existing names. Subdivision and apartment project names are subject to approval by the Planning Commission.

28.04.10. Blocks.

- A. The lengths, widths, and shapes of blocks shall be determined with due regard to:
 - 1. provisions of adequate building sites suitable to the special needs of the type of use contemplated;
 - 2. zoning ordinance requirements as to lot sizes and dimensions;
 - 3. needs for convenient access, circulation, control and safety of street traffic;
 - 4. limitations and opportunities of topography.

- B. Block lengths shall be subject to approval of the Planning Commission but not less than three hundred feet (300'), and shall normally be wide enough to allow two (2) tiers of lots of appropriate depth.
- C. Pedestrian crosswalks, not less than ten feet (10') wide, may be required where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, bus stops, and other community facilities.

28.04.11. Lots.

- A. The lot size, width, depth, shape, and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- B. Lot dimensions shall conform to the requirements of the zoning ordinance and the requirements of the State Health Department. In such cases where requirements may conflict, the larger requirements shall govern.
- C. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide off-street parking and loading for the use contemplated.
- D. Corner lots for residential use shall have extra width to permit appropriate building setback from both streets.
- E. Each lot shall be provided with deeded access to a street.

Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. Along the line of lots abutting such traffic artery or any other such disadvantageous feature, the subdivider shall put in a planting screen easement of not less than ten feet (10') in width, across which no right of access shall be provided.
- F. Side lot lines shall be substantially at right angles to streets except on curves where they shall be radial.

28.04.12. Easements.

- A. Easements across lots or centered on rear or side lot lines shall be provided for utilities and drainage where necessary and shall not be less than fifteen feet (15') wide total unless otherwise approved by the City Engineer.
- B. Where a subdivision is traversed by a water course, drainage way, or stream, there shall be provided a storm water drainage easement or right-of-way conforming substantially with the lines of such existing or planned drainage way. The width of such drainage easement or right-of-way shall conform substantially with the lines of such existing or planned drainage way and shall be sufficient to contain the ultimate channel and maintenance way for the tributary area upstream. Calculations necessary to establishing the magnitude of the drainage way will be paid for by the owner.
- C. Lots and easements shall be arranged in such a manner as to eliminate unnecessary jogs or offsets and to facilitate the use of easements for power distribution, telephone service, drainage, water, and sewer services.
- D. All easements shall be designated for public use only.

28.04.13. Drainage and Inundation.

Drainage and Inundation plan shall be pursuant to Chapter 32. Erosion and Sediment Control Ordinance.

28.04.14. Building Restrictions.

If the subdivision does not lie within the force and effect of an existing zoning ordinance, the Planning and Zoning Commission may require provisions for minimum front, side, and rear yards, based upon the standards of the zoning ordinance.

28.04.15. Nonresidential Subdivisions.

Nonresidential subdivisions shall be governed by any and all applicable regulations contained in this ordinance.

28.04.16. Private Streets and Reserve Strips.

There shall be no private streets platted within a subdivision, and there shall be no reserve strips in a subdivision except where their control is vested in the governing body.

Maintenance of such roads shall be the responsibility of the landowners, unless accepted by the governing body.

28.05. Required Improvements.

28.05.01. Utilities.

All public and private water mains, sanitary sewers, laterals, and storm sewers shall be installed as necessary to prevent the future cutting of pavement of any street, sidewalk, or other required pavement.

28.05.02. Streets and Alleys.

Streets, and alleys where approved, shall be constructed in accordance with current city specifications.

28.05.03. Curbs and Gutters.

Standard "L" type curbs and gutters shall be placed as required in Tables (A), (B), and (C) in 28.04.04(1), and as required in 28.04.04(2)(h).

28.05.04. Water Mains.

- A. The design and specifications of the distribution system shall meet the City of Hot Springs requirements but in no case shall water main size be less than six inches (6").
- B. Fire hydrants, valves, and accessories shall be installed as specified.
- C. Water services shall be stubbed to the property line for each lot.
- D. Tracer wire or appropriate substitute shall be installed on all water mains, service lines and accessory lines.

- E. If a well is required for each lot, the location, construction, and use of such well shall meet South Dakota Department of Environment and Natural Resources' requirements.
- F. If a well is to serve more than one (1) lot, a public water system is required. The design and specifications of such distribution system shall meet City requirements as well as South Dakota Department of Environment and Natural Resources requirements.

28.05.05. Sewers.

- A. Sewers shall be installed in each subdivision where a public sanitary sewer is within one-half (1/2) mile of the subdivision, except where restricted by the sanitation district or limited by topography or easement. In all cases, the sewer infrastructure shall be installed in accordance with current city specifications and provisions made for future connection to the public sanitary sewer system.
- B. Subdivisions not located within one-half (1/2) mile of a public sanitary sewer shall have alternate individual or community sanitary facilities which shall be approved by the governing body and the South Dakota Department of Environment and Natural Resources.
- C. Four inch (4") sewer stubs will be constructed from mains to all lots prior to paving the street.
- D. Tracer wire or appropriate substitute shall be installed on all sewer mains, service lines and accessory lines.

28.05.06. Storm Sewers and Drainage.

Storm sewers and drainage structures shall be designed and installed as required by the Public Works Engineer in accordance with good engineering practices and in accordance with Chapter 32 Erosion and Sediment Control Ordinance.

28.05.07. Private and Public Utilities.

All utility distribution and service systems shall be placed underground.

28.05.08. Property Markers.

The corners of all lots and the beginning and endings of all curves on property lines shall be accurately marked on the ground with five eighths (5/8) to one and one-fourth (1¼) inch diameter iron rods or pipes at least eighteen inches (18") long.

28.05.09. Street Signs.

The subdivider shall install durable street name signs at all intersections which meet specifications of the governing body. One (1) street sign is required for each intersection.

28.05.10. Oversize Facilities.

The governing body may participate in the cost of ‘oversize’ improvements within a subdivision if it is adjudged that such oversize improvements are necessary to serve large areas of land not in the subdivision and if the cost of such oversize improvements is an unreasonable burden on the subdivider.

The subdivider shall not be required to pay the full cost of any highway or arterial street, but shall participate in the cost of these improvements in the amount that a “collector street” would cost if situated where such highway or arterial street is located.

28.05.11. Inspection.

Each facility constructed in the subdivision shall be subject to inspection by city officials.

28.06 Variances.

28.06.01 Hardship.

Where the Planning Commission finds that extraordinary hardships, due to unusual topographic or other conditions, beyond the control of the subdivider, may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent or purpose of the subdivision ordinance, zoning ordinance, major street plan, or other elements of the comprehensive/development plan.

28.06.02 Conditions. In granting variances, the Planning Commission may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements so varied, modified, or approved. These conditions may include, without being limited to, personal, surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments.

28.07 Remedies.

28.07.01 Penalties for Transferring Lots in Unapproved Subdivisions.

Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells any land by reference to or exhibition of or by other use of a plat of a subdivision, before such plat has been approved by the governing body and recorded in the office of the Register of Deeds, shall forfeit and pay a penalty of One Hundred Dollars (\$100) for each lot or parcel so transferred or sold; and the description or other document of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The governing body may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction or may recover the same penalty by a civil action in any court of competent jurisdiction.

28.08 Severability And Separability.

28.08.01 Should any article, section, subsection, or provision of these subdivision regulations be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the subdivision ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

28.09 Effective Date.

28.09.01 The subdivision ordinance shall take effect and be in force from and after the date of adoption. Subdivision regulations heretofore adopted are hereby repealed.