

Chapter 74

SUBDIVISIONS AND OTHER DIVISIONS OF LAND*

***Cross References:** Any ordinance dedicating, accepting or vacating any plat or subdivision saved from repeal, §1-11(a) (18); buildings and building regulations, ch. 6; environment, ch. 22; floods, ch. 30; natural resources, ch. 38; planning, ch. 50; streets, sidewalks and other public places, ch. 70; utilities, ch. 82; vegetation, ch. 86; zoning, ch. 94.

State Law References: Land Division Act, MCL 560.101 et seq.

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ARTICLE I. IN GENERAL

Sec. 74-1. Violation of chapter.

Any sale of lands divided or subdivided in violation of the provisions of this chapter shall be voidable at the option of the purchaser and shall subject the seller to the forfeiture of any and all consideration received or pledged, together with any damages sustained by the purchaser, recoverable in an action at law.

(Ord. No. 73, § 22, 3-4-1968)

Secs. 74-2--74-31. Reserved.

ARTICLE II. SUBDIVISIONS*

***State Law References:** Similar provisions, MCL 560.102(m).

DIVISION 1.

GENERALLY

Sec. 74-32. Purpose.

The purpose of this article is to regulate and control the subdivision of land within the corporate limits of the city in order to:

- (1) Promote the public health, safety, comfort, convenience and the general welfare of the inhabitants of the city;
- (2) Provide a means for carrying out the city's responsibilities relative to the platting of land under the laws of the state, and provide for the orderly growth and harmonious development of the city, consistent with the comprehensive development plan and the zoning ordinances;
- (3) Secure adequate traffic circulation through coordinated street systems so as to lessen congestion on the streets and highways;
- (4) Ensure adequate provisions for water, drainage, sanitary sewer facilities, and other health requirements;
- (5) Achieve the safety and welfare of individual lots; and
- (6) Provide logical and reasonable procedures for the achievement of these purposes.

Sec. 74-33. Scope.

This article shall not apply to any lot forming a part of a subdivision created or recorded prior to March 24, 1968. Nor is it in any way intended to repeal, abrogate, annul or in any way impair or interfere with existing and unrepealed provisions of other laws or ordinances, or with private restrictions placed upon property by deed, covenant or other private agreement, or with the land to which the city is a party.

(Ord. No. 73, § 3, 3-4-1968)

Sec. 74-34. Application of state law.

The provisions of the Land Division Act (MCL 560.101 et seq.) not specifically referred to in this article shall apply to the development of all subdivisions in the city.

(Ord. No. 73, § 23, 3-4-1968)

Sec. 74-35. Nonresidential subdivisions.

(a) The street and lot layout of a nonresidential subdivision shall be appropriate to the land use for which the subdivision is proposed and shall conform to the proposed land use and standards established in the comprehensive development plan, master street plan and zoning ordinance. For the purposes of this article, nonresidential subdivisions shall include industrial parks and office parks, and may include neighborhood, community and/or general commercial districts.

(b) In addition to the principles and standards contained in this article, the subdivider shall demonstrate to the satisfaction of the planning commission that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes account of other uses in the vicinity. The following additional principles and standards shall also be observed:

(1) Proposed parcels shall be suitable in area and dimensions to accommodate the types of uses anticipated.

(2) Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated.

(3) Special requirements may be imposed by the city in respect to the installation of public utilities.

(4) Special requirements may be imposed by the city council with respect to street, curb, gutter, and sidewalk design and construction.

(5) Every effort shall be made to protect adjacent residential areas from potential nuisance resulting from the proposed nonresidential subdivision, including the provision of extra depth in parcels backing up to existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

(6) Streets carrying nonresidential traffic shall not be extended to the boundaries of adjacent existing or potential residential areas or connected to streets intended for predominately residential traffic.

(7) Nonresidential subdivisions shall be located on either a major thoroughfare or secondary street.

(Ord. No. 73, § 19, 3-4-1968)

Secs. 74-36--74-60. Reserved.

DIVISION 2.

PLATS

Subdivision I. In General

Sec. 74-61. Plat restrictions.

Any restriction required to be placed on platted land by the city council shall vest in the council the right to enforce the restriction in a court of competent jurisdiction against any one who has or acquired an interest in the land subject to the restriction. The restriction may be waived or released in writing but only by the city council having the right of enforcement.

(Ord. No. 73, § 21, 3-4-1968)

Secs. 74-62--74-75. Reserved.

Subdivision II. Preliminary Plat*

***State Law References:** Preliminary plats, MCL 560.105, 560.111 et seq.

Sec. 74-76. Filing of preliminary plat with planning commission.

(a) Before a preliminary plat is submitted to the city council, it shall first receive the recommendations of the planning commission in conformance with the regulations of this section.

(b) The subdivider or developer shall submit a preliminary plat to the secretary of the planning commission at least 20 days prior to the regular planning commission meeting at which he is scheduled to appear. In filing, the subdivider shall submit the following:

- (1) Ten copies of a letter of application for a preliminary plat review.
- (2) Ten copies of a preliminary plat.

(Ord. No. 73, § 6, 3-4-1968; Ord. No. 172, 5-4-2009)

State Law References: Specifications of preliminary plat to be submitted, MCL 560.112(1).

Sec. 74-77. Data required.

The preliminary plat shall contain the following information:

- (1) Proposed name of the subdivision.
- (2) Location by legal description.
- (3) Names and addresses of the proprietor and the engineer or surveyor who designed the subdivision layout.
- (4) Date, north point, and scale (scale of the preliminary plat shall be one inch equals 100 feet as an acceptable minimum).
- (5) Layout of streets, including proposed names, rights-of-way widths, and connections to adjoining platted streets, and easements, public walkways, lot lines, within the plat; and easements and street rights-of-way on land within 200 feet of the proposed plat.
- (6) Topography drawn as contours with an interval of not more than two feet. Where existing ground surface will remain substantially unchanged, proposed grades of streets will be shown by superimposed contours in a characteristic clearly distinguishable from the existing ground contours. Where substantial alteration of the existing ground surface is proposed, a separate contour map shall show the proposed revised ground surface and street grades.
- (7) Layout, numbers, and dimensions of lots, including building setback lines showing dimensions, and a closed boundary. If any outlots are proposed in the plat, the specific purpose of each outlot shall be indicated.
- (8) Indication of the proposed uses of parcels to be dedicated or set aside for public use, or for the use of the property owners in the subdivision, or lands set aside for future street connections.
- (9) An indication of the system proposed for sewage disposal by a method approved by the state department of environmental quality, the county health department, and the city council.
- (10) An indication of the storm drainage proposed by a method approved by the city council; and, if involving county drains, the proposed drainage shall be acceptable to the county drain commission.
- (11) If the proprietor wishes to subdivide a given area but wishes only to begin with a portion of the total area, the preliminary plat shall include a proposed general layout for the entire area. The part which is proposed to be subdivided first shall be clearly superimposed upon the overall plan in order to illustrate clearly the method of development which the proprietor intends to follow. Each subsequent plat shall follow the same procedure until the entire area controlled by the proprietor is subdivided.

(Ord. No. 73, § 7, 3-4-1968)

State Law References: Specifications for preliminary plats, MCL 560.111.

Sec. 74-78. Preliminary plat review by planning commission.

- (a) The proposed preliminary plat shall be placed on the agenda of the next regular planning commission meeting which follows the submittal, by no less than 20 days. Should any required data be omitted, the proprietor shall be notified in writing of the specific data required; and the planning commission shall delay further action until the data are received.
- (b) The planning commission shall not take action on a proposed plat without affording an opportunity for a public hearing thereon. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. It shall be the duty of the planning commission via the city clerk's office, to send notice by first class mail to the proprietor and to property owners immediately adjacent to the property to be platted, of presentation of the preliminary plat and the date, time and place of the meeting of the planning commission to consider the preliminary plat. The notice shall be sent not less than 15 days before the public hearing date and shall be published in a newspaper of general circulation in the city.
- (c) The planning commission shall recommend approval, conditional approval, or rejection of the preliminary plat. The planning commission shall review the preliminary plat in the following manner:
 - (1) All details of the proposed preliminary plat shall be reviewed with reference to the requirements of the zoning ordinance, the various elements of the plan, and the design standards set forth in this article. The planning commission may, at its discretion, transmit copies of the preliminary plat to the city engineer and the city manager for their review. The planning commission shall transmit copies of the preliminary plat to all city departments concerned with the development,

and may transmit a copy to the school board for review and recommendation.

(2) The planning commission shall act on the preliminary plat in sufficient time to permit the city council to act within the time limit required by section 112 of the Land Division Act (MCL 560.112).

a. Should the recommendation be a conditional approval and, therefore, tentative, and if the proprietor shall in writing have waived the time requirement set forth by this article, the preliminary plat shall not be forwarded to the city council until the conditions have been satisfied by the proprietor. The revised preliminary plat shall be marked as a revision and shall follow the filing procedure set forth in this article.

b. Should the planning commission recommend rejection of the preliminary plat, it shall record the reasons in the minutes of that meeting. A copy of the minutes and all copies of the preliminary plat shall be forwarded to the city council.

c. Should the planning commission find that all standards under the Land Division Act, 1967 PA 288, the design standards of this article, the requirements of the zoning ordinance, and the applicable elements of the master plan are met and all conditions have been satisfied, it shall recommend approval of the preliminary plat. The chairman or secretary of the planning commission shall make a notation to that effect on each copy of the preliminary plat, returning one copy to the proprietor, forwarding four copies to the city council via the city clerk's office, and retaining one copy for its files.

(3) The planning commission shall recommend approval, approval with conditions, or disapproval of a plat within 63 days after the plat is submitted to the planning commission. If the planning commission fails to act within the required period, the plat shall be considered to have been recommended for approval and a certificate to that effect shall be issued by the planning commission upon request of the proprietor. However, the proprietor may waive this requirement and consent to an extension of the 63-day period.

(Ord. No. 73, § 8, 3-4-1968; Ord. No. 172, 5-4-2009; Ord. 222, § 37, 12-3-2018)

Sec. 74-79. Preliminary plat review by city council.

(a) The city council shall not review a preliminary plat until it has received a recommendation on the plat from the planning commission. Following the receipt of such recommendations, the city council shall consider the preliminary plat at a meeting at which the matter is placed on the regularly scheduled meeting agenda. Such meeting shall be held within 30 days of the date of the regular planning commission meeting at which the preliminary plat was considered; except that the entire review process of the planning commission and the city council, barring an extension agreed to in writing by the proprietor, shall not exceed a period of 90 days from the date of submittal by the proprietor to the planning commission, to the date of approval or rejection by the city council.

(b) Should the city council issue tentative approval of the preliminary plat, it shall be deemed to confer upon the proprietor for a period of one year from the date, approval of lot sizes, lot orientation, and street layout. Such tentative approval may be extended if applied for by the proprietor and granted by the city council in writing.

(c) Should the city council reject the preliminary plat, it shall record the reasons for such action in the minutes of the meeting at which the preliminary plat was rejected, and notify the proprietor in writing of such action with its reasons.

(Ord. No. 73, § 9, 3-4-1968)

State Law References: Review time limits, MCL 560.112(2); effect of tentative approval, MCL 560.112(4).

Sec. 74-80. Final approval of the preliminary plat by the city council.

(a) The proprietor shall submit to the city council, via the city clerk, copies of all preliminary plats approved by the reviewing authorities listed in Sections 112--119 of the Land Division Act (MCL 560.112--560.119).

(b) The city council shall review the preliminary plat at its next meeting, or within 20 days from the date of submission, and approve it if the proprietor has met all conditions laid down for approval of the preliminary plat.

(c) The city council shall instruct the city clerk to notify the proprietor of approval or rejection in writing and, if rejected, to give the reasons.

(d) The city council shall instruct the city clerk to note all proceedings relative to the preliminary plat in the minutes of the meeting, which minutes shall be open for public inspection.

(e) Final approval of the preliminary plat under this section shall confer upon the proprietor for a period of two years from the date of approval the conditional right that the general terms and conditions under which preliminary plat approval was granted will not be changed. The two-year period may be extended if applied for by the proprietor and granted by the city council in writing. Written notice of such extension shall be sent by the city council via the city clerk's office to all approving authorities.

(f) After receiving final approval of his preliminary plat but before proceeding with the construction of any public improvements, the proprietor shall submit four copies of complete street, streetlighting, water, storm, and sanitary sewer plans, and specifications prepared and sealed by an engineer registered in this state. The method indicated for the disposal of sewage shall be acceptable to the state department of environmental quality, the county health department, and the city council; and the proposed method of storm drainage involving county drains shall be acceptable to the county drain commission.

(Ord. No. 73, § 10, 3-4-1968)

State Law References: Similar provisions, MCL 560.120.

Secs. 74-81--74-100. Reserved.

Subdivision III. Final Plat*

***State Law References:** Final plats, MCL 560.105, 560.131 et seq.

Sec. 74-101. Procedure.

- (a) Following final approval of the preliminary plat by the city council, the proprietor shall cause a survey and five true plats to be made by a registered land surveyor.
- (b) A final plat shall not be accepted after the date of expiration of the final preliminary plat approval.
- (c) The proprietor shall submit a final plat to the city clerk at least ten days prior to the regular meeting of the planning commission at which he is scheduled to appear. In filing, the proprietor shall submit the following:
 - (1) A filing and recording fee which the city clerk shall forward to the county plat board upon approval of the final plat and in accordance with Section 241 of the Land Division Act (MCL 560.241).
 - (2) A city filing fee in the amount established by resolution which the city clerk shall forward to the city treasurer for deposit in the general fund.
 - (3) Five linen backed copies of the proposed final plat.

(Ord. No. 73, § 11, 3-4-1968)

Sec. 74-102. Data required.

The final plat shall comply with the provisions of the Land Division Act (MCL 560.101 et seq.) and shall contain, in addition, the following information:

- (1) The necessary easements along side lot lines for streetlight dropouts have been granted to the appropriate public or private utility.
- (2) The subdivider shall submit an abstract of title certified to date with an opinion from an attorney at law as to title showing all interests of record, or, at the option of the subdivider, a policy of title insurance for examination in order to ascertain as to whether or not the proper parties have signed the plat.

(Ord. No. 73, § 12, 3-4-1968)

State Law References: Requirements for plats, MCL 560.132 et seq.

Sec. 74-103. Review of the final plat by the planning commission.

- (a) The final plat documents shall be transmitted to the secretary of the planning commission for review as to compliance with the approved preliminary plat. The planning commission shall act on the final plat within 30 days from the date of submission to the city clerk or at its next regularly scheduled meeting.
- (b) Should the planning commission find that the final plat is in substantial agreement with the preliminary plat, it shall approve the plat and notify the city council of this action.
- (c) Should the planning commission find that the plat does not conform to the previously approved preliminary plat, and that it is not acceptable, it shall state the reasons in its official minutes and forward its findings to the city council and recommend that the city council disapprove the final plat until the objections are removed.

(Ord. No. 73, § 13, 3-4-1968)

Sec. 74-104. Review of the final plat by the city council.

- (a) Upon receipt of the final plat from the planning commission, the city council shall review the final plat and all recommendations of the planning commission and shall take action to approve or disapprove the final plat at its next regular meeting, or at a meeting called within 20 days of the date of receipt.
- (b) The city council shall require of the proprietor, as a condition of final plat approval, a cash deposit, certified check or irrevocable bank letter of credit, whichever the proprietor elects, running to the city to insure, within the time specified in the contract, the performance of any contract relation with the city relative to improvement of public places that have not been completely installed or constructed at the time of final plat approval, and shall require either a cash deposit, certified check, or irrevocable bank letter of credit, whichever the proprietor elects, running to the city for the full cost, as estimated pursuant to section 74-163(b)(1), of any required public improvements that have not been completely installed or constructed at the time of final plat approval, to insure the installation of such required public improvements within the time specified in the contract, after approval of the plat; provided the city shall refund to the proprietor as the work progresses, amounts of any cash deposits, or allow the appropriate reduction in security, in amounts equal to the cost of completed units of work

stipulated in the agreement prepared pursuant to section 74-163(b)(1), and satisfactory accomplishment of the construction milestones noted in that section.

(c) After the city council has approved the final plat, no change shall be made in the plat unless the plat is resubmitted for review and approval in accordance with all the provisions of this article.

(d) Upon approval of the final plat, the subsequent approvals shall follow the procedure set forth in the Land Division Act (MCL 560.101 et seq.).

(e) A certificate of approval of the final plat shall be affixed to the plat by the surveyor, and all copies of the final plat signed by the city clerk on behalf of the city council upon approval of the final plat by that body.

(f) Once the final plat has been approved by the city and recorded under section 172 of the Land Division Act, 1967 PA 288, MCL 560.172, it shall be considered to be an amendment to the master plan of the city and a part thereof. Approval of a plat by the city does not constitute or effect an acceptance by the public of any street or other open space shown upon the plat.

(Ord. No. 73, § 14, 3-4-1968; Ord. No. 172, 5-4-2009)

Secs. 74-105--74-125. Reserved.

DIVISION 3.

DESIGN STANDARDS

Sec. 74-126. Generally.

The subdivision design standards set forth in this division are development guides for the assistance of the developer. All final plans shall be reviewed and meet the approval of the city council.

(Ord. No. 73, § 17, 3-4-1968)

Sec. 74-127. Streets.

(a) *Major streets.* The proposed subdivision shall conform to the various elements of the zoning ordinance and the comprehensive development plan and shall be considered in relation to existing and planned major thoroughfares and secondary thoroughfares; and such streets shall be platted in the location and the width indicated on such plan.

(b) *Minor streets.* The proposed subdivision street layout shall include minor streets so laid out that their use by through traffic shall be discouraged. The street layout shall provide for a continuation of streets adjoining subdivisions or for the proper projections of streets into adjoining property which may be subject to future subdivision.

(c) *Streets in relation to other right-of-way.* Should a proposed subdivision border on or contain an expressway or other limited access highway right-of-way, the city council may require the location of a street approximately parallel to and on each side of the right-of-way at a distance suitable for the development of an appropriate use of intervening land as for residential parks in residence districts, or for commercial, industrial or public purposes in appropriate districts. Such distance shall be determined with due consideration of the minimum distance required for approach grades and future grade separation.

(d) *Marginal-access streets.* Should a proposed subdivision border on or contain an existing or proposed major thoroughfare, the city council may require marginal-access streets, reverse frontages with approved screen planting contained in a nonaccess reservation along real property line having a minimum width of 15 feet, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation and reduction of traffic hazards.

(e) *Reserve strips.* Reserve strips controlling access to streets shall be prohibited.

(f) *Street rights-of-way widths.* Street rights-of-way widths shall conform to at least the following minimum standards:

Street Type Right-of-Way Width (feet)

(1) Major thoroughfare 120

(2) Secondary street 86

(3) Minor street 66

(4) Marginal-access street 66

(5) Cul-de-sac street (terminated

with a 150-foot diameter turnaround) 66

(6) Loop street (terminated with a

50-foot diameter turnaround) 110

(7) Turnaround or eyebrow 150

(g) *Half streets.* Half streets shall be prohibited, except where absolutely essential to the reasonable development of the subdivision in conformity with the other requirements of this article and where the city council finds it will be practicable to require the dedication of the other half when the adjoining property is developed. Wherever there exists adjacent to the tract to be subdivided a dedication or platted and recorded half street, the other half will be platted.

(h) *Alleys.* Alleys shall be prohibited.

(i) *Street grades.* For adequate drainage, the minimum street grade of all streets shall be no less than one-half of one percent and not greater than five percent. The planning commission may approve an alteration of this standard subject to the recommendation of the city engineer clearly indicating the purpose for requiring the alteration.

(j) *Horizontal street curves.* The radii of the minimum horizontal centerline curvature for major, secondary, and minor thoroughfares shall be as follows:

	Street	Curvature
(1)	Major thoroughfare....	750-foot radius
(2)	Secondary street....	400-foot radius
(3)	Minor street....	200-foot radius

(k) *Horizontal street visibility.* The minimum horizontal visibility for curves and intersections (measured on centerline) shall be:

- (1) On major thoroughfares, 500 feet.
- (2) On secondary streets, 300 feet.
- (3) On minor streets, 300 feet.

(l) *Vertical street visibility.* Major, secondary and minor thoroughfares shall have profile grade change, where the grade change is over two percent, connected by vertical curves of a minimum length equivalent to the following algebraic differences:

- (1) Major thoroughfare, 800 feet.
- (2) Secondary street, 500 feet.
- (3) Minor street, 300 feet.

Distances required shall be measured between points five feet above the centerline of the street.

(m) *Street intersections.* Streets shall be laid out so as to intersect as nearly as possible to 90 degrees. Curved streets intersecting with major thoroughfares and secondary streets shall do so with a tangent section of centerline 50 feet in length, measured from the right-of-way line of the major or secondary thoroughfare.

(Ord. No. 73, § 17(1), 3-4-1968)

Sec. 74-128. Easements and utilities.

Location of utility line easements shall be provided along rear or side lot lines as necessary for utilities. Easements shall give access to every lot, park or public ground. Such easements shall be a total of not less than 12 feet wide, usually six feet dedicated from each lot or parcel. The proprietor shall grant such additional public utility easements as may be necessary to effectuate the purposes of section 74-129. Recommendations on the proposed layout of public utility easements shall be sought from all of the public utility companies serving the area. It shall be the responsibility of the proprietor to submit copies of the preliminary plat to all appropriate public utility companies.

(Ord. No. 73, § 17(2), 3-4-1968)

Sec. 74-129. Underground wiring.

In all residential subdivisions, all wires, cables and lines for the distribution of electrical energy or telecommunication service in and to buildings and light poles in such subdivision shall be located underground or along rear lot lines.

(Ord. No. 73, § 17(3), 3-4-1968)

Sec. 74-130. Blocks.

Blocks within subdivisions shall not exceed 1,320 feet except where, in the opinion of the planning commission, physical conditions may justify a variation. Maximum length of a street terminating with a cul-de-sac shall be 600 feet measured from the nearest intersection to the beginning of the turnaround.

(Ord. No. 73, § 17(4), 3-4-1968)

Sec. 74-131. Public walkways.

Locations of public walkways may be required by the planning commission to obtain satisfactory pedestrian circulation within

the subdivision, where blocks are approved to exceed the standard maximum length. Right-of-way width of all such public walkways shall be at least 12 feet and shall be a dedicated easement.

(Ord. No. 73, § 17(5), 3-4-1968)

Sec. 74-132. Public reservations.

(a) When consideration is given by the proprietor to the allocation of areas suitably located and of adequate size for playgrounds, school sites, parks and recreation facilities, as indicated in the comprehensive development plan and the zoning ordinance, such areas shall be provided by one of the following methods:

- (1) Dedication to the city.
- (2) Reservation of land for the use by property owners by deed or covenants.
- (3) Reservation for acquisition by the city or school board within a period of two years. This reservation shall be made in such a manner as to provide for a release of the land to the proprietor if the city or school board does not proceed with the purchase within the prescribed time limit.

(b) Due regard shall be shown by the planning commission and the city council for preserving outstanding natural features such as scenic spots, watercourses, or stands of trees. Every effort shall be made by the proprietor to preserve any nondiseased tree whose trunk is five inches in diameter or more, regardless of its location within the plat.

(Ord. No. 73, § 17(6), 3-4-1968)

Sec. 74-133. Lots.

(a) *Lot sizes and shapes.* Lots within subdivisions shall conform to the following standards:

- (1) Lot widths, areas, and building setback lines shall conform to at least the minimum requirements of the city's zoning ordinance.
- (2) Residential lots having excessive depth in relation to width shall be avoided, and under no circumstances shall a depth-to-width ratio exceed three to one.
- (3) Corner lots for residential use shall be provided with extra width to permit appropriate building setback from and orientation to both streets. Lots abutting a pedestrian walkway shall be treated as corner lots.
- (4) Lots intended for purposes other than single-family or two-family residential use shall be specifically designated for such purposes.

(b) *Lot division.* Lots, outlots or other parcel of land in a recorded plat shall not be divided for the purpose of sale or lease for building development unless approved by the planning commission.

(1) *Procedures.* Application for lot divisions shall be submitted in writing to the planning commission and be accompanied by a sketch drawn to scale showing the original lot, the proposed division, all pertinent dimensions and the proposed legal descriptions.

(2) *Conformance to minimum size.* The proposed divisions shall not create lots which would be less than the minimum sizes required by the zoning ordinance and shall not have the effect of increasing the number of buildable lots in a subdivision. This provision shall not apply to nonresidential subdivisions.

(c) *Lot arrangement.* Lots within subdivisions shall conform to the following standards:

- (1) Every lot shall front or abut on a public street.
- (2) Side lot sides shall be at right angles or radial to the street centerline, or as nearly as possible thereto.
- (3) Residential lots abutting major thoroughfares or secondary streets, where marginal-access streets are not desirable or possible to attain, shall be platted with reverse-frontage lots with an approved screen planting contained in a nonaccess reservation along the rear property line having a minimum width of 15 feet, or such other treatment as may be adequate for the protection of residential properties, or with side lot lines parallel to the major traffic streets.
- (d) *Uninhabitable lots.* Lots located wholly within the floodplain or lots deemed by the city council to be uninhabitable shall not be platted for residential occupancy, nor for such other purposes as may increase danger to health, life or property or aggravate the flood hazard; but such land within the plat shall be set aside for such uses as shall not produce unsatisfactory living conditions.
- (e) *Lot remnants.* All remnants of lots below minimum size left over after platting of a larger tract shall be added to adjacent lots rather than allowed to remain as unusable parcels.
- (f) *Modifications.* Variations, exceptions and/or modifications of this division may be made by the planning commission in specific cases where it is determined that unusual topographical conditions or other physical conditions justify such modifications.

(Ord. No. 73, § 17(7), 3-4-1968)

DIVISION 4.

REQUIRED IMPROVEMENTS

Sec. 74-156. Generally.

It is the purpose of this division to establish and define the public improvements which will be required to be provided by the proprietor as conditions for final plat approval.

(Ord. No. 73, § 15, 3-4-1968)

Sec. 74-157. Streets.

(a) *Surfacing and curb and gutter.* All streets shall be surfaced and curb and gutter installations completed in accordance with current specifications of the city.

(b) *Sidewalks.* Concrete sidewalks shall be constructed along both sides of every street shown on the plat. Sidewalks shall not be less than four feet wide, four inches thick except over driveways, which shall be six inches thick, and shall be placed one foot off property lines.

(c) *Street signs.* Street name signs shall be placed at all intersections within or abutting the subdivision at places designated by the city engineer. Street name signs shall conform to the standard type (color, size and print) used by the city at the time of installation; except that the city council may provide written approval for a modification of this subdivision to allow the installation of street name signs which are unique from a design standpoint but do not violate their intended purpose.

(d) *Streetlighting.* All streets shall be lighted in accordance with the current lighting standards and specifications of the city.

(Ord. No. 73, § 15(1), 3-4-1968; Ord. No. 73-A-77, § 1, 2-7-1977)

Sec. 74-158. Water supply.

(a) *Accessible water supply.* Where a public water supply system is accessible to the subdivision, provisions shall be made by the subdivider to supply each lot in the subdivision with water from the public supply by means of a water supply system which meets current city specifications.

(b) *Nonaccessible water supply.* Where a public water supply system is not accessible to the subdivision by reason of absence of feeder mains, the subdivider shall bear the cost of installation of a new feeder main from the source of supply to the subdivision in accordance with current city specifications.

(Ord. No. 73, § 15(2), 3-4-1968)

Sec. 74-159. Sanitary sewer system.

(a) *Accessible sewerage system.* Where a public sanitary sewer is reasonably accessible, each lot within the subdivision shall be provided with a connection to the system. All connections shall be subject to the approval of the city engineer, and all materials used in such system shall meet current city specifications.

(b) *Nonaccessible sewerage system.* If a public sanitary sewer is not reasonably accessible to the subdivision, the subdivider shall pay the cost of extending the sanitary sewer lines from the area platted to the nearest public sanitary sewer trunk line of adequate capacity to carry the additional flow. In addition, the subdivider shall install public sanitary sewer facilities within the platted area in accordance with the current city specifications.

(Ord. No. 73, § 15(3), 3-4-1968)

Sec. 74-160. Storm drainage system.

(a) *Accessible public drainage system.* Where a storm drain is reasonably accessible, each lot within the subdivided area shall be provided with a connection to the system. All connections shall be subject to the approval of the city engineer, and all materials used in such system shall be subject to current city specifications.

(b) *Nonaccessible public drainage system.* If a public storm drain is not reasonably accessible to the subdivision, the subdivider shall pay the cost of extending the storm sewer lines from the area platted to the nearest public storm sewer trunk of adequate size to carry the additional flow. In addition, the subdivider shall install public storm drain facilities within the platted area in accordance with the current city specifications.

(Ord. No. 73, § 15(4), 3-4-1968)

Sec. 74-161. Street trees.

Existing trees near street rights-of-way shall be preserved by the subdivider. Street trees from the varieties listed in the city specifications on file with the city clerk shall be provided at least one per lot in the planting strip between the sidewalk and curb and planted by the proprietor in accordance with the city tree planting specifications.

Sec. 74-162. Monuments.

Monuments shall be placed at all block corners, angle points and points of curves in the street. Fee for the inspection by the city of all monuments shall be set by resolution of the city council.

(Ord. No. 73, § 15(6), 3-4-1968)

Sec. 74-163. Guarantee of completion of required improvements.

(a) The developer shall be responsible for the provision of all required improvements to the subdivision.

(b) The final plat should not be submitted until all of the required improvements within the plat have been completed according to plans and specifications as set forth in this division, or until satisfactory arrangements have been made to complete them. This may be accomplished by either the full installation of all required improvements by the developer at the time the final plat is forwarded to the city council with a recommendation of approval by the planning commission, or by the provision of a financial guarantee of performance in the following manner:

(1) *Performance guarantee.*

a. Any requests made of the city council to accept a performance guarantee deposit in lieu of completing all required improvements prior to having the city council approve the final plat shall be confirmed in writing and shall be accompanied by an estimate of costs of the remaining required improvements. This estimate shall be furnished by the proprietor's engineer. It shall be complete in all respects, including estimated quantities and unit prices, and bear the engineer's seal of registration. If approved by the city council, this estimate will provide the basis for the amount of performance deposit and written agreement. Generally, the amount of performance guarantee required will be equal to 100 percent of the proprietor's engineer's estimate, following review by the city engineer's estimate and agreement, plus 25 percent of such estimate for contingencies. The agreement may further stipulate that the deposit shall be rebated to the proprietor, or an appropriate reduction in the security, in the amounts equal to the cost of completed units of work stipulated in the agreement prepared pursuant to this section, and satisfactory accomplishment of the construction milestones.

b. The performance guarantee shall either be a cash deposit or a certified check, or an irrevocable letter of credit, deposited by the subdivider with the city treasurer or a responsible escrow agent or trust company, subject to the approval of the city council and the city attorney.

c. The agreement will be so written that any part of the performance deposit, as required, may be used to reimburse the city for costs incurred in connection with the examination and inspection of the required improvements.

d. If the developer shall in any case fail to complete such work within such period, as required by the conditions of the guarantee, the city shall have such work completed. In order to reimburse itself for the cost expense, the city council may appropriate funds from the deposit which the subdivider deposits in lieu of the required improvements.

(2) *Maintenance bond.* Prior to acceptance by the city of required improvements, a one-year maintenance bond in an amount set by the city council shall be posted by the subdivider.

(3) *Inspections.*

a. Inspectors authorized by the city council shall be required to review construction of all required improvements on a continuous basis. In no case shall the same engineer provide services to both the city and the subdivider.

b. It shall be the responsibility of the improvements contractors to notify the office of the city manager at least three days in advance for the following periodic inspections:

1. Storm and sanitary sewers, water lines, mains, laterals, and catch basins before the trenches are backfilled.
2. Forms set for curb and gutter subbase has been put in place and before the concrete is poured.
3. Forms set for sidewalks before any concrete is poured.
4. All subgrade that has been shaped and rolled, before compaction test is made.
5. Forms for pavement before any concrete is poured.
6. All base courses.

c. No work covered by the bond shall be accepted or bond released until these inspections have been made and work found satisfactory.

d. The agreement to install required public improvements shall also provide for the checking of improvements and plans and continuous inspections of all improvements by the city and for costs of such services which shall be borne by the subdivider.

(4) *Sidewalks and street trees.* For required improvements consisting of sidewalk and street trees, the proprietor may elect to provide a performance guarantee deposit in an amount equal to 15 percent of the engineers' estimates of such cost, plus 25 percent of such deposit for contingencies, provided the proprietor shall:

a. Submit for approval with the final plat building and use restrictions in recordable form, approved by the city attorney, requiring that each owner construct sidewalks to city specifications along all street rights-of-way abutting the lot or parcel and to plant according to city specifications required street trees within the right-of-way before occupying any residence on any lot. These building and use restrictions shall be recorded with the register of deeds with the final plat.

b. Provide to each purchaser of any undeveloped lot or parcel within the subdivision prior to closing written notice that the owner shall bear the legal and financial responsibility of constructing public sidewalks and installing required street trees within the public right-of-way according to city specifications as a prior condition to lawful occupancy of any dwelling to be constructed. This duty shall be binding on the proprietor and his heirs, personal representatives, successors or assigns; and no such person shall fail to provide such notice.

c. Agree that should any required sidewalks or street trees within the subdivision not be constructed or installed by subsequent purchasers within six years following final plat approval, that the city may proceed to complete the improvements; and the city council may appropriate the costs from the performance guarantee deposit as provided in subsection (b)(1) of this section.

(Ord. No. 73, § 16, 3-4-1968; Ord. No. 73-A-92, § 2(16), 1-21-1992; Ord. 222, § 38, 12-3-2018)

Secs. 74-164--74-195. Reserved.

ARTICLE III. DIVISIONS*

***State Law References:** Approval of divisions, MCL 560.108 et seq.

Sec. 74-196. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a natural person, firm, association, partnership, corporation, limited liability company, or combination of any of them that holds an ownership interest in land, whether recorded or not.

Parent parcel or *parent tract* means a parcel or tract, respectively, lawfully in existence on the effective date of Ord. No. 131.

State Law References: Similar provisions, MCL 560.102(i).

(Ord. No. 131, § 3, 2-2-1998)

Sec. 74-197. Purpose.

The purpose of this article is to:

- (1) Carry out the provisions of the Land Division Act (MCL 560.101 et seq.);
- (2) Prevent the creation of parcels of property which do not comply with applicable ordinances and the act;
- (3) Minimize potential boundary disputes;
- (4) Maintain orderly development of the city; and
- (5) Otherwise provide for the health, safety and welfare of the residents and property owners of the city;

by establishing reasonable standards for prior review and approval of land division within the city.

(Ord. No. 131, § 2, 2-2-1998)

Sec. 74-198. Prior approval requirement for land divisions.

Land in the city shall not be divided without the prior review and approval of the city assessor or other official designated by the city council in accordance with this article and the Land Division Act (MCL 560.101 et seq.). The following shall be exempted from this requirement:

- (1) A parcel proposed for subdivision through a recorded plat pursuant to article II of this chapter and the Land Division Act (MCL 560.101 et seq.).
- (2) A lot in a recorded plat proposed to be divided in accordance with article II of this chapter and the Land Division Act (MCL 560.101 et seq.).
- (3) An exempt split.

(Ord. No. 131, § 4, 2-2-1998)

Sec. 74-199. Application for land division approval.

An applicant shall file all of the following with the city assessor for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- (1) A completed application form on such form as may be provided by the city.

(2) Proof of fee ownership of the land proposed to be divided.

(3) a. A survey map of the land proposed to be divided, prepared pursuant to the survey map requirements of Public Act No. 132 of 1970 (MCL 54.211 et seq.) by a land surveyor licensed by the state and showing the dimensions and legal descriptions of the existing parcel and the parcels proposed to be created by the division, the location of all existing structures and other land improvements, and the accessibility of the parcels for vehicular traffic and utilities from existing public roads.

b. In lieu of such survey map, at the applicant's option, the applicant may waive the 45-day statutory requirement for a decision on the application until such survey map and legal description are filed with the city and submit a tentative preliminary application form, including an accurate legal description of each proposed division, and showing the boundary lines, dimensions and the accessibility of each division from existing or proposed public roads for automobile traffic and public utilities for preliminary review, approval and/or denial by the city assessor prior to a final application under this section.

c. The city assessor may waive the certified survey map requirement where the tentative parcel map is deemed to contain adequate information to approve a proposed land division considering the size, simple nature of the divisions, and the undeveloped character of the territory within which the proposed divisions are located. An accurate legal description of all the proposed divisions, however, shall at all times be required.

(4) Proof that all standards of the Land Division Act (MCL 560.101 et seq.) and this article have been met.

(5) The history and specifications of any previous divisions of land of which the proposed division was a part sufficient to establish the parcel to be divided was lawfully in existence as of March 31, 1997.

(6) Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.

(7) If transfer of division rights are proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.

(8) Unless a division creates a parcel which is acknowledged and declared to be not buildable under section 74-202, all divisions shall result in buildable parcels containing sufficient buildable area outside of unbuildable wetlands, floodplains, and other areas where buildings are prohibited, and with sufficient area to comply with all required setback provisions, minimum floor area, off-street parking spaces, on-site sewage disposal and water well locations (where private wells and on-site sewage disposal is permitted by the city), and maximum allowed area coverage of buildings and structures on the site.

(9) The required fee as may be established by resolution of the city council for land division pursuant to this article to cover the costs of review of the application and administration of this article and the Land Division Act (MCL 560.101 et seq.).

(Ord. No. 131, § 5, 2-2-1998)

Sec. 74-200. Procedure for review of applications for land division approval.

(a) Upon receipt of a land division application package, the city clerk or other official designated by the city council shall forthwith submit the package to the city assessor or other designated official for decision. The city assessor or other designee shall determine whether the application is complete within ten working days and shall approve, approve with reasonable conditions to assure compliance with applicable ordinances and the protection of public health, safety and general welfare, or disapprove the land division applied for within 45 days after receipt of a complete application package conforming to this article's requirements, and shall promptly notify the applicant of the decision and the reasons for any denial. If the application package does not conform to this article's requirements and the Land Division Act (MCL 560.101 et seq.), the city assessor or other designee shall return the package to the applicant for completion and resubmission within five business days in accordance with this article and the Land Division Act (MCL 560.101 et seq.).

(b) The city assessor or his designee shall maintain an official record of all approvals and accomplished land divisions or transfers.

(Ord. No. 131, § 6, 2-2-1998)

Sec. 74-201. Standards for approval of land divisions.

A proposed land division shall be approved if the following criteria are met:

(1) All the parcels to be created by the proposed land division fully comply with the applicable lot (parcel), yard and area requirements of the zoning ordinance, including but not limited to the provisions of section 94-121 of this Code for minimum lot (parcel) width, minimum road frontage, minimum lot (parcel) area, minimum lot depth-to-width ratio, and maximum lot (parcel) coverage and minimum setbacks for existing buildings/structures.

(2) The proposed land division complies with all requirements of the Land Division Act (MCL 560.101 et seq.) and this article.

(3) All parcels created and remaining have existing adequate accessibility, or an available access to a public road for public utilities and emergency and other vehicles not less than the requirements of the zoning ordinance, major thoroughfare plan, or this article. In determining adequacy of accessibility, the standards applicable to plats shall also apply as a minimum standard whenever a parcel or tract is proposed to be divided to create four or more parcels.

(4) Parcel depth and width requirements.

a. The ratio of depth to width of any parcel created by the division shall comply with the requirements of section 74-133(a)(2) exclusive of access roads, easements or nonbuildable parcels created under section 74-202, and parcels added to contiguous parcels that result in all involved parcels complying with that ratio.

b. The permissible depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement.

c. The permissible minimum width shall be as defined in article II of this chapter for each resulting parcel of ten acres or less.

(5) In the case of any proposed land division resulting in four or more residential developmental parcels, each parcel shall have frontage on or shall abut a public street or highway or a private road constructed in accordance with a final site plan approved pursuant to chapter 94 of this Code.

(6) In the absence of applicable zoning or other ordinances providing a different standard, all parcels created by a land division shall comply with the following minimum standards:

a. Where accessibility is to be provided by a proposed new dedicated public road, proof that the city engineer, county road commission, or state department of transportation has approved the proposed layout and construction design of the road and of utility easements and connected drainage facilities.

b. Where accessibility by vehicle traffic and for utilities is permitted through other than a dedicated and accepted public road or easement, or private road approved by the planning commission pursuant to a community unit plan, such accessibility shall comply with the following:

1. Design standards for minor streets prescribed in Division 3 of Article II of this chapter.

2. Required improvements for minor streets prescribed in Division 4 of Article II of this chapter.

3. If accessibility is by a private road or easement, a document acceptable to the city manager shall be recorded with the county register of deeds and filed with the city assessor or his designee specifying the method of private financing of all maintenance, improvements and snow removal, the apportionment of these costs among those benefited, and the right of the city to assess such costs against those properties benefited, plus a 25 percent administrative fee, and to perform such improvements in the event of a failure of those benefited to privately perform these duties for the health, safety and general welfare of the area.

4. No private road shall or easement shall extend for more than 1,000 feet from a public road.

5. No private road shall serve more than 25 separate parcels.

(7) In the case of each resulting parcel that is a development site, satisfactory evidence of adequate easements for public utilities from the parcel to existing public utilities.

(Ord. No. 131, § 7, 2-2-1998; Ord. No. 152, 5-1-2006; Ord. 222, § 39, 12-3-2018)

State law references—Approval standards for divisions, MCL 560.109.

Sec. 74-202. Allowance for approval of other land divisions.

Notwithstanding disqualification from approval pursuant to this article, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this article may be approved in any of the following circumstances:

(1) Where the applicant executes and records an affidavit or deed restriction with the county register of deeds in a form acceptable to the city designating the parcel as not buildable. Any such parcel shall also be designated as not buildable in the city records, and shall not thereafter be the subject of a request to the zoning board of appeals for variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or aboveground structure exceeding four feet in height, and shall not be used for human habitation.

(2) Where, in circumstances not covered by subsection (1) of this section, the zoning board of appeals has, previous to this article, granted a variance from the lot, yard, depth-to-width ratio, frontage and/or area requirements with which the parcel failed to comply.

(3) Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this article, any applicable zoning ordinance, or the Land Division Act (MCL 560.101 et seq.).

(Ord. No. 131, § 8, 2-2-1998)

Sec. 74-203. Rights of appeal.

Any person aggrieved by any decision of the city assessor or his designee made pursuant to this article may, within 30 days of such decision, appeal the decision to the planning commission, which shall consider and resolve such appeal by a

majority vote at its next regular meeting or session affording sufficient time for a 20-day written notice to the applicant (and appellant where other than the applicant) of the time and date of the meeting and appellate hearing.

(Ord. No. 131, § 9, 2-2-1998)

Sec. 74-204. Consequences of noncompliance with land division approval requirement.

Any parcel created in noncompliance with this article shall not be eligible for any building permits or zoning approvals such as special land use approval or site plan approval, and shall not be recognized as a separate parcel on the assessment roll. In addition, violation of this article shall subject the violator to the penalties and enforcement actions provided by law or ordinance.

(Ord. No. 131, § 10, 2-2-1998)