

FAIRBURY, NEBRASKA

SUBDIVISION REGULATIONS

ARTICLE 1

Title, Purpose, and Definitions

▪ **SECTION 1.01 - Name and Citation of Titles :**

This Ordinance shall be known, referred to and cited as "The Subdivision Regulations" of Fairbury, Nebraska.

▪ **SECTION 1.02 - Purpose :**

The purpose of these regulations is to provide for the orderly development of Fairbury and its environs by insuring, through the prescribed rules and standards, functional arrangements of street layouts; open spaces; adequate community facilities and utilities, to coordinate development with the City's transportation, land use and capital facilities plan, and to generally provide conditions favorable for the health, safety and convenience of the community.

▪ **SECTION 1.03 - Definitions :**

For the purpose of these regulations, certain words used herein are defined as follows:

Applicant - shall be the title holder of record, his agent, or a person holding a notarized letter authorizing the person to represent the legal owner of the property.

Alley - a public thoroughfare which affords only secondary access to property abutting thereon.

Block - a tract or parcel of land bounded by public streets or lands, streams, railroads, unplatted lands or a combination of same.

Bond - any form of security including a cash deposit, security bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City Council which meets the intent of such security required by this ordinance.

Building Line - the term "building line" means a line parallel, or nearly parallel, to the street line at a specified distance from the street line which marks the minimum set back distance a building may be erected. In the case of a cul-de-sac the building line shall be measured around the curvature of the street line and shall be located at the required front yard set back or where the lot width meets the minimum lot width required in the district, which ever is greater.

Building Inspector - the Building Inspector of the City of Fairbury.

CITY - shall mean the City of Fairbury, Nebraska. Also, City Council or governing body.

CITY COUNCIL - the governing body for the City of Fairbury, Nebraska.

CITY ENGINEER - the City Engineer of the City of Fairbury retained by the City Council for the recommendation, advice, and implementation of engineering work as requested by the City.

CLERK – the City Clerk of the City of Fairbury, Nebraska.

COMPREHENSIVE DEVELOPMENT PLAN - the master plan for the improvement and development of Fairbury, Nebraska, as adopted by the Planning Commission and the City in accordance with the laws of the State of Nebraska and the ordinances of Fairbury.

CUL-DE-SAC - a short public way with one end open to traffic and the other end terminated by a vehicular turn-around.

DEAD END STREET - a public way which has only one outlet for vehicular traffic and does not terminate in a vehicular turn-around.

DEDICATION – the intentional appropriation of land by the owner to some public use.

DEVELOPER - see "Subdivider".

EASEMENT - a right to use a parcel of land, granted to the general public, utility, corporation, or person(s) for a specific purpose or purposes.

ENGINEER, CITY - the engineer ordinarily retained by Fairbury, Nebraska, for the recommendation, advice and execution of engineering work as requested by the City.

FLOOD PLAIN - shall mean those lands which are subject to a one percent (1%) or greater chance of flooding in any given year.

FLOODWAY - the cross-sectional area or channel of a stream or river with the capacity needed to hydrologically convey the flood flows produced by a 100-year frequency storm.

FRONTAGE ROAD – a minor street parallel to and adjacent to an arterial street and/or highway, which reduces the number of access points to the arterial street or highway for the purpose of increased traffic safety.

IMPROVEMENTS – is considered to be street grading, street surfacing and paving, curbs and gutters, street lights, street signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other such installation as designated by the City Council or its specific approving authority.

LOT - a parcel, tract or area of land created in conformance with these regulations, that may be separately owned, used, developed or built upon.

LOT, CORNER - a lot abutting upon two (2) or more streets at their intersection.

LOT, DEPTH - the mean horizontal distance between the front and rear lot lines. Corner lots shall provide at least one dimension equal to the required lot depth prescribed in the affected zoning district.

LOT, DOUBLE FRONTAGE - a lot having a frontage on two non-intersecting streets.

LOT, FLAG – is considered to be a lot landlocked from public right-of-way, except for a narrow tract of land of less width than required under assigned zoning.

LOT FRONTAGE - that portion of a lot abutting a street. For purposes of determining yard requirements of corner lots and through lots, all sides of a lot abutting a street shall be considered frontage.

LOT, INTERIOR - a lot other than a corner lot which has frontage on one street only.

LOT LINE - the boundary line of a lot.

LOT MINIMUM AREA - the minimum square footage of land area occupied, or to be occupied by a single principal building and accessory buildings as applicable to designated zoning districts.

LOT, NONCONFORMING - shall mean a lot which was lawfully created under prior zoning when lesser area or dimension requirements were enforced and does not currently conform to the existing zoning district space limits.

LOT OF RECORD - a lot which is both part of a subdivision recorded in the office of the Register of Deeds for Jefferson County, and having been owned separately and individually from adjoining lots or tracts of land prior to September 1997.

LOT, PLATTED – a platted lot shall mean a lot which is part of a subdivision of the plat of which, or the appropriate permit for which, has been legally approved by the City and recorded in the office of the Register of Deeds for Jefferson County.

LOT, THROUGH - a lot other than a corner lot fronting on more than one (1) street.

LOT, WIDTH - shall mean the minimum street frontage measured along the front street property line except when a lot fronts on the inside or concave side of a horizontal curvilinear alignment of a street or on a corner lot; in which case, the minimum lot width shall be measured along the front building line of the principal use structure extended to both lot property lines.

MASTER PLAN - see Comprehensive Development Plan.

MONUMENT - an identification marker established by a certified land survey and set by a registered land surveyor at each section corner, angle point, block corner, street centerline, or other point.

PERSON - an individual, firm, partnership, corporation, company, association, syndicate, or any legal entity and including any trustee, receiver, assignee, or other similar representatives thereof.

PLANNING COMMISSION - the Planning Commission of Fairbury, Nebraska.

PLAT - a map which delineates the subdivision of a quantity of land. A plat commonly shows lots, blocks, streets and other features relevant to the development and improvement of the property.

PLAT, FINAL - the final plat of the plat, subdivision or dedication of land prepared for filing or recording in conformance with these regulations.

PLAT, PRELIMINARY - the preliminary plan of the plat, subdivision or dedication prepared in accordance with the requirements of these regulations.

SIDEWALK - that portion of a dedicated right-of-way or easement improved and intended for pedestrian use only.

STREET - the term includes public streets, highways, avenues, boulevards, parkways, roads, lanes, alleys, viaducts, subways, tunnels, bridges, public easements and right-of-way. Where explicitly authorized by the City Council, private streets may be authorized as part of planned developments.

STREET, COLLECTOR - a street or highway which is intended to carry traffic from minor streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the development as designated in the Comprehensive Development Plan.

STREET, MAJOR - a street or highway used primarily for fast or high volume traffic, including expressways, freeways, boulevards, and arterial streets as designated in the Comprehensive Development Plan.

STREET, MINOR - a street intended primarily to provide pedestrian and vehicular access to the abutting properties.

SUBDIVIDER - any person, group, corporation, partnership, or other entity, or any agency thereof, dividing or proposing to divide land so as to constitute a subdivision.

SUBDIVISION - the division of a lot, tract, or parcel of land into two (2) or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development, provided that the smallest lot created by the division is less than ten (10) acres in size.

WALKWAY – see "Sidewalk".

ZONING DISTRICT - the term "zoning district" means an area delineated on a zoning map for which uniform use regulations are specified.

ZONING ORDINANCE - the Zoning Ordinance of the City of Fairbury as amended from time to time.

ARTICLE 2

General Provisions

▪ **Section 2.01 - General Provisions; Purpose :**

The Subdivision Regulations as herein set forth are intended to provide for harmonious development of the City and its environs; for the integration of new subdivision streets with other existing or planned streets or with other features of the Comprehensive Development Plan of the City; for adequate open spaces for traffic, recreation, light and air; for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, and/or prosperity; to insure conformance of subdivision plans with the capital improvement program of the City and its planning area; and, to secure equitable handling of all subdivision plats by providing uniform procedures and standards for observance by subdividers, Planning Commission and the City Council.

▪ **Section 2.02 - General Provisions; Jurisdiction :**

The provisions of these regulations, as well as those allowed by Rev. Stat. of Neb., Reissue 1997, § 17-1001, shall apply to all land located within the legal boundaries of the City, as the same may be amended by subsequent annexation, and shall also include all land lying within one (1) mile of the corporate limits of the City, and not located in any other Municipality.

▪ **Section 2.03 - General Provisions; Powers :**

No plat of a subdivision of land lying within the jurisdiction of the City shall be filed or recorded until it shall have been submitted to and a report and recommendation thereon made, by the Planning Commission to the City Council and the City Council has approved the final plat.

It shall be unlawful for the owner, agent, or person having control of any land within the corporate limits of the City, or within the area shown on the Official Zoning Map to subdivide land except in accordance with Neb. Rev. Stat. § 19-916 et. seq.(Reissue 1997) and the provisions of the title; provided, however, that any subdivision of land caused by the acquisition of land by the federal government, the state of Nebraska, any county, the City, or any city incorporated or unincorporated, within the jurisdiction of the City, shall be deemed to have received approval as required by Neb. Rev. Stat. § 19-916 (Reissue 1997).

▪ **Section 2.04 - Applicability :**

Any plat, hereafter made, for each subdivision or each part thereof lying with the jurisdiction of this ordinance, shall be prepared, presented for approval, and recorded as herein prescribed.

The regulations contained herein shall apply to the subdivision of a lot, tract, parcel of land into two or more lots, tracts, or other division of land for the purpose of sale or development, whether immediate or future, including the subdivision or replatting of land or lots, except that the division of land when the smallest parcel created is more than ten (10) acres in area shall be exempt from these regulations.

Further, the regulations set forth by this ordinance shall be minimum regulations which shall apply uniformly throughout the jurisdiction of this ordinance except as hereinafter provided.

▪ **Section 2.05 - General Provisions; Interpretation :**

In interpreting and applying these regulations, they shall be held to be minimum requirements for the promotion of the public health, convenience, comfort, morals, prosperity and general welfare.

▪ **Section 2.06 - General Provisions; Conflict :**

No final plat of land within the force and effect of the existing Zoning Chapter shall be approved unless it conforms to the regulations of this Chapter.

Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the Zoning Regulation chapter, Building Regulations chapter, or other official regulations or ordinances, the most restrictive shall apply.

▪ **Section 2.07 - General Provisions; Building Permits :**

Unless a tract shall have been platted in accordance with the provisions of this Chapter, no building permit shall be issued, provided that one building permit for a permitted use may be issued if the tract is otherwise vacant.

▪ **Section 2.08 - General Provisions; Amendments :**

Any provisions of these regulations may from time to time be amended, supplemented, changed, modified, or repealed by the Governing Body; provided, however, that such amendments shall not become effective until after a study and public hearing by the Planning Commission; after a public hearing in relation thereto has been held, public notice of which shall have been published in a newspaper of general circulation at least one (1) time, ten (10) days prior to such hearing.

▪ **Section 2.09 - General Provisions; Modifications :**

Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirements of this regulation would result in extraordinary hardship to the subdivider because of unusual topography, or other such non-self-inflicted conditions, or that these conditions would result in inhibiting the achievement of the objectives of these regulations, the City Council, after report from the Planning Commission, may vary, modify, or waive the requirements so that substantial justice may be done and the public interest secured; provided, however, that: such variance, modifications, or waiver will not adversely affect the development, the character of which shall be in conformance with recommended platting and development practices in the general area of the proposed subdivision; will not have the effect of nullifying the intent and purpose of the regulations; and, will not interfere with carrying out the Comprehensive Development Plan of the planning area of the City.

The standards and requirements of these regulations may be modified by the Governing Body after report by the Planning Commission in the case of a planned development or a redevelopment project involving the resubdividing and rebuilding of blighted or slum areas; provided, however, that the placement of structures within the area is shown on the development plan and becomes a part of the recorded plat.

ARTICLE 3

Procedures

▪ **Section 3.01 - Procedure for Filing Pre-application Plans and Data :**

Prior to the filing of an application for approval of a preliminary plat the subdivider may submit to the Planning Commission plans and data in sketch form showing ideas for the proposed subdivision of land. The sketch plan shall include:

- A. The proposed tentative layout of streets, lots and other features in relation to existing streets, utilities, topography and other conditions;
- B. A general location map showing the proposed subdivision and its relationship to existing abutting subdivisions and community facilities in the area, such as streets, alleys, schools, parks, commercial areas and other data supplementing the plans which outline or describe all of the proposed development as it relates to existing conditions.

These pre-application plans and data shall not require a formal application fee.

After discussion with the subdivider and review of the data, the Planning Commission will inform the subdivider whether such plans and data submitted meet the objectives of these regulations and shall describe any inconsistencies with the requirements of this Ordinance.

With the concurrence of the developer, a public hearing date will be set for the consideration of the Preliminary Plat.

▪ **Section 3.02 - Procedure for Approval of Preliminary Plat :**

- A. Before any subdivider or agent contracts for the sale or offers to sell any subdivision of land or any part thereof, which is wholly or partly within the City of Fairbury; or which is within a one (1) mile limit of the City of Fairbury; or which is proposed to be annexed, the subdivider or his agent shall file a preliminary plat of said subdivision with the Fairbury Planning Commission.

The Preliminary Plat shall be prepared in accordance with the regulations set forth herein, and shall be submitted to the Planning Commission prior to the completion of final surveys of streets and lots and before the start of grading or construction work upon the proposed streets and lots and before any map of said subdivision is made in a form suitable for recording.

The Planning Commission shall determine whether the plat is in proper form and shall not receive and consider such plat as filed until it is submitted in accordance with the requirements hereof.

The street layout shall be in conformity with a plan for the most advantageous development of the entire neighboring area and in conformity with the Comprehensive Development Plan.

- B. All plats, preliminary and final, shall be prepared in conformance with the provisions of these regulations and in conformance with the Comprehensive Development Plan and Zoning Ordinance. The subdivider shall be responsible for such conformance.
- C. Five (5) copies of the Preliminary Plat, one of which shall be an 11"x17" reproducible copy, and required supplementary material as specified in Section 3 of these regulations shall be submitted to the City Clerk at least fifteen (15) days prior to the meeting at which it is to be considered. The Clerk shall distribute one (1) copy of the Preliminary Plat with a request for comments within ten (10) days

to each of the following: City Engineer, School Board, the County, if located outside the corporate limits, and wherever else deemed necessary by the Planning Commission.

- D. The Planning Commission will consider the Preliminary Plat at a public hearing, of which notice is given in a newspaper of general circulation in Fairbury, Nebraska, and will: (1) review the preliminary plat and other material submitted for conformity thereof to these regulations; and (2) will review any recommendations of the City Engineer, School, County Surveyor and other Agencies; and (3) will recommend to the subdivider any changes deemed advisable and the kind and extent of improvements to be made by him.

The Planning Commission shall act on the plat as submitted or modified, and if approved, the Planning Commission shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons thereof.

- E. Conditional approval of a preliminary plat shall not constitute an acceptance of the plat, but shall be deemed an expression of approval of the layout submitted on the preliminary plat.
- F. The action of the Planning Commission shall be noted on or attached to two (2) copies of the Preliminary Plat. One (1) copy shall be returned to the subdivider and the other retained by the Planning Commission.
- G. If the Planning Commission recommends disapproval or approval, then the clerk will order Notice of Hearing before the City Council to be published. The notice must be published at least ten (10) days prior to the Hearing. The City Council may: (a) concur with the Planning Commission's recommendation; (b) reverse the Planning Commission's recommendation; or (c) refer the Preliminary Plat back to the Planning Commission for reconsideration with specific instructions to the Planning Commission.
- H. Procedure for approval of Preliminary Plats of land within one (1) mile of the corporate limits shall be the same, except that one (1) copy of the Preliminary Plat shall be referred to the Jefferson County Board with a request for their recommendations to be submitted to the Planning Commission.

The Planning Commission shall not take final action on the Plat prior to receiving the recommendations of the Jefferson County Board. If no recommendation is received within ten (10) days, the Preliminary Plat shall be deemed approved by the Jefferson County Board.

- I. Approval of a Preliminary Plat shall not constitute approval of the Final Subdivision Plat. Rather, the Preliminary Plat shall be deemed an expression of approval of the general design concept and serves as an acceptable guide for the preparation of the Final Plat.

Approval of the Preliminary Plat shall become void after twelve (12) months from the date of such approval.

▪ **Section 3.03 - Preliminary Plat and Supplemental Data :**

- A. Requirement, General: a Preliminary Plat shall be based on a boundary survey of the property including a certified legal description of the property.

A Preliminary Plat shall, at a minimum, meet the design standards set forth in these regulations.

Sheet sizes for plats shall be adequate to provide for a scale of 1" equals 100' making it possible to clearly read all necessary information shown thereon.

- B. Requirements, Specific: a Preliminary Plats shall include the following information:

1. Identification and description;
2. Name of subdivision;

3. Name of subdivider (or applicant), engineer, landscape architect, or surveyor;
4. North Arrow and graphics scale;
5. Proposed location and size of lots, alleys, easements, streets (with suggested names) and other proposed dedicated areas shall conform to current Zoning Ordinance, or a proposed zoning plan deemed acceptable by the Planning Commission;
6. Show all existing structures in the area;
7. All lands and, or subdivisions, shall be shown for a distance of two hundred feet (200') from all sides of land in question showing location, names and width of streets and highways, etc.;
8. Building front set back line, as required by Zoning Ordinance for that district or proposed zone district;
9. Location of section and half-section lines in relation to plat;
10. Other data:
 - a. Total acreage of the subdivision, number of lots and acreages designated to other uses
 - b. Contours with intervals of five feet (5'). If the subdivision exceeds ten (10) acres, in area or contains unusual topographic features, closer contour lines may be required by the Planning Commission;
 - c. Delineation of public grounds other than streets or alleys;
 - d. Location and size of proposed utilities and facility;
 - e. Location, widths, and other dimensions of proposed streets, alleys and easements;
 - f. Layout, numbers and approximate dimensions of proposed lots, blocks;
 - g. Drainage channel, flood plains and floodways, wooded areas, rock out crop and other significant natural features;
 - h. Existing sewers, water mains, culverts or other underground structures within the tract and immediately adjacent thereto. If water mains and sewers are not on or adjacent to the tract, direction and distance to the nearest ones shall be shown including invert elevations of sewers;
 - i. Location, widths and names of all existing or platted streets or other public ways within and immediately adjacent to the tract, existing permanent buildings, railroad rights-of way, section lines, and other such important features;
 - j. Proposed public improvements; highways or other major improvements planned by public authorities for future construction on or near the tract;
 - k. A vicinity map shall be presented accompanying or included on the Preliminary Plat showing the geographic relationship of the proposed subdivision to the surrounding area. Features to be noted on the vicinity map include major streets, railroads, public areas. Vicinity maps shall be prepared at a scale of no smaller than 1" equals 2,000';
 - l. A description of proposed curbs, gutters, sidewalks, street surfacing, and street sub-structure;

- m. When required by the Planning Commission, there shall be furnished profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical cross sections of the proposed grading, roadway and sidewalk;
 - n. Names of adjacent property owners or subdivisions.
- 2. The subdivider or his representative shall be in attendance at City Planning Commission meeting when Preliminary Plat is discussed.
- 3. Two (2) copies of the Preliminary Plat upon approval of the City Planning Commission will be signed by the Chairman of the Planning Commission and one (1) returned to the subdivider or their representative.

▪ **Section 3.04 - Procedure for Approval of Final Plat :**

- A. The Final Plat shall conform to the Preliminary Plat as approved and may be comprised of only that portion of the approved Preliminary Plat which the subdivider proposed to record and develop at the time.
- B. The Final Plat shall be submitted to the Planning Commission for approval at least fifteen (15) days prior to the meeting at which it is to be considered.
- C. Two (2) reproducible copies, one mylar the size of the original and one paper which shall be 11"x17", and four (4) paper copies of the original shall be prepared as specified in these regulations. The original, reproducible and all copies shall have all the required signatures along with any required stamped seals.
- D. Upon approval of the Final Plat, a certification of approval by the City Council shall be endorsed thereon by the City Clerk, and the original shall be filed with the Jefferson County Register of Deeds, the reproducible copy with the City Clerk, and the two (2) copies of the original with the Planning Commission.
- E. The final approval by the City Council shall be by Ordinance after a public hearing, after receiving the recommendation of the Planning Commission together with a letter stating that the subdivider has complied with the requirements of this Ordinance.

▪ **Section 3.05 - Final Plat and Required Supplemental Data :**

- A. After approval of the Preliminary Plat by the Planning Commission and City Council, the subdivider shall prepare and submit to the Planning Commission a final plat prepared by a registered engineer and/or registered land surveyor for recording purposes and shall submit to the City Engineer:
 - 1. A sanitary sewer plan;
 - 2. A surface storm drainage plan within the subdivision; and
 - 3. A street profile plan with a statement of proposed street improvements.
- B. The Final Plat shall be submitted fifteen (15) days prior to Planning Commission meeting date, together with five (5) paper prints, one being an 11"x17" size, and one mylar reproducible.
- C. Two (2) prints to be delivered to the City Engineer for his review.
- D. The Final Plat, in conformance with the approved Preliminary Plat, shall include:
 - 1. Name of subdivision;
 - 2. Date, north arrow and scale;
 - 3. Boundary lines of area being subdivided (heavy dashed lines) with accurate

distance, angles other than 90 degrees, boundaries and location of section and half section lines in relation to the Plat;

4. Include lands adjoining subdivision for a distance of two hundred feet (200') on all sides, all names of such additions, and streets, together with property lines, lot and block numbers and other designations, (except dimensions, to be shown by broken lines). Dimensions of bounding streets, together with lot dimensions on side adjoining streets shall be shown;
 5. Identifications systems for all lots and blocks;
 6. Proposed streets and/or cul-de-sacs (with names), alleys, easements and other dedications and lots of other parcels of land must be accurately dimensioned. All angles other than ninety degree (90°), as required to definitely establish lines or parcels of land, must be shown;
 7. Locations of markings (in feet and decimals of a foot) of iron pipe, ¾" plus or minus, in diameter and not less than two feet (2') in length at all lot corners and change in alignments of such lines;
 8. The point of beginning and ending of a curve, its radius and total deflection angle;
 9. Certification by a registered land surveyor (see Schedule B);
 10. A notarized certification signed and acknowledged by all parties having any titled interest in, or lien upon the land to be subdivided consenting to the final plat including the dedication of parts of the land for streets, easements, and other purposes (see Schedule C);
 11. A certification signed by the County Treasurer stating that there are no regular or special taxes due or delinquent against the platted land;
 12. A form for the approval of the Planning Commission (see Schedule B);
 13. A form for the approval of the City Council to be signed by the Mayor and attested to by the City Clerk (see Schedule B);
 14. Location description of the subdivision by the section, township, range, county, and state and including metes and bounds description for the boundaries of the subdivision;
 15. A form for the approval of the City Engineer (see Schedule B);
 16. A form for Acknowledgment by Notary (see Schedule C);
 17. A form for Certificate of County Register of Deeds (see Schedule B);
 18. One copy of any private restrictions or covenants affecting the subdivision or any part thereof, if applicable.
- E. The Final Plat shall then be submitted to the City Council at their regular meeting at a public hearing advertised and posted with notice at least ten (10) days prior to such hearing, for approval and adoption prior to the start of construction.

▪ **Section 3.06 - Plats Outside the Corporate Limits :**

Procedures for approval of the Preliminary and Final Plats of land within one (1) mile of the corporate limits shall be the same as set forth in this Article, except that one (1) copy of the Preliminary Plat shall be referred to the Jefferson County Board with a request for their recommendations to be submitted to the Planning Commission.

The Planning Commission shall withhold action on the Plat until receiving the recommendations of the Jefferson County Board. If no recommendation is received within ten (10) days, the Plat shall be deemed approved by the Jefferson County Board.

▪ **Section 3.07 - Vacation of Plat of Record :**

- A. Conditions: A subdivider may make application to the Planning Commission to vacate any plat of record under the following conditions:
1. The plat to be vacated is a legal plat of record;
 2. Vacation of the subdivision will not interfere with development of, nor deny access via public thoroughfare to, adjoining properties or utility services or other improvements; and
 3. Vacation of the subdivision will not be contrary to the Comprehensive Plan.
- B. Procedures: The owner or owners shall present a proposal to the Planning Commission, containing the legal description of the subdivision and calling for vacation thereof.
- The Planning Commission shall study the proposal and shall send recommendations to the City Council.
- The City Council shall approve or deny the proposal. If the proposal is approved, it shall then be recorded in the office of the Jefferson County Register of Deeds.
- All fees for the recording of such vacation shall be paid by the subdivider.

▪ **Section 3.08 - Replats/Small Tract Subdivision :**

Whenever a subdivision or re-subdivision of a parcel consists of four (4) or fewer lots, the Planning Commission may waive the separate submission requirements for the Preliminary and Final Plats to expedite the subdivision review process if, in the judgment of the Planning Commission, separate submission will not serve the public interest and will not conflict with the intent of these regulations. Concurrent Plats shall:

- A. Be discussed with the Planning Commission at a scheduled pre-application conference, as set out in Section 1 of this article;
- B. Be submitted to the City Clerk at least fifteen (15) days prior to the next regular meeting of the Planning Commission at which request is to be heard;
- C. Be accompanied by the applications fees and completed application forms as required;
- D. Follow the procedure set forth herein and contain the required information for Preliminary and Final Plats;
- E. A drainage plan showing how run-off generated by the proposed development impacts drainage on downstream drainage systems;

Exceptions: Drainage reports shall not be required for the following:

1. Subdivision of existing tax lots that are primarily developed;
 2. Subdivision of a farmstead that creates not more than two (2) lots and allows for the split of the main residence from the remaining farmstead; and/or
 3. Acreages where lots are not less than one (1) acre in size.
- F. Changes required by the Planning Commission shall be made prior to submission to the governing body. Final plans shall be submitted to the City Clerk at least seven (7) days prior to the next regular meeting of the governing body.
- G. A Final Plat, in conformance with Section 5, shall be submitted to the City Council for review and action prior to start of construction. Such hearing shall be posted with notice at least ten (10) days prior to the hearing.

▪ **Section 3.09 - Administrative Subdivision :**

The intent of this section is to provide for lot splits, lot combinations, and boundary adjustments which result in lots divided or combined into not more than six (6) tracts without having to replat said lots. The Building Inspector shall review the administrative subdivision application and make a final determination. The Building Inspector may approve or disapprove administrative subdivisions in accordance with the following regulations.

- A. Whenever a subdivision of lots involves lot splits, lot combinations, and boundary adjustments which result in lots divided or combined into not more than six (6) tracts, provided that the resulting lots shall not again be divided without re-platting, the following process may be used instead of the preliminary plat/final plat process provided the following conditions are met:
1. The subdivision is served by existing utilities or does not require the extension of utilities.
 2. The subdivision is served by existing easements.
 3. The subdivision does not require the extension of streets or public improvements.
 4. Each lot resulting from the administrative subdivision procedure will conform fully to all requirements of the Zoning Regulations and the Subdivision Regulations concerning minimum areas and dimensions of lots and blocks.
- B. An application for an Administrative Subdivision may be approved under the following procedure:
1. The applicant submits an application on a form established by the Building Inspector and the supporting documents required. These supporting documents shall include a plat of all lots and parcels that are affected by the action prepared by a Licensed Surveyor showing the previous and proposed new boundaries; provided, that a plat prepared by Licensed Surveyor shall not be required wherein a portion of one platted lot is added to a portion or all of an adjacent lot or where one platted lot is divided into two (2) parts. The following information shall be provided as part of the plat:
 - i. Name, address of owner, applicant, and other persons with an interest in or encumbrance on the land to be platted.
 - ii. Name, signature, license number, and address of engineer, or land surveyor, as applicable, involved in preparation of the plat.
 - iii. Title block, denoting type of application, legal description, and general location.
 - iv. North arrow, date, and graphic scale
 - v. Proof that taxes and special assessments are current.
 - vi. Signature Blocks for City Engineer, Utilities Superintendent, City Administrator, Planning Commission Chairman, and Mayor.
 - vii. Appropriate certification blocks.
 - viii. Acreage of tract.
 - ix. Date of original and all revisions.
 - x. Location, dimensions, and names of existing and proposed streets and alleys and dedication of proposed streets and alleys.
 - xi. All proposed lot lines, lot dimensions, and lot areas in square feet.

- xii. Existing and proposed easements or land reserved for or dedicated to public use and dedication of proposed easements and land reserved for or dedicated to public use.
2. The Building Inspector shall collect a fee, the amount of which shall be determined by the City Council by resolution.
3. Following submission, the Building Inspector shall review each application according to the following criteria:
 - i. Compliance with the conditions contained in Section 9 of Article 3 of the Subdivision ordinance.
 - ii. Consistency with the Comprehensive Development Plan of the City of Fairbury.
 - iii. Potential adverse environmental effects o effects on neighboring properties.
4. Following such review, the Building Inspector shall refer the application for approval in the following order: City Engineer, Utilities Superintendent, City Administrator, Chairman of the Planning Commission, and the Mayor. If any party rejects the administrative plat, approval of such plat is denied. Approval shall be denoted by a signed certificate of approval which must be filed along with the plat with the Register of Deeds of Jefferson County.
5. In the case of a denial, the plat may proceed through the appropriate review and action procedure for a plat.
6. Following approval of an Administrative Subdivision, the subdivider must file the plat and certificate of approval with the Register of Deeds of Jefferson County. If the certificate of approval and the approved plat are not filed with the Register of Deeds of Jefferson County within 90 days of approval, such approval shall be null and void.
7. The Building Inspector shall keep a complete and accurate record of all administrative plat approvals.

ARTICLE 4

Design Standards

▪ **Section 4.01 - Minimum Design Standards :**

No subdivision shall be approved unless it is in conformance with the requirements of these regulations and the Comprehensive Development Plan.

In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to best conform with any recommendations of the Comprehensive Development Plan. Any provisions for schools, parks, and playgrounds should be indicated on the Preliminary Plat in order that it may be determined when and in what manner such areas will be provided or acquired by an appropriate agency.

Land which the Planning Commission has found to be unsuitable for subdividing, due to flooding, bad drainage, steep slopes, rock formation, or other features likely to be harmful to the safety, welfare or health of the future residents, shall not be subdivided unless adequate methods for subdivision are formulated by the developer and approved by the Planning Commission that would eliminate or substantially reduce such hazards.

The Planning Commission may require all contiguous land under common ownership to be submitted with the Preliminary Plan in order to evaluate overall development patterns and conformity with the Comprehensive Development Plan and issue proper extension of future roads and services.

If a proposed subdivision contains lots which are sufficiently larger parcels than the minimum required lot size of the zoning district, such parcels shall be arranged to allow for such sized lots and the Preliminary Plat shall show a logical future street and utility system and logical resubdivision.

▪ **Section 4.02 - Design Standards; Streets :**

The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Development Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of land to be serviced by such streets.

The street layout of the proposed subdivision shall provide for the continuation or appropriate projection of streets and alleys already existing in areas adjacent to the area being subdivided.

Where, at the determination of the Planning Commission, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of the subdivision.

Where the Planning Commission deems it is necessary, such dead-end streets shall be provided with a temporary turnaround having a radius of at least twenty-five feet (25') or other approved design.

▪ **Section 4.03 - Design Standards; Companion Easements :**

In order to promote on-site management of surface drainage or other public dedications, a developer may propose the use of companion easements in lieu of a portion of the required right-of-way for

local or collector streets. Such easements shall be for utilities or other public purposes and shall be allowed in proportion to dedicated areas as required.

Such easements may be authorized by the City Council where:

- A. The proposed subdivision contains sufficient area and design that approval of the option will not create a potential problem in the construction of streets,
- B. Where areas for storm drainage control or public purpose are dedicated by easement or where a homeowners association is created and approved to provide perpetual maintenance of such common areas or where the City accepts dedication to the public,
- C. The required rights-of-way are of sufficient width to accommodate future traffic needs consistent with the recommendations of the Comprehensive Plan and the standards set forth herein.

▪ **Section 4.04 - Design Standards; Dedication of Right-Of-Ways for New Streets :**

The dedication of right-of-ways for new streets measured from lot line to lot line shall be shown on the plat and shall meet the right-of-way requirements as stated in Schedule A of this Ordinance. Access to lots located on arterials shall be approved by the City.

Frontage roads or marginal access streets shall be required by the Planning Commission for subdivisions fronting on arterial streets where possible. If lots back up to the arterial street and such lots have access other than the arterial street frontage a marginal access street may not be required.

▪ **Section 4.05 - Design Standards; Dedication of Right-Of-Ways for Existing Streets :**

Subdivisions platted along existing streets shall dedicate additional right-of-way or easements, if necessary, to meet the minimum street width requirements set forth in this Ordinance.

The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one side of an existing street, one half (½) of the required right-of-way width, measured from the centerline of the existing roadway, shall be dedicated along with any proposed easements.

Dedication of one-half (½) of the right-of-way for a proposed street along the boundaries of land proposed for subdivision shall be prohibited except where essential for the reasonable development of the subdivision and where it is found to be practical and reasonable to require the dedication of the other half of the right-of-way when adjoining property is subdivided.

▪ **Section 4.06 - Design Standards; Intersections :**

Streets shall intersect as nearly as possible at an angle of ninety degrees (90°), and no intersection shall be at an angle of less than sixty degrees (60°).

Street curb intersections shall be rounded by radii of at least twenty feet (20'). When the smallest angle of street intersection is less than seventy-five degrees (75°), the Planning Commission may require curb radii of greater length.

Whenever necessary, to permit the construction of a curb having a desirable radius without reducing the sidewalk at such street corner to less than nominal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such construction.

No lot or other parcel of land which abuts on and has access to either a collector or minor street shall have a service drive, curb cut, or other means of access to an arterial street within seventy-five feet (75') of the right-of-way of such arterial street.

▪ **Section 4.07 - Minimum Design Standards; Curves in Streets; Horizontal and Vertical :**

A tangent of at least one hundred feet (100') long shall be introduced between reversed curves on arterial and collector streets.

Where there is a deflection angle of more than ten degrees (10°) in the horizontal alignment of a street, a curve with a radius adequate to ensure safe sight distance shall be made.

Minimum requirements shall conform to the standards in Schedule A of this Ordinance.

▪ **Section 4.08 - Design Standards; Street Grades and Elevations :**

All streets shall be designed so as to provide for the discharge of surface water from the pavement and from the right-of-way by grading and drainage.

For adequate drainage, the minimum street grade shall not be less than three hundredths of one percent (0.3%).

Minimum grades for gutters and ditches shall be four hundredths of one percent (0.4%) and five hundredths of one percent (0.5%) respectively.

Storm sewer construction shall be required where necessary to meet these minimum grade requirements.

Fill may be used in areas subject to flooding in order to elevate streets and building pads, provided such fill will not serve to increase flood elevations.

Street grades shall conform to the minimum requirements provided in Schedule A of this Ordinance.

▪ **Section 4.09 - Design Standards; Frontage Roads/Marginal Access Streets :**

Where a subdivision fronts on or contains an existing or proposed arterial street, the Planning Commission shall require marginal access streets in all situations indicated below or, reverse frontage lots with screen planting, or such other treatment as may be deemed necessary, located in the non-access arterial street frontage along the rear of the lots for adequate protection of properties from the arterial street and to protect and preserve the safety and traffic handling capabilities of the arterial street.

Marginal access streets shall be required by the Planning Commission for subdivisions fronting on arterial streets. If lots back up to the arterial street and such lots have access other than the arterial street frontage a marginal access street may not be required.

▪ **Section 4.10 - Design Standards; Street Jogs :**

Street jogs with centerline offsets of less than one hundred fifty feet (150') at intersections shall be prohibited.

▪ **Section 4.11 - Design Standards; Cul-de-sac Streets :**

Minor terminal temporary dead-end streets or cul-de-sacs shall not be longer than six hundred feet

(600') and shall provide a turnaround having a radius at the outside of the pavement of at least fifty feet (50') and a radius at the right-of-way of at least sixty-five feet (65').

Alternative designs for temporary turn-arounds may be approved by the City.

▪ **Section 4.12 - Design Standards; Street Names :**

Proposed streets which are in alignment with other existing streets shall bear the name of such streets.

The name of a proposed street which is not in alignment with an existing street shall not be similar to the name of any existing street. To avoid duplication and confusion, the proposed names of all streets shall be approved by the City Council prior to such names being assigned or used.

▪ **Section 4.13 - Design Standards; Private Streets and Reserve Strips :**

New private streets may be created as part of a Planned Development district provided such streets are specifically authorized by the Planning Commission and City Council as an exception to the terms of the Ordinance.

There shall be no reserve strips in a subdivision except where their control is definitely vested in the municipality under conditions of approval by the Planning Commission as authorized in these regulations.

▪ **Section 4.14 - Design Standards; Blocks :**

The lengths, widths and shapes of blocks shall be determined with due regard to the provisions of adequate access and circulation, building sites suitable to the needs of the use contemplated, zoning requirements regarding minimum lot sizes, widths and frontages and the limitations or opportunities presented by the topography.

Block lengths, except in unusual circumstances, shall not exceed six hundred feet (600').

Pedestrian easements ten feet (10') wide shall be provided through or near the center of blocks more than 600 feet long in order to provide for pedestrian circulation.

▪ **Section 4.15 - Design Standards; Lots :**

The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

All lots shall be developed to channel surface drainage to lot lines and not across adjacent properties.

Corner lots for residential uses shall have additional width to permit appropriate building setback distances and orientation to both streets.

The subdividing of land shall be such as to provide each lot with satisfactory vehicular access by means of public street(s) or approved private street. Side lot lines shall be substantially at right angles or radial to street lines.

▪ **Section 4.16 - Design Standards; Through (Double Frontage) Lots :**

Double frontage lots shall be avoided, except where essential to provide separation of residential

development from arterial streets or to overcome specific disadvantages of topography.

Where such lots are used in relation to an arterial street, a landscape screen easement of at least ten feet (10') in width shall be provided along the line of lots abutting such arterial street and the subdivider shall install trees, shrubbery or fences, or a combination thereof, to screen the residential development from the arterial street and dampen the noise generated by traffic on the arterial street.

▪ **Section 4.17 - Design Standards; Sidewalks :**

Sidewalks shall be labeled upon the improvement plans and installed by the property owner upon completion of the new primary structure.

The minimum sidewalk width shall be five feet (5') provided, however, that in multiple family residential developments and non-residential developments said sidewalks shall be of a width suitable for the anticipated traffic but not less than five feet (5'), as determined by the Planning Commission.

Except where unusual conditions exist and an exception is specifically granted by the Planning Commission, the following shall apply:

- A. Placed along both sides of all streets within the subdivision, in which case the edge of the sidewalk away from the street shall be placed at a minimum distance of eight feet (8') behind the curb;
- B. Parallel to any streets abutting and/or running along the outer perimeter of the subdivision;
- C. All sidewalks shall extend to the street pavement at all intersections and at mid-block crossings where appropriate, and shall be equipped with handicap access ramps;
- D. In neighborhoods planned as cluster developments, sidewalk locations may be adjusted to accommodate the most efficient pedestrian circulation through, to, and from the development;
- E. The Commission may modify the requirements of this section, but only in instances where park, drainage, extreme topographical conditions or other unusual conditions make sidewalk installation non-essential or unnecessary on both sides of the street.

▪ **Section 4.18 - Design Standards; Easements :**

Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least sixteen feet (16') in width - eight feet (8') on each side of the lot line. A minimum of ten feet (10'), five foot (5') on each side of a side yard setback line shall be allowed in those zoning districts that require only a five foot (5') side yard.

Where a subdivision is traversed by a water course, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width will be adequate for the purpose of retaining the water handling capacity of the water course.

▪ **Section 4.19 - Design Standards: Storm Sewer :**

Provisions shall be made to limit the peak rate of storm water discharge from the subdivision. Post

development rates shall be no greater than if the subdivision was in cultivated row crops with conservation treatment and in good hydrologic condition.

In determining the size or type of storm sewer, the design shall be sufficient to handle all computed runoff at the point in question.

For large drainage areas, the City may require cross drainage structures such as culverts, bridges, etc.

▪ **Section 4.20 - Design Standards: Flood Hazards :**

Land subject to flooding and land deemed to be topographically unsuitable for residential or other development shall not be platted for such purposes. Such land may be set aside on the plat for such uses compatible with the hazards associated with flooding or erosion.

All development shall be flood proof in accordance with the flood hazard zoning provisions of the Zoning Ordinance.

▪ **Section 4.21 - Design Standards; Conformance with Other Regulations :**

No final plat of land within the City or its jurisdictional area shall be approved unless it conforms to existing zoning regulations, unless waived by the Planning Commission and City Council in accordance with these regulations.

Whenever there is a variance between the minimum standards set forth in these regulations and those contained in other regulations the highest or most restrictive standard shall govern.

ARTICLE 5

Required Improvements

▪ **Section 5.01 - Required Improvements; General :**

The subdivider shall design and construct improvements using standards not less than the standards outlined in this Ordinance. All such plans shall be approved by the Planning Commission and City Council upon recommendation of the City Engineer.

The work shall be done under the supervision and inspection of the City and shall be completed within the time limitations established herein.

The minimum requirements for materials shall be in accordance with specifications approved by the City.

Standards applicable to health and sanitation as required by the Nebraska Department of Environmental Quality and the Nebraska Department of Health shall be the minimum standards required thereof.

All inspection costs and costs for required tests shall be paid by the subdivider.

▪ **Section 5.02 - Required Improvements; Monuments and Markers :**

Monuments and markers placement shall be as follows:

Concrete monuments shall be located at all quarter section points or other reference points tied to the federal land survey on the boundaries of or within the area being platted.

▪ **Section 5.03 - Required Improvements; Monument Construction :**

Monumentation shall meet or exceed the "Minimum Standards for Surveys" as adopted by the Professional Surveyors Association of Nebraska in February 1989. These standards are as follows:

- a. The surveyor shall establish or confirm the prior establishment of permanent monuments at each corner on the boundary lines of the parcel being surveyed;
- b. Monuments shall be solid and substantially free from movement;
- c. In such cases where the placement of a permanent monument at the true corner is impractical because of instability or is likely to be destroyed, the surveyor shall set a corner accessory monument and show its relationship by dimension to the true corner;
- d. The monuments set shall be constructed of material capable of being detected by commonly used magnetic locators. These monuments shall consist of an iron pipe or steel rod with a minimal diameter of five-eighths inch ($\frac{5}{8}$ ") and minimal length of twenty-four inches (24");
- e. When extenuating circumstances dictate, the surveyor may use such monuments (i.e., nail and washer) that have a probability of permanence.

- f. Where a corner or a line falls on or within a wall, column line or other physical feature and the placement of a monument is not feasible, the wall, column line or physical feature shall become the monument by reference thereto;
- g. In addition, monuments shall be set at all block corners, lot corners, deflection points and points of curvature, except in cases where it is deemed clearly unreasonable or infeasible by the City Council.

▪ **Section 5.04 - Required Improvements; Street Grading and Construction :**

All streets shall be graded to a minimum fifteen feet (15') back of the curb or edge of pavement and to within six inches (6") of the street grade established in the approved final plat construction plans and specifications.

Paved streets shall be required within the boundaries of the subdivision unless excepted by the Planning Commission in accordance with the terms of this Ordinance.

Minimum requirements for pavement construction shall be in accordance with the specifications approved by the Planning Commission and City Council.

If pavement is excepted, then asphalt hard surfacing of the type and thickness as approved by the City Engineer shall be considered the minimum unless waived by the Planning Commission.

Higher design standards may be required by the Planning Commission and City Council to provide for unusual soil conditions or extra-ordinary traffic volumes or other abnormal characteristics.

Curbs and gutters shall be required for all streets within the boundaries of the subdivision unless excepted by the Planning Commission in accordance with the terms of this Ordinance.

▪ **Section 5.05 - Required Improvements; Street Signs and Lighting :**

At least one (1) street sign shall be installed at each street intersection within or on the perimeter of the subdivision and shall be located in the northeast corner thereof, whenever possible, and within the area between the street and sidewalk at a point approximately six inches (6") from said sidewalk or its intended location.

The City shall provide and install street lights at each entrance (street or sidewalk) into a subdivision and at each street intersection within the subdivision and at such intermediate points as necessary.

New subdivision lighting shall utilize either underground or overhead wiring and easements for such wiring shall be indicated on the plat.

▪ **Section 5.06 - Required Improvements; Sidewalks :**

Sidewalks shall be provided in conformance with the requirements of Article 4, Section 17 and shall be constructed of Portland cement concrete or other acceptable material as approved by the City Engineer. Sidewalk thickness shall not be less than four inches (4").

The subdivider need not install such sidewalks until building construction is completed on a lot by lot basis to avoid damage by heavy equipment. When deemed necessary, sidewalks shall be constructed on any undeveloped lot within six (6) months, by the owner, after a directive from the City.

▪ **Section 5.07 - Required Improvements; Landscape Screens :**

Landscape screens as required by the City shall be installed at the subdivider's expense as a buffer for the protection of residential properties along major streets, railroad rights-of-way, and land uses which are substantially different from that proposed in the subdivision.

▪ **Section 5.08 - Required Improvements; Drainage :**

A drainage system shall be designed and constructed by the subdivider to provide for the proper drainage of surface water of the subdivision and the drainage area of which it is a part.

Culverts shall be constructed and installed whenever necessary, as determined by the Planning Commission, to provide adequate drainage in accordance with recommendations of the City Engineer.

In addition, the developer shall submit, unless specifically waived by the Planning Commission, a drainage report prepared by a registered professional engineer or surveyor as to the existing and proposed drainage conditions. A preliminary report shall be included on the Preliminary Plat. The final report shall be attached to the Final Plat and shall include an evaluation of the ability of the proposed water courses, drainage tiles, storm sewers, culverts and other improvements pertaining to drainage or flood control within the subdivision to handle the run-off which would be generated by the development of the land within and above the subdivision and the impacts of such drainage on downstream drainage systems.

A. The Preliminary Plat report shall include:

1. Preliminary estimates of the quantity of storm water entering the subdivision naturally and upon full development of lots within the subdivision;
2. Existing conditions of the watershed that may affect the proposed subdivision, such as soil type, drainage channels, obstructions and the like;
3. A preliminary grading plan illustrating proposed drainage management.

B. The Final Plat drainage report shall contain:

1. Calculations of the quantity of storm water entering the subdivision naturally and estimates of such storm water upon full development within the subdivision based on the proposed zoning;
2. Quantities of flow at each pick-up point;
3. Estimates and type of temporary erosion control measures necessary to control erosion during construction;
4. A description of an adequate drainage system within the subdivision and its design capacities based on a ten (10) year storm.

C. Drainage Requirements : The subdivider shall provide adequate drainage facilities within the subdivision including storm sewers determined to be necessary by the Planning Commission upon recommendation of the City Engineer. If storm sewers are not necessary all open ditches shall be graded and all pipes, culverts, intersection drains, drop inlets, bridges, headwalls, gutters and similar or related installations necessary to provide adequate surface water drainage shall be constructed and installed in accordance with plans approved by the City Council upon recommendation by the City Engineer.

- D. **Drainage System Standards** : All streets shall be provided with an adequate storm drainage system of curbs, gutters and storm sewers or side ditches.
- Curb drainage inlets shall be provided at appropriate intervals along streets with curbs and gutter drainage. Where inlets connect to storm sewers, a drain inlet structure and a protective grating shall be installed.
- All streets having curb and gutter on which storm water flows across intersections shall be provided with concrete cross gutters at such intersections.
- All off-street drainage swales and ditches shall be protected by drainage easements noted on the Final Plat. Where water courses would cross lots diagonally, the subdivider shall straighten such course and shall substantially follow lot lines.
- E. **Storm Drain Responsibility** : The subdivider shall be responsible for the entire cost and expense for the construction of all storm drain systems; provided, however, that the City, through the City Council, may agree to contribute to and pay up one-half (½) the difference in cost as determined at the time of approval between the storm drain system requiring a storm drain thirty-six inches (36") in diameter and one requiring a storm drain over thirty-six inches (36"+) in diameter for plats located within the City limits, or to be annexed with Final Plat approval.
- City contribution shall be limited to the available funds appropriated for such purposes in the current fiscal year's budget, provided if requests for such subsidies exceed available funds appropriated for such purposes, the City Council may establish by resolution, a system of priorities upon which to base City contributions.
- The dollar amount of City participation for a particular subdivision shall be determined by the City Council as of the date of acceptance of the Final Plat of such subdivision and shall be set forth in the ordinance approving and accepting such final plat.
- The City's agreement to make such a contribution shall lapse if the storm drains are not constructed by the subdivider within two (2) years after the date of acceptance of the Final Plat.
- The subdivider shall be responsible for the installation and maintenance of open ditches for surface drainage where permitted.

▪ **Section 5.09 - Required Improvements; Sanitary Sewer :**

A sanitary sewer system shall be designed and constructed by the subdivider for all lots in the proposed subdivision. The following requirements shall apply:

- A. **Type of Improvements** : Within the corporate limits, a sanitary sewer collection system including all pipes and manholes shall be provided and said collection system shall be connected to the public sewage system in accordance with plans acceptable to the Planning Commission and City Council.
- Within the jurisdictional areas of the City but outside the corporate limits, if a proposed subdivision is so located with regard to an adequate public sewer, either existing or to be existing within one (1) year from the date of application for final plat approval, or that said sewer is located within five hundred feet (500') of the proposed subdivision or can be reached if the cost of installing lateral and connecting sewers from all lots shown upon said plat, exclusive of connections from individual structures; is equal to or less than one hundred fifty percent (150%) of the cost of

installing a private sewage collection and disposal system for all lots, then adequate lateral and connecting sewers to said public sewer system shall be constructed.

If the subdivision is not located relative to a public sewer system, a private collection and treatment system acceptable to the City Council and appropriate to the Nebraska Departments of Health and Environmental Quality may be used. However, the City may require the developer to provide a plan for future extension of utilities including permanent easements. If on-site disposal is proposed, the subdivider shall document acceptable percolation rates on each lot and such lots shall be adequately sized to allow for the installation and safe operation of such systems in conjunction with any proposed water supply or well location.

- B. Standards : When applicable, improvement plans for a permanent sewage system shall be provided showing pipe sizes, gradients, type of pipe, invert and finished grade elevations, location and type of manholes, treatment facilities, if applicable, and the location, type and size of all lift or pumping stations.

Design Standards of said system shall be subject to the approval of the City in accordance with the following standards:

1. At least eight inch (8") sewer lines will be installed;
2. At least four inch (4") service connections from the sewer line to the property line of each lot will be installed with the location marked;
3. Manholes will be provided at all interceptor and lateral junctions, at the end of each line, and at all changes in direction, grade and size.

Design standard of said system shall be in general compliance with the requirements of the State Department of Environmental Quality.

▪ **Section 5.10 - Required Improvements; Water System :**

A water distribution system shall be designed and constructed by the subdivider to provide adequate water service to all lots in the proposed subdivision. The following requirements shall apply:

- A. Type of Improvement : Within the corporate limits, a water distribution system including all pipes, fire hydrants, valves and other appurtenances shall be provided and said distribution system shall be connected to the public water system in accordance with plans acceptable to the Planning Commission and City Council.

Within the jurisdictional area of the City but outside the corporate limits, if a proposed subdivision is so located with regard to an adequate public water supply line, either existing or proposed within one (1) year from the date of application for final plat approval or that said water line is located within five hundred feet (500') of the proposed subdivision or can be reached if the cost of connecting to said water line and installing an adequate distribution system to all lots shown upon said plat, exclusive of connections from individual structures, is equal to or less than one hundred fifty percent (150%) of the cost of installing an individual water supply system for all lots, then adequate connecting lines to said public water system shall be constructed.

If the subdivision is not so located relative to a public water line, the City may authorize a community well system. In addition, the City may require a plan for future extension of such utilities, including permanent easements, for utilities

throughout the proposed subdivision.

- B. Standards : When applicable, improvement plans for a permanent water system shall be provided showing pipe sizes, type of pipe, locations of fire hydrants and valves and, if applicable supply facilities, booster pumps, elevated or ground level storage tanks and other appurtenances.

Design Standards of said system shall be subject to the approval of the City in accordance with the following standards;

1. The minimum main or pipe size shall be determined by the type of uses to be served and the provision of adequate fire flow capacities. Generally, water lines shall be at least six inches (6") in diameter;
2. The maximum distance between fire hydrants shall be determined by the City, but generally any portion of the proposed subdivision shall be within two hundred fifty feet (250') of a fire hydrant;
3. Gate valves on cross-connecting water lines shall be so located that no single break in the distribution system shall require more than five hundred feet (500') to be out of service in high value districts or eight hundred feet (800') in other districts.

Valves or cross connecting mains shall be so located that a break in the secondary distribution system will not necessitate shutting down major distribution lines.

Design standards of the water distribution system shall be in compliance with the requirements of the Nebraska Department of Health.

▪ **Section 5.11 - Required Improvements; Electric, Gas and Telephone Improvements :**

Electric service and telephone service shall be provided within each subdivision. Gas service may be required where reasonably accessible. Whenever such facilities are reasonably accessible and available, they may be required to be installed within the area prior to the approval of the Final Plat.

Telephone, electric, street lighting, and communications conductors may be installed underground at the option of the Superintendent of Utilities.

Overhead secondary utility lines, where permitted, shall be attempted to be located at the rear of all lots.

Whenever a sanitary sewer line and electric and/or telephone line is each placed underground in the same utility easement, the following provisions shall be applicable:

- a. the total easement width shall not be less than sixteen feet (16'); and
- b. the sanitary sewer line shall be installed within three feet (3') of the easement, and the electric and/or telephone line shall be installed within three feet (3') of the opposite side of the easement.

▪ **Section 5.12 - Required Improvements; Cost of Over-Size Improvements :**

Minimum street pavement widths for streets shall conform to the standards established in Schedule A of this Ordinance.

Minimum utility sizes shall be determined by the standards of the City with regard to providing service to the subdivision in question.

Where pavement widths or larger pipe or main sizes are deemed necessary by the Planning Commission and City Council, the City shall bear the extra cost of providing such greater width or larger pipe or main sizes. The subdivider shall be required to pay for that part of the construction costs for the arterial streets, trunk sewers, or water lines which are serving the proposed subdivision as determined by the Planning Commission and City Council. The City shall pay the remainder of the costs.

▪ **Section 5.13 - Required Improvements; Extensions to Boundaries :**

The subdivider may be required to extend all necessary improvements to the boundaries of the proposed subdivision at his/her expense to allow for service to future anticipated developments on adjoining lands, as determined by the Planning Commission and City Council.

▪ **Section 5.14 - Required Improvements; Off-Site Extensions :**

If streets or utilities are not available at the boundary of the proposed subdivision or within the distances or costs established in Sections 12 of this Ordinance, and the Planning Commission determines that extensions across undeveloped areas are not warranted, the subdivider, if he/she wishes to proceed with the development, shall pay the cost of such off-site improvements and provide for appropriate off-site easements prior to the approval of the Final Plat. Such improvements shall be available for connections by subdividers of adjoining lands subject to City approval.

If the City elects to participate in the extension of street, utilities or other public improvements across such tracts, the City Council may establish a connection fee to said lines as reimbursement for the construction of such lines.

ARTICLE 6

Dedications and Reservations of Public Land

▪ **Section 6.01 - Dedication :**

As a condition of final plat approval, the subdivider shall dedicate to the public all streets and alleys as may be required by the Planning Commission and City Council. If such streets and alleys are not to be dedicated and are to be developed as private streets, the subdivider shall make adequate provision for an owner's association with direct responsibility to and control by the property owners of the subdivision, to provide for the maintenance of all such private streets and alleys and the removal of debris and snow therefrom so as to maintain adequate access at all times for fire, police, sanitation, utility and emergency vehicles. Legal assurances shall be provided which show that the association is self-perpetuating and has the authority to collect assessments from owners of property within the subdivision to accomplish these and other related purposes.

Such provisions shall also provide for agreement of the property owners that if the City is requested or required to perform any maintenance or snow removal from such streets in order to maintain adequate access, said owners shall pay the costs thereof to the City and that if not paid, the same shall become a lien upon the properties until such costs are paid in full.

▪ **Section 6.02 - Reservation and Dedication of Public Land and Open Space :**

Before preliminary or final plat approval is given, the Planning Commission and City Council may require the subdivider to reserve sites for parks, playgrounds, open space, schools, and other public land consistent with the Comprehensive Development Plan, as determined by the Planning Commission and City Council.

Reservation of land for public acquisition and/or use shall be for a period not to exceed two (2) years from the date the plat is officially recorded unless otherwise provided for in these regulations. If such reserved site is not acquired by the City or other governmental entity within said two (2) year period, the subdivider may then re-subdivide the site for alternative purposes and sell any or all of the site.

Where a park, playground, school, or other site for public use indicated in the Comprehensive Development Plan is located in whole or in part in the applicant's subdivision, the Planning Commission and City Council may either require the immediate acquisition, reservation or accept the dedication of such area.

ARTICLE 7

Improvement Procedure

▪ **Section 7.01 - Improvements; Financing, General :**

In order to provide consistent information concerning the financing of required subdivision improvements; establish an equitable division of costs between the developer and City; and to insure orderly, cost effective growth in Fairbury, the City Council shall require that the developer pay for the following services and improvements indicated as part of the subdivision process:

- A. All costs associated with the preparation and revisions to the preliminary plat including but not limited to surveying, preliminary grading, drawings, and related services;
- B. Unless otherwise agreed to by the City in a Subdivision Improvements Agreement (Assessment District), the developer shall pay for all preparation of all items related to the final plat and those improvements and related costs contained in Article 5.

▪ **Section 7.02 - Subdivision Improvements Guarantees :**

Prior to the final plat approval, but after approval of all improvements plans and specifications, the subdivider shall complete all improvements required for the subdivision. Final plat approval shall not be given until the dedication of all appropriate improvements and acceptance thereof by the City Council.

In lieu of requiring the completion of all improvements prior to the final plat approval, the City Council may enter into an agreement with the subdivider whereby the subdivider shall guarantee to complete all improvements required by this Ordinance and approved by the Planning Commission and City Council in a manner satisfactory to the City Council. To secure this agreement, the subdivider shall provide, subject to the approval of the City Council, one (1) or more of the guarantees set forth in Section 3, 4 and 5 below.

▪ **Section 7.03 - Surety Performance Bond :**

The subdivider shall obtain a performance bond from a bonding company authorized to do business in the State of Nebraska.

The bond shall be payable to the City and shall be in an amount to cover one hundred ten percent (110%) of the cost of all improvements, as estimated by the subdivider and accepted by the City Council upon recommendations of the City Engineer.

The duration of the bond shall be until such time as the improvements are accepted by the City Council in accordance with Section 6 of this Ordinance.

▪ **Section 7.04 - Escrow Account :**

The subdivider shall deposit cash, or other instrument readily convertible to cash at face value, either with the City Council or in escrow with a bank. In lieu of any instrument other than cash, and in the

case of an escrow account, the bank with which the funds are to be deposited, shall be subject to the approval of the City Council.

The amount of the deposit shall be an amount equal to one hundred ten percent (110%) of the estimated cost of all required improvements as estimated by the subdivider and accepted by the City Council upon recommendation of the City Engineer.

In the case of an escrow account, the subdivider shall file with the City Council an agreement between the bank and himself guaranteeing the following:

1. That the funds of said escrow account shall be held in trust until released by the City Council and may not be used or pledged by the subdivider as security in any other matter during that period;
2. That in the case of a default on the part of the subdivider to complete said improvements, the bank shall immediately make the funds of said account available to the City Council for use in completion of the improvements.

▪ **Section 7.05 - Improvement (Assessment) Districts :**

The developer may request the City to create Improvement (Assessment) Districts to allow for the financing of improvements within the subdivision. Depending on the City's financial condition, the City may or may not grant the subdivider's request.

In the event the City creates assessment districts, the subdivider shall deposit with the City funds equal to twenty percent (20%) of the cost of improvements as determined from engineers estimates prior to receipt of bids and award of contracts. The City may finance up to eighty percent (80%) of the cost of construction of said improvements.

▪ **Section 7.06 - Time Limits :**

Prior to the granting of Final Plat approval, the subdivider and the City Council shall agree upon a deadline for the completion of all improvements. Such dealings shall not exceed two (2) years from the date of final plat approval, provided, however, the City Council may extend that deadline for one (1) additional year where the subdivider presents substantial reason for doing so and provides any additional performance surety made necessary due to inflation or increased cost of completing the improvements.

▪ **Section 7.07 - Installation of Improvements :**

Developers may select either method or combination of methods listed below to comply with the minimum improvement requirements:

1. They may install the required improvements upon acceptance of plans and specifications being approved by the City Council;
2. They may submit a petition or petitions requesting the City to construct street surfacing, sanitary sewer, and water mains in the proposed subdivision by the district method. In that event, the developer shall have plans and specifications prepared and pay all costs for same, approved by the City staff, City Engineer, and City Council for all such improvement districts.

The City shall assess the costs of such improvements to the adjacent property as

provided by law.

▪ **Section 7.08 - Plan Review Reimbursement :**

The subdivider or Sanitary and Improvements District shall reimburse the City such costs incurred by the City for Plan Review, Plan Check, and Plan Approval as to conformance with approved City Standards and Specifications, but such costs shall not exceed one percent (1%) of the total contracted cost for improvements in the subdivision.

▪ **Section 7.09 - Failure to Complete Improvements :**

If any portion of the required improvements shall fail to be completed and accepted for dedication in compliance with Section 10 below within the required time period, either for reason of non-completion or for reason of substandard and unacceptable construction, the City Council shall do one (1) of the following:

1. Where improvements have been guaranteed under Section 3 of this Ordinance, the bond shall be forfeited to the City;
2. Where improvements have been guaranteed under Section 4 of this Ordinance, the City Council shall declare whatever security has been pledged as a guarantee to be forfeited.

Where the City Council is not already in possession of said security, it shall immediately take the actions necessary to obtain it. Upon receipt of the security, the City Council shall use such to finance the completion of the improvements or rebuilding of substandard improvements. Unused portions of the surety shall be returned to the subdivider without interest.

▪ **Section 7.10 - Inspection and Certification :**

The City Engineer or other authorized person shall regularly inspect construction of required improvements for defects.

Upon completion of the improvements, the City Engineer or other authorized person shall file with the City Council a statement either certifying that the improvements have been completed in the specified manner or listing defects in those improvements which do not meet the requirements of the approved improvement plans and specifications.

Upon completion of the improvements, the subdivider shall file with the City Council a statement stipulating the following:

1. That all required improvements are complete;
2. That these improvements are in compliance with the minimum standards specified by the Planning Commission and City Council;
3. That the subdivider knows of no defects from any cause in the improvements;
4. That these improvements are free and clear of any encumbrances or lien.

If the City Engineer or other authorized person has certified that the improvements are complete and free from defect, the City Council shall accept any dedication of improvements.

The City Council may, at its discretion, accept the dedication of any portion of the improvements,

provided that all statements and agreements specified above have been received for that portion of the improvements.

▪ **Section 7.11 - Reduction of Guarantees :**

In those cases where improvement guarantees have been made under Section 3 or 4 of this Ordinance, the amount of the guarantee may be reduced upon acceptance in compliance with Section 2 of the dedication and acceptance of a portion of the improvements.

▪ **Section 7.12 - Release of Guarantees :**

Upon acceptance, in accordance with Section 1-2 of this Ordinance, the City Council shall authorize the release of the performance bond or the remaining portion of the escrow.

▪ **Section 7.13 - Operation and Maintenance :**

It is the intention of the City to provide no services other than planning, zoning and subdivision regulations administration to the jurisdictional area beyond the corporate limits of the City. Therefore, it shall be the obligation of the subdivider to present to the Planning Commission and City Council, a precise approach for the operation and maintenance of improvements in the subdivision. Said approach may include formation of districts, homeowners associations or other methods to operate and maintain such improvements. Said approach shall be binding on the subdivider in a form, agreement, or contract acceptable to the City Council.

ARTICLE 8

Variances, Annexations, Amendments

▪ **Section 8.01 - Granting of Waivers (Exceptions) and Conditions :**

In addition to the exceptions contained in this Ordinance, the Planning Commission may recommend and the City Council may grant waivers from the provisions of these regulations, but only after determining that:

1. There are unique circumstances or conditions affecting the property that are not the result of actions by the subdivider;
2. The waivers are necessary for the reasonable and acceptable development of the property in question;
3. The granting of the waivers will not be detrimental to the public or injurious to adjacent and nearby properties.

▪ **Section 8.02 - Planned Unit/Cluster Developments :**

The Planning Commission and City Council may also grant reasonable waivers to these regulations if the subdivider concurrently submits an application for, and obtains approval of, a Planned Unit Development or cluster development.

The subdivider shall indicate where the plans vary from the requirements of this Ordinance and shall present evidence to support such requests.

▪ **Section 8.03 - Subdivision; Annexation of Adjoining or Contiguous Properties :**

All subdivisions or additions laid out adjoining or contiguous to the corporate limits may be included within the same and become a part of the municipality for all purposes whatsoever, upon approval of and acceptance by Ordinance of the City Council, in accordance with Neb. Rev. Stat. § 19-916 (Reissue 1997).

▪ **Section 8.04 - Subdivision; Petition for Annexation :**

Any subdivision in which there are lands dedicated to the City or any subdivision serviced by public utilities shall be annexed to the City, at its earliest eligibility. Before approval for the Final Plat is given, the Municipal Body shall receive a Petition for annexation from the owners of the subdivided properties.

▪ **Section 8.05 - Amendments :**

Any provision of these Regulations from time to time may be amended, supplemented, changed, modified or repealed by the Governing Body according to law; provided, however, that such amendments, supplements, changes, modifications or repealed provisions shall not become effective until after public hearing and report by the Planning Commission.

ARTICLE 9

Administration/Enforcement

▪ Section 9.01 - General :

The following apply towards administration of this Ordinance:

1. It shall be the duty of the Zoning Administrator to enforce these regulations and to bring to the attention of the Planning Commission and City Council any violation or lack of compliance herewith;
2. No owner or agent of an owner, of any parcel of land located in a proposed subdivision shall transfer or sell any parcel before a plat of such subdivision has been approved by the Planning Commission and City Council in accordance with the provisions of these regulations, and filed for record with the Jefferson County Register of Deeds
3. The subdivision, including re-subdivision, of any lot or any parcel by the use of metes and bounds description for the purpose of sale, transfer or lease which would evade these regulations shall not be permitted. All such subdivisions shall be subject to all the requirements contained in these regulations.
4. No building permit shall be issued for the construction of any building or structure located on a lot or parcel subdivided, sold, transferred or leased in violation of the provisions of these regulations.

▪ Section 9.02 - Fees for Parks and Open Spaces :

To aid in the acquisition of parks and open spaces, as needed or as indicated in the Comprehensive Development Plan, each residential subdivider shall deposit with the City Clerk, a sum set by the City Council, based on the total number of lots in the Final Plat.

Where the subdivider dedicated land for a proposed park, playground, school or other public use, other than streets and alleys, and as provided, the fees are waived equal to no more than fair market value as determined by the County Assessor, of the property dedicated. Any fees received shall be reserved and used for public park land acquisition.

▪ Section 9.03 - Amendments :

Any provision of this Ordinance may be amended, supplemented, changed, modified, or repealed from time to time by the City Council, according to law, provided however, that such amendments, supplements, changes, modification or repealed provisions shall not become effective until after the study, written report and recommendation by the Planning Commission to the City Council.

▪ Section 9.04 - Violation/Penalties :

Any person, firm or corporation who fails to comply with the provisions of these regulations shall, upon conviction thereof, be guilty of a misdemeanor and shall be punishable by a fine of not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00) plus the cost of prosecution

for each violation, and in default of payment of such forfeiture and costs, imprisonment in the county jail until payment thereof for a period not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.

SCHEDULE A

MINIMUM STREET STANDARDS

Street Classifications	Minimum Right-Of-Way	Pavement Width (ft.)	Minimum Number of Traffic Lanes	Maximum Grade (%)	Minimum Centerline Radius (ft.) (Curve Data)	Minimum Sight Distance (VC)
Arterial Street	100'	44'	2	6	700	400'
Collector Street	80'	36'	2	10	300	300'
Local Street	60'	32'	2	10	200	200'
Cul-De-Sac and Loop Street	60'	32'	2	10 (avg.)	100	300'
Marginal Access (frontage Road w/ No Parking)	50'	25'	2	8	100	300'
Minor Street (No Parking)	50'	28'	2	10	200	200'

1. Pavement width measured back to back of curb.
2. Minimum right-of-way radius for the cul-de-sac turnaround shall be sixty-five (65') minimum pavement radius for the cul-de-sac turnaround shall be fifty (50') feet.
3. Developer shall not be responsible for providing improvements wider than 32' at his expense.

SCHEDULE B

SURVEYOR CERTIFICATION STATEMENT

SURVEYORS CERTIFICATION:

I, _____ hereby certify that I am a professional land surveyor, registered in compliance with the laws of the State of Nebraska, that this plat correctly represents a survey conducted by me or under my direct supervision on _____, 20 __, that any changes from the description appearing in the last record transfer of the land contained in the final plat are so indicated, that all monuments shown thereon actually exist as described or will be installed and their position is correctly shown and that all dimensional and geodetic data is correct.

Signature

S E A L

This plat of _____ Addition has been submitted to and approved by the Fairbury Planning Commission this _____ day of _____, 20 __.

Chairperson

ATTEST:

Planning Commission Secretary

This plat of _____ Addition has been approved by the City Council of Fairbury, Nebraska, this _____ day of _____, 20 __.

Mayor

ATTEST:

City Clerk

[A blank space for noting entry on the transfer record in the following form:]

Entered on transfer record this _____ day of _____, 20 __.

Register of Deeds

