



Document 3473

Book 2008 Page 3473 Type ORD Pages 29

Date 12/12/2008 Time 2:02:30PM

Rec Amt \$147.00

SHIRLEY WANDLING - RECORDER  
HENRY COUNTY IOWA

Prepared by:  
Iowa Codification, Inc.  
Steve Johnson  
610 Buddy Holly Place  
P.O. Box 141  
Clear Lake, IA 50428  
(641)357-7596

Return to:  
City of New London  
Kasi Howard  
112 W. Main St.  
P.O. Box 184  
New London, IA 52645  
(319)367-7702

Title: Subdivisions and Platting, Chapter 175,  
Code of Ordinances, New London, Iowa

ORDINANCE NO. 1

**AN ORDINANCE ADOPTING THE "CODE OF ORDINANCES OF THE CITY OF NEW LONDON, IOWA"**

BE IT ENACTED by the City Council of the City of New London, Iowa, that:

SECTION 1. Pursuant to published notice and following public hearing on the 2nd day of December, 2008, so required by Sections 362.3 and 380.8, Code of Iowa, there is hereby adopted by the City of New London, Iowa, the "CODE OF ORDINANCES OF THE CITY OF NEW LONDON, IOWA."

SECTION 2. All of the provisions of the "CODE OF ORDINANCES OF THE CITY OF NEW LONDON, IOWA," shall be in force and effect on and after the effective date of this ordinance.

SECTION 3. All ordinances or parts thereof in force on the effective date of this ordinance are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided.

SECTION 4. The repeal provided for in the preceding section of this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the City or authorizing the issuance of any bonds of said City or any evidence of said City's indebtedness or any contract or obligation assumed by said City; nor shall said repeal affect the administrative ordinances or resolutions of the Council not in conflict or inconsistent with the provisions of "THE CODE OF ORDINANCES OF THE CITY OF NEW LONDON, IOWA," nor shall it affect the following ordinances specifically saved from repeal:

**URBAN RENEWAL AREA**

ORDINANCE NO.	ADOPTED
97-06-B	June 2, 1997

**VACATIONS**

ORDINANCE NO.	ADOPTED
08-07-A	July 1, 2008

nor shall it affect any other right or franchise conferred by any ordinance or resolution of the Council or any other person or corporation; nor shall it affect any ordinance naming, establishing, relocating or vacating any street or public way, whether temporary or permanent; nor shall it affect any ordinance amending the official zoning map, establishing building lines, establishing and changing grades, or dedicating property for public use; nor shall it affect any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the effective date of this ordinance.

SECTION 5. The following ordinances, passed subsequent to the preparation of this code but prior to adoption of this code, are hereby adopted and made a part of this code. These are ordinances \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_. Said ordinances shall be codified and incorporated in published copies of this code as supplements thereto following adoption of this ordinance.

SECTION 6. An official copy of the "CODE OF ORDINANCES OF THE CITY OF NEW LONDON, IOWA," adopted by this ordinance, including a certificate of the City Clerk as to its adoption and the effective date, is on file in the office of the City Clerk, and shall be kept available for public inspection.

SECTION 7. The City Clerk shall furnish a copy of the "CODE OF ORDINANCES OF THE CITY OF NEW LONDON, IOWA," to the Judicial Magistrates serving the City of New London.

SECTION 8. This ordinance shall be in full force and effect from and after the publication of this ordinance, as required by law.

Passed by the Council of the City of New London, Iowa, the 2nd day of December, 2008.

  
Michael E. McBeth, MAYOR

ATTEST:   
Kasi A. Howard, CITY CLERK

First Reading: December 2, 2008

Second Reading: Waived

Third Reading: Waived

#### CLERK'S CERTIFICATE

I hereby certify that the foregoing Ordinance No. 1 was published as required by law on the 11th day of December, 2008.

SIGNED   
Kasi A. Howard, CITY CLERK

## CHAPTER 175

### SUBDIVISIONS AND PLATTING

175.01 Title	175.14 Resubdivision
175.02 Authority and Purpose	175.15 Plat Vacation
175.03 Jurisdiction	175.16 Vested Rights and Development Agreements
175.04 Fees	175.17 Utilities and Improvements
175.05 Interpretation; Conflicts	175.18 Requirements For On-Site Water and Sewer Facilities
175.06 Saving Provision	175.19 Standards For Construction Drawings
175.07 Rules of Operation	175.20 Inspection
175.08 Definitions	175.21 Completion Inspection
175.09 Site Plan Procedure	175.22 Subdivision Design Standards
175.10 Application and Fees	175.23 Post-Filing Procedures
175.11 Limited Subdivisions	175.24 Variances and Appeals
175.12 Minor Subdivision Plat	
175.13 Major Subdivision Plat	

**175.01 TITLE.** This chapter shall be officially known, cited, and referred to as the "Subdivision and Platting Ordinance of New London, Iowa," hereinafter referred to as "these regulations" or "this chapter."

**175.02 AUTHORITY AND PURPOSE.** These regulations are adopted pursuant to the authority delegated to the City under Section 354.1 of the *Code of Iowa* and allows for the promotion of orderly community development consistent with the City's Comprehensive Plan. It is therefore determined to be in the public interest:

1. To provide for accurate, clear, and concise legal descriptions of real estate in order to prevent, wherever possible, land boundary disputes or real estate title problems;
2. To protect and provide for the public health, safety, and general welfare of the City;
3. To provide for a balance between the land use rights of individual landowners and the economic, social, and environmental concerns of the citizenry of New London;
4. To guide the future growth and development of New London, Iowa in accordance with the City's Comprehensive Plan;
5. To inform the subdivider and public of the requirements and conditions necessary to obtain approval of a subdivision.

**175.03 JURISDICTION.** It is unlawful for any person being the owner, agent, or person having control of any land within the incorporated area of the City to create a division of land, whether by sale, lease, mortgage, or plat, that is not in accordance with the regulations contained herein. The City also exercises the authority granted by Chapter 354.9 of the *Code of Iowa* to review and enforce these regulations on all land within one mile of the City's incorporated boundary. No plat or conveyance of land shall be recorded until approved as herein provided and all public lands and rights have been dedicated to the governing body having jurisdiction for the area in which it is located.

**175.04 FEES.** The Council shall establish, by resolution, a fee schedule designating charges that bear a reasonable relationship to the costs of administering the processes described herein.

**175.05 INTERPRETATION; CONFLICTS.** In the interpretation or application of these regulations, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety, and general welfare. More stringent provisions may be required if it is demonstrated that different standards are necessary to meet the needs of the City's Comprehensive Plan. Where the conditions imposed by any provisions of these regulations are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of these regulations or of any other applicable law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

**175.06 SAVING PROVISION.** These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm, or corporation, or as waiving any right of the City under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm, or corporation by lawful action of the City government except as shall be expressly provided for in these regulations.

**175.07 RULES OF OPERATION.**

1. When Subdivision is Required. The subdivision platting procedure outlined in this chapter must be followed when any land within the jurisdiction of this chapter is divided into two or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development. See "Subdivision" in Section 175.08 for a full definition.

2. Duties of the Administrator. It shall be the duty of the City Clerk or Council designee to enforce the provisions of these regulations and to bring to the attention of the City Attorney any violations or lack of compliance. The City Clerk or Council designee shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of these regulations. Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises.

**175.08 DEFINITIONS.** Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings indicated herein.

1. "Abut" means to physically touch or border upon or to share a common property line but not to overlap.
2. "Adjoining lot" or "land" means a lot or parcel of land that shares all or part of a common lot line with another lot or parcel of land.
3. "Agent" means the authorized agent of the owner or representative for the owner.
4. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of

one-quarter, or one-quarter of one-quarter shall be considered an aliquot part of a section.

5. "Alley" means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

6. "Applicant" means the owner of land proposed to be subdivided or developed, or an agent who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

7. "Auditor's plat" means a subdivision plat required by either the County Auditor or the Assessor, prepared by a surveyor under the direction of the County Auditor.

8. "Berm" means a mound of soil, either natural or manmade.

9. "Block" means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, boundary lines of municipalities, or the boundary of the subdivision or a combination thereof.

10. "Bond" means any form of a surety bond in an amount and form satisfactory to the City Council. All bonds shall be approved by the City Council whenever a bond is required by these regulations.

11. "Boundary" means a defined limit of a given parcel at which ownership of the parcel terminates.

12. "Buffer" means an area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, and/or berms, designed to limit continuously the view and/or sound from the site to adjacent sites or properties.

13. "Building" means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

14. "Channel" means the bed and banks of a natural stream which convey the constant or intermittent flow of the stream.

15. "Cluster development" means a development approach in which building lots may be reduced in size and buildings sited closer together, usually in groups or clusters, provided that the total development density does not exceed that which could be constructed on the site under conventional zoning and subdivision regulations. The additional land that remains undeveloped is then preserved as open space, recreational land, or public purposes.

16. "Commission" means the City's Planning and Zoning Commission.

17. "Common open space" means land within or related to a development, not individually owned or dedicated for public use, which is designed and intended for the common use or enjoyment of the residents of the development. It may include complementary structures and improvements.

18. "Comprehensive Plan" means the New London Comprehensive Plan, its intentions, and the intentions of New London's land use and development ordinances.

19. "Condominium" means a unit available for sale in fee simple contained in a multi-occupancy project subject to covenants and restrictions placing control over the common facilities in an elected board.
20. "Conveyance" means an instrument filed with the County Recorder as evidence of the transfer of title to land, including any form of deed or contract.
21. "Cul-de-sac" means a local street with only one outlet that terminates in a vehicular turnaround that facilitates safe and convenient reversal of traffic movement.
22. "Culvert" means a structure designed to convey a watercourse not incorporated in a closed drainage system under a road or pedestrian walk.
23. "Curb" means a vertical or sloping edge of a roadway.
24. "Dead-end street" or "dead-end road" means a road or a portion of a road with only one vehicular traffic outlet.
25. "Dedication" means a transfer of property by the owner to another party.
26. "Density" means the permitted number of dwelling units per gross acre of land to be developed.
27. "Design standards" means standards that set forth specific improvement requirements.
28. "Detention basin" means an artificial or natural water collector facility designed to collect surface and sub-surface water in order to impede its flow and to release the same gradually at a rate not greater than that prior to the development of the property, into natural or artificial outlets.
29. "Developer" means the legal or beneficial owner or holder of land (or the holder of an option or contract to purchase land) proposed to be developed and/or divided.
30. "Development" means a planning or construction project involving substantial property improvement and, usually, a change of land-use character within the site; the act of using land for building or extractive purposes.
31. "Development agreement" means a binding, contractual agreement between the subdivider of a proposed subdivision and the City.
32. "Division" means dividing a tract or parcel of land into two or more parcels of land by way of platting, conveyance, or for tax purposes. The conveyance of an easement is not considered a division. See also "subdivision."
33. "Double frontage lot" means a lot that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.
34. "Drainage" means the removal of surface water or groundwater from land by drains, grading, or other means.
35. "Driveway" means a paved or unpaved area used for ingress or egress of vehicles, and allowing access from a street to a building or other structure or facility.
36. "Easement" means authorization by a property owner for another to use the owner's property for a specified purpose on a designated part of the owner's property.
37. "Erosion" means the detachment and movement of soil or rock fragments, or the wearing away of the land surface by water, wind, ice, or gravity.

38. "Escrow" means a deed, a bond, money, or a piece of property delivered to the City or an escrow agent to secure the promise to perform some act.
39. "Final plat" means the final map of all or a portion of a proposed subdivision which is presented for final approval.
40. "Frontage" means that side of a lot abutting on a street; the front lot line. On corner lots, the frontage must be consistent with the orientation of the other lots and improvements on the same side of the street.
41. "Government lot" means a tract, within a section, which is normally described by a lot number as represented and identified on the township plat of the United States Public Land Survey System.
42. "Grade" means the slope of a road, street, or other public way specified in percentage terms.
43. "Health Department" means the Board of Health for the County, established pursuant to Chapter 137, *Code of Iowa*.
44. "Historic site" means a structure or place of historical significance, designated as such by County, State, or Federal government.
45. "Homeowners association" – See "property owners association."
46. "Impervious surface" means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.
47. "Improvement" means any artificial, immovable item which becomes part of, placed upon, or is affixed to, real estate.
48. "Incorporated area" means within a municipal boundary; City.
49. "Legal description" means a description defining land boundaries legally sufficient for the purpose of sale and conveyance, tax assessment and collection, and recording.
50. "Limited subdivision" means a single division of a tract or parcel which has negligible impact on road use, City services, and general public welfare as determined by the Commission.
51. "Lot" means a tract of land represented and identified by a number or letter designation on an official plat.
52. "Lot line" means a line that establishes a given boundary of a lot.
53. "Maintenance guarantee" means any security which may be required and accepted by the City to ensure that necessary improvements will function as required for a specific period of time.
54. "Major subdivision" means all subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four or more lots, or any size subdivision requiring any new street or extension of the local government facilities or the creation of any public improvements.
55. "Master deed" means that deed which defines the original parcel to be subdivided or the entirety of the subdivision prior to the sale of individual lots.
56. "Minor subdivision" means any subdivision containing not more than three lots fronting on an existing street, not involving any new street or road, or the



extension of municipal facilities or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the comprehensive plan, zoning ordinance, official zoning map, or these regulations.

57. "Off-street parking space" means a parking space provided in a parking lot, parking structure, or private driveway.

58. "Official plat" means either an auditor's plat or a subdivision plat that meets the requirements of Chapter 354 of the *Code of Iowa* and has been filed for record in the Offices of the County Recorder, Auditor, and Assessor.

59. "Open space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for the public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

60. "Ordinance" means any legislative action, however denominated, of a local government which has the force of law, including any amendment or repeal of any ordinance.

61. "Owner" means the record owners, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be divided.

62. "Parcel" means a part of a tract of land.

63. "Performance guarantee" means any security that may be accepted by the City as a guarantee that the improvements required as part of an application for development are satisfactorily completed.

64. "Planned unit development (PUD)" means a development constructed on a parcel or tract of minimum size, as specified by ordinance, to be planned, developed, operated, and maintained as a single entity and consisting of a combination of residential and/or nonresidential uses on the land.

65. "Planning and Zoning Commission" means the City Planning and Zoning Commission or another five-member Commission expressly appointed by the City Council for the purpose of serving in the capacity described in these regulations.

66. "Plat" means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.

67. "Preliminary plat" means the preliminary drawing or drawings that indicate the proposed manner or layout of the subdivision to be submitted for review prior to submittal of the final plat.

68. "Property line" means a line that establishes a given boundary of property ownership.

69. "Property owner's association" means an association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions, through which each owner of a portion of a subdivision – be it a lot, parcel, condominium, or any other interest – is automatically a member as a condition of ownership and each such member is subject to a charge or assessment for a prorated share of expenses of the association which may become a lien against the lot, parcel, unit, condominium, or other interest of the member.

70. "Public Works Supervisor" means the public works supervisor for the City.
71. "Resubdivision" means any change in a map of an approved or recorded subdivision plat that affects any street layout on the map or area reserved thereon for public use or any lot line, or that affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.
72. "Retention basin" means a pond, pool, or basin used for the permanent storage of water runoff.
73. "Reverse frontage lot" means a through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts.
74. "Right-of-way" means a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, gas pipeline, water main, sanitary or storm-sewer main, shade trees, or for another special use.
75. "Road" - See "street."
76. "Road right-of-way width" means the distance between property lines measured at right angles to the centerline of the street.
77. "Section" means a numbered one-square-mile area formed by the United States Public Land Survey System, usually referred to by a number and the range and township for which it is located.
78. "Sewer" means any pipe conduit used to collect and carry away sewage or storm water runoff from the generating source to treatment plants or receiving streams.
79. "Sidewalk" means a paved path provided for pedestrian use and usually located at the side of a road within the right-of-way.
80. "Site plan" means a rough plan of a proposed subdivision that illustrates the existing conditions on a land parcel as well as depicting details of a proposed development.
81. "Street" means any street, avenue, boulevard, road, parkway, viaduct, drive, or other roadway.
82. "Structure" means anything constructed or erected including those structures constructed off-site and transported to on-site.
83. "Subdivide" means the process or act of creating a subdivision.
84. "Subdivider" means any person who: (i) having an interest in land; causes it, directly or indirectly, to be divided into a subdivision; or (ii) directly or indirectly sells, leases, or develops, or offers to sell, lease, or develop, or advertises to sell, lease, or develop, any interest, lot, parcel, unit, or plat in a subdivision; or (iii) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development in a subdivision or any interest, lot, parcel, unit, or plat in a subdivision; and any person who is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.
85. "Subdivision" means any land, vacant or improved, which is divided or proposed to be divided into two or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale, lease, or development whether immediate or future, either on the installment plan or upon any and all other plans, terms, and conditions. Subdivision includes the division or development of

residentially and non-residentially zoned land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat, or other recorded instrument. Subdivision includes resubdivision and condominium creation or conversion. The term, when appropriate to the context, may refer to the process of subdividing or to the land subdivided.

86. "Subdivision plat" means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique for the county in which it is located.

87. "Subgrade" means the natural ground lying beneath a road.

88. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the *Code of Iowa*.

89. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

90. "Vested rights" means right to initiate or continue the establishment of a use which will be contrary to a restriction or regulation coming into effect when the project associated with the use is completed.

91. "Zoning Administrator" means the individual tasked by the Council with enforcement of the Zoning Ordinance.

92. "Zoning Ordinance" means the City of New London, Iowa, zoning ordinance (Chapters 165 through 170 of this Code of Ordinances).

**175.09 SITE PLAN PROCEDURE.** The purpose of this section is to establish the procedure for review and action on applications for potential subdivisions within the jurisdiction of New London. The procedure is intended to provide orderly and efficient review of proposals by the Commission to expedite development proposals and avoid unnecessary difficulties in the plat review process.

1. **Timing and Contents.** The subdivider provides the site plan to the Planning and Zoning Commission for review. The site plan shall provide information necessary to determine the location, size, and general layout of the subdivision proposal. The site plan shall be legible and reproducible and indicate the proposed use of the lots to be created as well as the rough locations and dimensions of streets, water and sewer lines, parking areas, landscaping, and water bodies. The site plan shall be submitted to the City Clerk for distribution to the Commission. The site plan as submitted may indicate names for proposed streets. The Commission shall review all road names and shall consult the local postmaster for potential name similarities or conflicts with existing names prior to giving recommendation to the Council. Names shall be sufficiently different in sound and spelling from other road names in the City so as not to cause confusion. A road which is (or is planned as) a continuation of an existing road shall bear the same name. The Commission shall have 60 days from the date of site plan submission to the City Clerk to review and make recommendations to the subdivider. The review shall take place during a public meeting of the Commission following procedures outlined in Chapter 21.3 of the *Code of Iowa*.

2. **Completion of the Site Plan Review Process.** Upon completion of its review, the Commission shall issue an oral recommendation to the subdivider based upon a popular vote of the Commission. Following this oral recommendation, the subdivider may request a written recommendation from the Commission within 30 days of the

oral recommendation. The written recommendation shall be attested by the Commission Chairperson as being accurate and consistent with the minutes of the aforementioned meeting. Provided the site plan meets approval or conditional approval by the Commission, the applicant has one year from the date of approval in which to submit a preliminary or final subdivision plat as directed by the Commission. Failure to submit within one year of the approval date requires the applicant to submit a new site plan for approval by the Commission.

**175.10 APPLICATION AND FEES.** Following the site plan review process detailed in Section 175.09, the subdivider may make application for platting the proposed subdivision. The Commission shall indicate in its site plan report which of the following types of subdivision are required and the associated fee for application:

1. Limited subdivision;
2. Minor subdivision;
3. Major subdivision.

**175.11 LIMITED SUBDIVISIONS.** The limited subdivision procedure consists of one step after the site plan review: plat of survey. If the Commission deems the subdivision to be a limited subdivision, the applicant shall file a plat of survey with the County Recorder as per Section 354 of the *Code of Iowa* along with a statement signed by the Chairperson of the Commission certifying its approved status.

**175.12 MINOR SUBDIVISION PLAT.** The minor subdivision procedure consists of one step after the site plan review: final subdivision plat. If the Commission deems the subdivision to be a minor subdivision, the applicant shall follow the following procedure:

1. Upon the determination of a minor subdivision, the City Clerk shall place the matter on the next available regular meeting agenda of the Planning and Zoning Commission for formal approval, disapproval, or conditional approval.
2. Final subdivision plat applications shall be accompanied by 12 copies of the subdivision plat, drawn to the specifications contained in this chapter and to the specifications of Chapter 354 of the *Code of Iowa* as they pertain to final plats. The final plat must comply in all respects with the site plan as approved and must be submitted to the City Clerk at least two weeks prior to a regular meeting of the Commission to allow for proper notice of public hearing.
3. The final subdivision plat application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks and easements, in a form approved by the City Attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication.
4. The final subdivision plat application shall be accompanied by the subdivision improvement agreement and security, if required, in a form satisfactory to the City Attorney and in an amount established by the council upon recommendation by the Public Works Supervisor and/or utilities foreman.
5. If not intended for municipal services, the final subdivision plat shall be properly endorsed by the County Health Department or designee with respect to all sewer and water facilities and comply with all the standards of design as set forth in this chapter.

6. The City Clerk shall post public notice of a Commission hearing on the final subdivision plat application; following which, the Commission shall have 35 days from the date of first public hearing to approve or disapprove the application by majority vote. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the plat, and, if the plat is disapproved, the reasons for disapproval shall accompany the plat.

7. In the event of disapproval by the Commission, the applicant may appeal pursuant to Section 175.24(2) of these regulations.

8. Following the Commission approval of the final subdivision plat, the Council shall review and decide on the application. The Council may approve or disapprove the proposed subdivision based upon the recommendation of the Commission and City Public Works Supervisor and/or utilities foreman. The Council shall have 60 days from the date of first public hearing in which to make its decision.

**175.13 MAJOR SUBDIVISION PLAT.** The major subdivision procedure consists of two steps after the site plan review: preliminary and final subdivision plats. If the Commission deems the subdivision to be a major subdivision, the applicant shall follow the following procedure:

1. Upon the determination of a major subdivision, the City Clerk shall place the matter on the next available regular meeting agenda of the Commission for formal approval, disapproval, or conditional approval of the preliminary plat. The applicant has one year from the date of site plan approval in which to apply for preliminary plat approval. Failure to apply for preliminary plat approval within the one-year period requires the applicant to submit a new site plan for approval by the Commission. Preliminary plat applications shall be accompanied by 12 copies of the subdivision plat, drawn to the following specifications: The preliminary plat shall meet the standards of design as set forth in this chapter, shall be drawn to a scale of not less than one inch to 100 feet, and shall show the following information:

A. The title under which the proposed subdivision is to be recorded, with the name and address of the owner and subdivider; also north point, scale, date, name and address of surveyor and engineer;

B. The complete legal description of the property to be platted;

C. Existing contour intervals of not more than five feet for predominate ground slopes within the subdivision greater than ten percent and contour intervals of not more than two feet for predominate ground slopes within the subdivision between level and ten percent;

D. The location of property lines and all such surface features as buildings, railroads, utilities, water courses and similar items affecting the development; also the location and size of such sub-surface features as existing or nearest available storm and sanitary sewers, water mains, wells, manholes, culverts, gas mains, above- and below-ground electric transmission lines or cables, and drain tiles;

E. Boundary lines of adjacent subdivisions, tracts, and parcels with respective acreage and names of record owners;

F. Parcels of land proposed for dedication or temporarily reserved for public use or set aside for common open space in the subdivision including, but not limited to, schools, parks, or other public uses;

- G. The location of the subdivision including section, township, and range using the Public Land Survey System;
- H. The location of the nearest section corner and monument;
- I. Location, widths, approximate grades, and names of existing and proposed streets within 200 feet of the proposed subdivision and within the subdivision itself;
- J. Existing and proposed easements for water, sewage, drainage, utility lines, fencing and other purposes with their locations, widths and distances; and
- K. Acreage of the land to be subdivided and a clearly delineated boundary on the drawing.

An inset vicinity map at a scale of not more than 500 feet to the inch, shall be shown on or accompany the proposed plat. This map shall show how streets and roads in the proposed subdivision may connect with existing and proposed streets and roads in neighboring subdivisions or undeveloped property, to produce the most advantageous development of the entire area. This sketch shall show the location of any nearby parks, schools, or other public facilities that might be affected by the proposed subdivision.

2. The preliminary plat must comply in all respects with the site plan as approved and must be submitted to the City Clerk at least four weeks prior to a regular meeting of the Commission to allow for proper Commission review and notice of public hearing.
3. The Commission shall have 60 days from the first public hearing to approve, conditionally approve, or disapprove the application by majority vote. One copy of the preliminary plat shall be returned to the applicant with the date of approval, conditional approval, or disapproval noted on the plat and the applicant shall be advised of any required changes and/or additions.
4. The Commission is authorized to disapprove the preliminary plat even though the land proposed for subdivision is zoned for the use to which the proposed subdivision will be put and the proposed use is consistent with the Comprehensive Plan. In the event of disapproval by the Commission, the applicant may appeal pursuant to Section 175.24 of this chapter.
5. Following the Commission approval of the preliminary subdivision plat, the City Council shall review and decide on the application. The Council may approve, conditionally approve, or disapprove the proposed preliminary plat based upon the recommendation of the Commission and City Public Works Supervisor and/or utilities foreman. The Council shall have 60 days from the date of first public hearing in which to make its decision.
6. The Council may require that all public improvements be installed and dedicated prior to the signing of the final subdivision plat by the Mayor. Otherwise the Council shall require that the applicant execute a subdivision improvement agreement and provide security for the agreement as provided for in Section 175.23 of this chapter.
7. For the purpose of allowing the early construction of model homes in a subdivision, the Council, in its sole discretion, may permit no more than two lots of a major subdivision to be created in accordance with the procedure for minor

subdivisions, provided no substantial improvements will need to be made to facilitate such model homes. The subdivision plat for the model home portion shall be submitted to the Commission simultaneously with the preliminary plat for the entire major subdivision. The construction of model homes must adhere to the requirements of the Zoning Ordinance of the City.

8. Provided the preliminary plat meets approval or conditional approval by the City Council, the applicant has one year from the date of approval in which to submit a final subdivision plat. Failure to submit within one year of the approval date requires the applicant to submit a new site plan for approval by the Commission.

9. Final subdivision plat applications shall be accompanied by 12 copies of the subdivision plat, drawn to the specifications contained in this chapter and to the specifications of Chapter 354 of the *Code of Iowa*. The final plat must comply in all respects with the preliminary plat as approved and must be submitted to the City Clerk at least two weeks prior to a regular meeting of the Commission to allow for proper notice of public hearing.

10. The final subdivision plat application shall be accompanied by all formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks and easements, in a form approved by the City Attorney; and the subdivision plat shall be marked with a notation indicating the formal offers of dedication.

11. The final subdivision plat application shall be accompanied by the subdivision improvement agreement and security, if required, in a form satisfactory to the City Attorney and in an amount established by the Council upon recommendation by the Public Works Supervisor and/or utilities foreman.

12. If municipal services are not provided, the final subdivision plat shall be properly endorsed by the Health Department or designee with respect to all sewer and water facilities.

13. The City Clerk shall post public notice of a Commission hearing on the final subdivision plat application; following which, the Commission shall have 35 days from the Commission's first official meeting to review to approve or disapprove the application by majority vote. One copy of the final subdivision plat shall be returned to the applicant with the date of approval or disapproval noted on the plat, and, if the plat is disapproved, the reasons for disapproval shall accompany the plat.

14. In the event of disapproval by the Commission, the applicant may appeal pursuant to Section 175.24(1) of this chapter.

15. Following the approval of the final subdivision plat, the Council shall review and decide on the application. The Council may approve or disapprove the proposed subdivision based upon the recommendation of the Commission and City staff. The Council shall have 60 days from the date of first official meeting to review the plat in which to make its decision.

**175.14 RESUBDIVISION.** Whenever a developer desires to resubdivide an already approved final subdivision plat, the developer shall first obtain approval for the resubdivision by the same procedures prescribed for the subdivision of land beginning with the site plan review process detailed in Section 175.09 of this chapter. Resubdivision includes:

1. Any change in any street layout or any other public improvement;

2. Any change in any lot line;
3. Any change in the amount of land reserved for public use or the common use of lot owners;
4. Any change in any easements shown on the approved plat.

Whenever land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there is reason to believe that such lots eventually will be resubdivided, the Council may require that the applicant allow for future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of streets may be made a requirement of plat approval.

**175.15 PLAT VACATION.** Plat vacation may be initiated by either the property owner or by the City.

1. **Owner or Owner's Agent Initiated Vacation.** The owners of lots in any approved subdivision, including the agent, may petition the Council to vacate the plat with respect to their properties. The petition shall be filed in triplicate with the City Clerk and one copy shall be referred to the Council by the City Clerk.

A. **Notice and Hearing.** The City Clerk shall publish notice in a newspaper of general circulation and provide personal notice of the petition for vacation to all owners of property within the affected subdivision and shall state in the notice the time and place for a public hearing on the vacation petition. The public hearing shall be no sooner than four and no later than ten days after the published and personal notice.

B. **Criteria.** The Council shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety, and welfare; but in no event may the Council approve petition for vacation if it will materially injure the rights of any non-consenting property owner or any public rights in public improvements unless expressly agreed to by the governing body for which said improvements or rights are located.

C. **Recordation of Revised Plat.** Upon approval of any petition for vacation, the Council shall direct the petitioners to prepare a revised final subdivision plat in accordance with these regulations. The revised final subdivision plat may be recorded only after having been signed by the Mayor and the City Attorney.

2. **Government Initiated Plat Vacation.** The Council, on its motion, may vacate the plat of an approved subdivision by means of the following procedure:

A. **General Requirements.** The Council may vacate a previously approved subdivision plat provided any one of the following circumstances exists:

(1) No lots within the approved subdivision have been sold within five years from the date that the plat was signed by the Mayor.

(2) The developer has breached a subdivision improvement agreement and the City is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the developer or its successor.



(3) The plat has been of record for more than five years and the Council determines that the further sale of lots within the subdivision presents a threat to public health, safety, and welfare, except that the vacation shall apply only to lots owned by the developer or its successor.

B. Procedure. Upon any motion of the Council to vacate the plat of any previously approved subdivision, in whole or in part, the City Clerk shall publish notice in a newspaper of general circulation and provide personal notice to all property owners within the subdivision. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision plat. The public hearing shall be no sooner than four and no later than ten days from the date of the published and personal notice. The Council shall approve the resolution effecting the vacation only if the criteria in paragraph 1(B) of this section are satisfied.

C. Recordation of Notice. If the City Council adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the Council's minutes and the County Recorder's office. If the Council adopts a resolution vacating a plat in part, it shall record a copy of the resolution as described above and cause a revised final subdivision plat to be recorded which shows that portion of the original subdivision plat that has been vacated and that portion that has not been vacated.

**175.16 VESTED RIGHTS AND DEVELOPMENT AGREEMENTS.** Except as otherwise provided in this Section, no vested rights shall accrue to the owner of any subdivision or subdivider by reason of preliminary or final plat approval until the actual signing of the final plat by the Mayor, nor does the recordation of a final plat accrue vested rights to the owner or subdivider. The City may enter into a development agreement which shall contain those terms and conditions agreed to by the parties involved. The City Attorney is authorized to negotiate development agreements on behalf of the City. The agreement shall contain a clause that any breach of the development agreement by the City shall give rise only to damages, and a clause that the City's duties under the agreement are expressly conditioned upon the subdivider's substantial compliance with each and every term, condition, provision, and covenant of the agreement, all applicable Federal, State and local laws and regulations, and its obligations under the subdivision improvement agreement.

**175.17 UTILITIES AND IMPROVEMENTS.** Improvements must be provided by the subdivider and the Council may require that all public improvements be installed and dedicated prior to the signing of the final subdivision plat by the Mayor. Otherwise the Council shall require that the subdivider execute a subdivision improvement agreement and provide security for the agreement, or bonding. The subdivider or subdivider's agent shall be responsible for the following:

1. Securing any and all permits required for completion of the project.
2. Providing for the safety and protection of all those engaged in the project, not allowing any unsafe conditions to exist.
3. Acquiring materials and producing workmanship which conforms to the City standards and specification. Substandard installations and materials are subject to removal and replacement at the subdivider's or agent's expense.

4. Ensuring that all work is performed in a manner acceptable by the City Public Works Supervisor and/or utilities foreman.
5. Obtaining approval of plans and specifications for all proposed infrastructure from the City Public Works Supervisor and/or utilities foreman. If no work is done within six months of approval, the plans and specifications must be re-submitted and become subject to re-approval under the latest City standards and specifications.
6. The subdivider or agent shall allow on-site inspections by the City Public Works Supervisor and/or utilities foreman as the work progresses and final acceptance of the work shall be contingent upon a final inspection of the site by the City Public Works Supervisor and/or utilities foreman.
7. All utilities, private or public, shall be placed underground unless approved or specified otherwise by the City Council. This includes, but is not limited to, telephone, gas, electric power, water, sewer, and storm drains. These underground utilities shall be installed before the surfacing of the streets and installation of road base, curb and gutter, sidewalks, etc.
8. Accurate and proper placement of survey monuments.
9. Proper cleanup of the area upon completion of the project.
10. Compliance with Iowa Department of Transportation standards in all matters not specifically covered by these regulations or waived by the City Council.
11. Completion of all necessary public improvements on streets adjacent to the proposed subdivision.
12. Proper storm water management methods such as retention or detention, and/or the construction of offsite drainage improvements may be required to mitigate the impacts of proposed subdivisions.

**175.18 REQUIREMENTS FOR ON-SITE WATER AND SEWER FACILITIES.** In instances where a subdivision cannot be properly serviced by municipal water and/or sewer services but is still approved by the Council, said development must comply with the laws and requirements of the County in which it is located with respect to on-site water and sewer facilities.

**175.19 STANDARDS FOR CONSTRUCTION DRAWINGS.** The following instructions are for the purpose of standardizing the preparation of drawings to be used by the City Public Works Supervisor and/or utilities foreman when reviewing and inspecting improvements to be built by the subdivider or subdivider's agent. All drawings and/or prints shall be clear and legible and conform to good engineering and drafting room practice. Size of drawings shall be 22 inches by 34 inches (trim line) with ½-inch border on top, bottom, and right sides. Left side shall be 1½-inch:

1. In general, the following shall be included on construction drawings:
  - A. North arrow (plan);
  - B. Scale and elevations referenced to City datum;
  - C. Stationing and elevations for profiles;
  - D. Title block, located in lower right corner of sheet, to include:
    - (1) Name of City

- (2) Project title (subdivision, etc.)
  - (3) Specific type and location of work
  - E. Space for approval signature of Public Works Supervisor and/or utilities foreman and date;
  - F. Licensed Engineer's official seal with license number and signature.
2. Curb and gutter, drains and drainage structures, signing, lighting, sidewalks, and street surfacing shall show:
- A. Scale: one inch equals 20 feet or 50 feet horizontal; one inch equals two feet or five feet vertical;
  - B. Both plan view and profile; street centerline;
  - C. Stationing and top of curb elevations with curve data must be shown for all curb returns. Show top of curb elevation on both sides on even stations (50 ft. Sta. Max.);
  - D. Flow direction and type of cross drainage structures at intersections with adequate flow line elevations;
  - E. Benchmark location and elevation (use City datum);
  - F. Bedding details.
3. Sewer drawings shall show:
- A. Scale: one inch equals 20 feet or 50 feet horizontal; one inch equals two feet or five feet vertical;
  - B. Location, size, and grade of all lines except individual services;
  - C. Manhole details, size, location, and flow line elevation;
  - D. Type of pipe;
  - E. Benchmark location and elevation (use City datum);
  - F. Bedding details.
4. Culinary and secondary water drawings shall show:
- A. Size and location of water mains, valves, hydrants, tees, etc;
  - B. Type of pipe;
  - C. Minimum cover;
  - D. Bedding details.

**175.20 INSPECTION.** All construction work involving the installation of improvements shall be subject to inspection by the City Public Works Supervisor and/or utilities foreman. Certain types of construction shall have continuous inspection, while others shall have periodic inspections. Continuous inspections require that no work be done except in the presence of the Public Works Supervisor and/or utilities foreman.

- 1. Continuous inspection may occur on the following types of work:
  - A. Preparation of street subgrade and compacted fill;
  - B. Laying of street surfacing;

- C. Pouring of concrete for curb and gutter, sidewalks, and other structures;
  - D. Laying of sewer pipe, drainage pipe, water pipe, valves, hydrants, and testing.
2. Periodic inspections shall be required on the following:
- A. Street grading and gravel base;
  - B. Excavations for curb and gutter and sidewalks;
  - C. Excavations for structures;
  - D. Trenches for laying pipe;
  - E. Forms for curb and gutter, sidewalks, and structures.

**175.21 COMPLETION INSPECTION.** A final inspection shall be made by the City Public Works Supervisor and/or utilities foreman after receiving a written document from the subdivider or agent that all work is completed. Attached to this document shall be the subdivider's or agent's engineer's statement that all sanitary sewers and water lines installed have been tested and meet State standards.

**175.22 SUBDIVISION DESIGN STANDARDS.**

1. Generally. The purpose of subdivision and site plan standards is to create a functional development that minimizes adverse impacts and acts as an asset to the general safety and welfare of the City. To promote this purpose, the subdivision and/or site plan shall conform to the following standards which are designed to result in a well-planned community without adding unnecessarily to development costs. A site design must be subject to an analysis of its characteristics such as site context; geology and soil; topography; climate; ecology; existing vegetation, structures, and road networks; visual features; and past and present use of the site. In addition, the site design shall:

- A. Comply with all applicable statutory provisions and all applicable laws of the appropriate jurisdictions;
- B. Comply with the Zoning Ordinance and Comprehensive Plan;
- C. Consider all existing municipal and regional plans;
- D. Comply with the rules and regulations of the County Health Department and/or appropriate State or other agencies;
- E. Comply with the rules and regulations of the Iowa Department of Transportation;
- F. Attempt to preserve natural features, avoid areas of environmental sensitivity, and minimize negative impacts and alteration of natural features;
- G. Preserve unique and/or fragile areas, including natural and historic resources and fragile ecosystems (including forests, wetlands, rivers, streams, lakes and their shorelines, aquifers, prairies, and habitats for endangered wildlife pursuant to Section 352.1 of the *Code of Iowa*);

H. Preserve steep slopes in excess of 20 percent as measured over a 10-foot interval unless appropriate engineering measures concerning slope stability, erosion, and resident safety are taken;

I. Be laid out to avoid adversely affecting ground water and aquifer recharge; reduce cut and fill; avoid unnecessary impervious surfacing; prevent flooding; provide adequate access to lots and sites; and to mitigate adverse effects of shadow, noise, odor, traffic, drainage, and utilities on neighboring properties.

Residential development design may utilize cluster development to promote flexibility, economy, and environmental soundness as well as provide for sufficient access by emergency vehicles. Commercial and industrial developments shall be designed according to the same principles as residential developments, but with special attention to adverse impacts on surrounding property and environmentally sensitive areas. Roads within developments shall be designed to permit the safe, efficient, and orderly movement of traffic.

2. **Street Plans and Design.** The design of the proposed subdivision in relation to streets, blocks, lots, open spaces, and other design factors shall be in harmony with the Comprehensive Plan and the design standards recommended by the City Public Works Supervisor and/or utilities foreman. Design standards shall be approved by the Council and shall include provisions as follows:

A. No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing State or County highway, official County road, official municipal road, or a street shown upon a plat approved by the City Public Works Supervisor and/or utilities foreman and recorded in the County Recorder's office.

B. Roads shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many building sites as possible at, or above, the grades of the streets. Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided.

C. All thoroughfares shall be properly related to special traffic generators such as industries, business districts, schools, churches, and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

D. Minor or local streets shall be laid out to conform as much as possible to the topography to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to the property.

E. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.

F. In business and industrial developments, the streets and other access ways shall be planned in connection with the grouping of buildings, location

of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.

G. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when the continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where the continuation is in accordance with the City road plan. If the adjacent property is undeveloped and the street must temporarily be a dead-end street, the right-of-way shall be extended to the property line. A temporary T- or L-shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued.

H. Where a road does not extend beyond the boundary of the subdivision and its continuation is not required by the Planning and Zoning Commission for access to the adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with County construction standards and specifications. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length in accordance with the design standards of these regulations.

I. Blocks shall not exceed 1,400 feet in length or be less than 400 feet in length.

J. Cul-de-sacs shall be no longer than 500 feet in length with a turnaround of not less than 100 feet in diameter.

K. The subdivision plat as submitted may indicate names for proposed streets. The Commission shall review all road names and consult the local postmaster prior to giving recommendation to the Council for approval. Names shall be sufficiently different in sound and spelling from other road names in the City and surrounding area so as not to cause confusion. A road which is (or is planned as) a continuation of an existing road shall bear the same name.

3. Utilities and Easements. Depending on the proposed number, type, and proximity of housing units and/or land uses, subdivisions may be required to connect with approved public systems. The amount of service supplied shall bear a direct relationship to the demand that the subdivision will create.

A. All utility facilities, including (but not limited to) gas, electric power, telephone, and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located above ground, except when existing on public roads and right-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout the subdivision shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the subdivider's expense. At the discretion of the

Council, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

B. Easements centered on rear lot lines shall be provided for utilities (private and municipal) and such easements shall be at least 12 feet wide. Proper coordination shall be established between the subdivider or agent and the applicable utility companies for the establishment in adjoining properties. When topological or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least 12 feet in width shall be provided along side lot lines, centered, with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

C. Fire hydrants may be required by the Council. Fire hydrants shall be located no more than 1,000 feet apart and within 500 feet of any structure and shall be approved by the Fire Chief. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves, and all other supply improvements shall be installed before any final paving of a street shown on the subdivision plat.

4. Lots. The lot arrangement and design shall be such that lots will provide satisfactory and desirable site for buildings, and be properly related to topography, to the character of surrounding development and to existing requirements. All lots must conform to the minimum requirements of the zoning district for which it is located and the minimum requirements of the County Health Department for water supply and sewage disposal. Each lot shall abut on a street shown on the subdivision plat or on an existing publicly dedicated street. Double frontage and reverse frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation. Side lines of lots shall be at approximately right angles or radial to the street lines.

5. Sidewalks. The Council may require sidewalks to facilitate pedestrian access from roads to schools, parks, playgrounds, common areas, or other nearby roads. Sidewalks through the block may be required where access is necessary to a point designated by the Council. Concrete curbs are required for all roads when sidewalks are required by these regulations or when required in the discretion of the City Public Works Supervisor and/or utilities foreman. Such walkways shall be required to have a median strip of grassed or landscaped area at least two feet wide separating them from adjacent curbs and shall be installed in accordance with Chapter 136 of this Code of Ordinances (Sidewalk Regulations).

6. Street Lights. Installation of street lights shall be required in accordance with design and specification standards approved by the Public Works Supervisor and/or utilities foreman.

7. Drainage and Storm Water Management. The Commission shall not recommend for approval any plat of subdivision that does not make adequate provision for storm and flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by a method approved by the City Public Works Supervisor and/or utilities foreman, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is

not carried across or around any intersection, or for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

A. Location. The applicant may be required by the City Public Works Supervisor and/or utilities foreman to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.

B. Accessibility to Public Storm Sewers. Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the City Public Works Supervisor and/or utilities foreman. However, in subdivisions containing lots less than 15,000 square feet in area and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivision and be conducted by the Public Works Supervisor and/or utilities foreman. If a connection to a public storm sewer will be provided eventually, as determined by the City Public Works Supervisor and/or utilities foreman, the developer shall make arrangements for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the subdivision improvement agreement required for the subdivision plat.

C. Accommodation of Upstream Drainage Areas. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The City Public Works Supervisor and/or utilities foreman shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance.

D. Effect on Downstream Drainage Areas. The City Public Works Supervisor and/or utilities foreman shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Public Works Supervisor and/or utilities foreman may withhold approval of the subdivision until provision has been made for the expansion of the existing downstream drainage facility. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

E. Areas of Poor Drainage. Whenever a plat is submitted for an area that is subject to flooding, the City Public Works Supervisor and/or utilities foreman may approve such subdivision provided that the applicant fills the affected area of the subdivision to an elevation sufficient to place the



elevation of streets and lots at a minimum of 12 inches above the elevation of the 100-year floodplain. The plat of the subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width that shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in the overflow zone, nor shall any structure be erected or placed in the overflow zone. The boundaries of the overflow zone shall be subject to approval by the Public Works Supervisor and/or utilities foreman. The Public Works Supervisor and/or utilities foreman may deny subdivision approval for areas of extremely poor drainage.

F. Floodplain Areas. The Council may, when it deems it necessary for the health, safety, or welfare of the present and future population of the City and surrounding area and for necessary conservation of water, drainage, and sanitary facilities, prohibit the subdivision of any portion of the property that lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps, except at the discretion of the Council.

8. Dedication of Drainage Easements. When a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

A. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least 15 feet in width for drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall extend from the road to a natural watercourse or to other drainage facilities.

B. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.

C. The applicant shall dedicate, either in fee or by a drainage or conservation easement, land on both sides of existing watercourses to a distance to be determined by the City Public Works Supervisor and/or utilities foreman.

D. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the number of lots to be utilized for average density procedures nor for computing the area requirement of any lot.

9. Parking Design, Landscaping and Construction Standards. Blocks intended for business or industrial use shall be designated specifically for such purposes with adequate space set aside for off-street parking space and delivery facilities.

10. Open Space. Planned unit developments and cluster developments shall be required to provide open space. Developed open space shall be designed to provide

active recreational facilities to serve the residents of the development. Undeveloped open space shall be designed to preserve important site amenities and environmentally sensitive areas.

A. Any lands dedicated for open space purposes shall contain appropriate covenants and deed restrictions approved by the City Attorney ensuring that:

- (1) The open space area will not be further subdivided in the future;
- (2) The use of the open space will continue in perpetuity for the purpose specified;
- (3) Appropriate provisions will be made for the maintenance of the open space; and
- (4) Common undeveloped open space shall not be turned into a commercial enterprise admitting the general public for a fee.

B. Open space ownership may include, but is not limited to, the following: City of New London (subject to acceptance by the City); other public jurisdictions or agencies (subject to their acceptance); quasi-public organizations (subject to their acceptance); homeowner, condominium, or cooperative associations or organizations; or shared, undivided interests by all property owners in a subdivision. If open space is to be owned and maintained by a homeowner or condominium association, the developer shall file a declaration of covenants and restrictions that will govern the association, to be submitted with the application for the preliminary approval. The provisions shall include, but are not necessarily limited to, the following:

- (1) The homeowners association must be established before the homes are sold;
- (2) Membership must be mandatory for each homebuyer and any successive buyer;
- (3) The open space restrictions must be permanent, not just for a period of years;
- (4) The association must be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
- (5) Homeowners must pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property if allowed in the master deed establishing the homeowners association; and
- (6) The association must be able to adjust the assessment to meet changed needs.

11. Preservation of Natural Features and Landscaping. Existing features that would add value to residential development or to the local government as a whole, such as trees, watercourses and falls, beaches, historic sites, and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision or any change of grade of the land effected until approval of the preliminary plat has been granted. If the subdivider or agent intends to use landscaping, it shall be provided as part of the site plan and subdivision design. It

may include plant materials such as trees, shrubs, ground covers, perennials, and annuals, and other materials such as rocks, water, sculpture, art, walls, fences, paving materials, and street furniture. The plan shall show existing and proposed plantings, and how existing plants are to be protected during construction. Topsoil moved during the course of construction shall be protected from storm water and wind erosion. In addition, all stumps, tree parts, litter, brush, weeds, excess or scrap building materials or other debris shall be removed from the site and disposed of in accordance with the law. No tree stumps, or portions of tree trunks or limbs shall be buried anywhere in the development. If trees and limbs are reduced to chips, they may be used as mulch in landscaped areas, subject to approval by the City Public Works Supervisor and/or the utilities foreman and the Iowa Department of Natural Resources. Landscaping of all cuts and fills and/or terraces shall be sufficient to prevent erosion, and all roadway slopes steeper than one foot vertically to three feet horizontally shall be planted with ground cover appropriate for the purpose and for soil conditions, water availability, and environment. Buffering may be used to minimize adverse impacts and may consist of fencing, rocks, evergreens, berms, boulders, mounds, or combinations thereof to achieve the same objectives. No buildings, structures, storage of materials, or parking shall be permitted within the buffer area; buffer areas shall be maintained and kept free of all debris, rubbish, and weeds.

#### **175.23 POST-FILING PROCEDURES.**

1. Improvement Guarantees. Improvement guarantees shall be provided to ensure the proper installation and maintenance of required street, utility, and other improvements. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the developer. Before the recording of a final subdivision plat, the City Council may require and shall accept in accordance with the standards adopted by ordinance the following guarantees:

- A. The furnishing of a performance guarantee in an amount not to exceed 120 percent of the cost of installation for improvements;
- B. Provision for a maintenance guarantee for a period not to exceed two years after final acceptance of the improvement, in an amount not to exceed 15 percent of the cost of the improvement.

The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Council by resolution. Upon substantial completion of all required improvements, the subdivider or agent shall notify the City Clerk in writing, by certified mail, of the completion or substantial completion of improvements, and shall send a copy to the City Public Works Supervisor and/or utilities foreman. The Public Works Supervisor and/or utilities foreman shall inspect all improvements of which such notice has been given and shall file a report, in writing, indicating either approval, partial approval, or rejection of such improvements with a statement of reason for any rejection. The notice from the subdivider or agent and report from the Public Works Supervisor and/or utilities foreman shall then be forwarded to the City Council for review and approval, partial approval, or rejection of the improvements based upon the report by the Public Works Supervisor and/or utilities foreman. The City Clerk shall then notify the subdivider or agent in writing, by certified mail, of the contents of the report by the Public Works Supervisor and/or the utilities foreman and Council decision not later than 35 days after the receipt of the notice from the subdivider/agent of the completion of the

improvements. Failure to send or notify the subdivider/agent within 35 days shall be deemed to constitute approval of the improvements, and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee for such improvements. Where partial approval is granted, the subdivider/agent shall be released from all liability except for that portion of improvements not yet approved.

2. Provision of Improvement Guarantees. Performance and maintenance guarantees shall be provided by a variety of means including, but not limited to, the following:

A. Security Bond. The developer may obtain a security bond from a surety bonding company authorized to do business in the State.

B. Letter of Credit. The developer may provide an irrevocable letter of credit from a bank or other reputable institution.

C. Escrow Account. The developer shall deposit cash or other instruments readily convertible into cash at face value, either with the City or in escrow with a bank.

D. Property. The developer may provide as a guarantee land or other property.

E. Subdivision Improvement Guarantee. An applicant may provide as a guarantee a subdivision improvement agreement between the applicant, lender, and local government.

3. Issuing Zoning Permits. The Zoning Administrator shall not issue permits for new construction, reconstruction, and/or changes in use unless the parcel or tract of land for which the permit is requested is in compliance with these regulations and approved by the City Council. This includes the following requirements:

A. All water, sewer, and drainage systems installed, inspected and tested;

B. All curb and gutter installed;

C. A minimum of eight inches of road base in place and graded;

D. All lots within the subdivision rough graded so that weeds and other vegetation can be maintained by the contractor.

#### 175.24 VARIANCES AND APPEALS.

1. Variances and Waivers. Where the Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may recommend to the Council variances, exceptions, and waiver of conditions to these regulations so that the public interest is secured and the Comprehensive Plan is upheld.

A. A petition for a variance, exception, or waiver of conditions shall be submitted in writing by the developer at the time when the preliminary plat is filed for the consideration of the Commission. The petition shall state fully the grounds for the request and all of the facts relied upon by the petitioner. The request for an exception shall include a rationale for granting the exception based upon the general purpose and intent of the provisions of this chapter and any undue hardships caused by the literal enforcement of one or more provisions of this chapter.

B. The Council, upon recommendation of the Commission, may waive specific subdivision and site plan requirements where there is no extensive construction or improvements being sought. The waiver may be granted only upon a resolution by the Council finding that the use will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting and other considerations of plat approval, and that the existing facilities do not require upgraded or additional site improvements.

2. Appeals. All appeals of decisions made by the Commission shall be referred to the Council for review. When application is made to the Council for approval of a subdivision plat, the applicant or a second governing body, which also has jurisdiction for review, may be aggrieved by any of the following:

A. The requirements imposed by a governing body as a condition of approval;

B. The governing body exceeding the time for review established by ordinance;

C. The denial of the application;

D. Failure of the governing body to approve or reject a subdivision plat within 60 days from the date of application for final approval. If the plat is disapproved by the governing body, such disapproval shall state how the proposed plat is objectionable. The applicant has the right to appeal, within 20 days, the failure of the governing body to issue final approval of the plat as provided in this section.

The applicant or the aggrieved governing body has the right to appeal to the District Court within 20 days after the date of the denial of the application or the date of the receipt by the applicant of the requirements for approval of the subdivision. Notice of appeal shall be served on the governing body in the manner provided for the service of original notice pursuant to the rules of civil procedure.