

ARTICLE II. - ADMINISTRATION^[2]

Footnotes:

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Cross reference— Administration, ch. 2.

DIVISION 1. - GENERALLY

Sec. 126-36. - Filing fee for plats.

- (a) *Fee to accompany application.* Every application to the commission for the approval of any proposed development shall be submitted to the planning and development services department and shall be accompanied by a filing fee in accordance with the schedule contained in section 2-595 of the code, and the commission shall not act upon any plat unless all fees as provided in that section have been received.
- (b) *Expiration.* These fees shall expire after a maximum time period between the preliminary and final approval of 180 days or as provided elsewhere in this chapter.
- (c) *Vacation of subdivisions.* For vacation of a subdivision, the filing fee shall be in accordance with the schedule contained in section 2-595 of the Code and in accordance with V.T.C.A., Local Government Code §§ 212.013—212.016.

(Code 1967, § 27-22; Ord. No. 3655, § 3, 7-28-83; Ord. No. 4376, § 1, 2-13-86; [Ord. No. 12,986](#), § 7, 10-8-15)

Note— It should be noted that § 7 of [Ord. No. 12,986](#), adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Secs. 126-37—126-65. - Reserved.

DIVISION 2. - LOT CONSOLIDATION AND LOT LINE ADJUSTMENT

Sec. 126-66. - Scope of division.

Lot consolidation or adjustment may be accomplished without replatting, provided the appropriate regulations are followed. The director of planning and community development is authorized to approve, without concurrence of the commission, when all the requirements of this division are met.

(Code 1967, § 27-23(a); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-67. - Lot consolidation requirements.

- (a) Under this division, no more than three lots shall be affected by the proposed lot consolidation.

(b) No such adjustment shall alter any public right-of-way or public easement.

(Code 1967, § 27-23(b); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-68. - Lot line adjustment requirements.

- (a) Under this division, lot line adjustments may be made, provided there is concurrence by the two owners of property involved in the lot line adjustment.
- (b) The proposed adjusted lot line shall be a single, straight line or shall be parallel to the existing lot line.
- (c) The lot line adjustment shall not be more than a minimum of ten feet average relocation from the existing lot line.
- (d) The lot line adjustment shall not be inconsistent with any provision of recorded subdivision restrictions or covenants.
- (e) No more than two lots shall be affected.

(Code 1967, § 27-23(c); Ord. No. 3655, § 3, 7-28-83)

Sec. 126-69. - Procedure for commission approval.

- (a) Under this division, the following shall be submitted to the director of planning and community development seven days prior to the commission meeting at which action is sought:
 - (1) A completed application form for the lot line adjustment or a lot consolidation, accompanied by a filing fee as prescribed in section 2-595 of the Code;
 - (2) Copies of deeds and restrictive covenants to all lots involved; and
 - (3) A scale drawing on legal size paper showing all lots involved, as platted, and as desired.
- (b) Action of the commission shall be final, and no proposal regarding the same lots shall be considered for a period of six months.
- (c) Approval by the director of planning and community development requires the submittal of items in subsection (a) of this section at any time.

(Code 1967, § 27-23(d), (e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 8399, § 1, 9-10-98; Ord. No. 8649, § 1, 8-12-99; [Ord. No. 12,986](#), § 8, 10-8-15)

Note— It should be noted that § 8 of [Ord. No. 12,986](#), adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Secs. 126-70—126-95. - Reserved.

DIVISION 3. - SMALL SUBDIVISIONS

Sec. 126-96. - Definitions.

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

Small subdivision means a subdivision of 12 or fewer lots.

(Code 1967, § 27-64(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96)

Cross reference— Definitions generally, § 1-2.

Sec. 126-97. - Platting procedure.

- (a) *Submission.* Application for preliminary approval of a small subdivision shall be made by the owner or his authorized agent and shall be made on a form prescribed by the city planning staff. The application shall be accompanied by a filing fee and accompanied by 15 copies of the preliminary development plan of the entire development drawn to scale and showing streets or drives, utility easements, lots and major landscaping features. A boundary survey or a certified boundary description by a registered public surveyor shall also be submitted.
- (b) *Filing fee.* Every application for a small subdivision shall be accompanied by a filing fee as prescribed in section 2-595 of the Code.
- (c) *Commission approval.* The commission shall examine such application and shall determine whether it conforms to all applicable criteria and standards.

(Code 1967, § 27-64(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96; [Ord. No. 12,986](#), § 9, 10-8-15)

Note— It should be noted that § 9 of [Ord. No. 12,986](#), adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Sec. 126-98. - General standards.

The developer of a small subdivision must comply in all respects with the engineering and construction standards for subdivisions established by this chapter, except as provided by section 126-99.

(Code 1967, § 27-64(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96)

Sec. 126-99. - Variances.

The commission may grant a variance from this division when in its opinion undue hardship will result from requiring strict compliance. The variance may be granted only for curbs, gutter, drainage storm sewers, sidewalks and street widths (but not less than 26 feet of concrete). No variance may be granted on sidewalks if they will connect to existing sidewalks.

(Code 1967, § 27-64(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 7693, § 3, 5-9-96)

Secs. 126-100—126-104. - Reserved.

DIVISION 3.5. - MINOR PLATS

Sec. 126-105. - Definitions.

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

Minor plat shall be defined as a plat of a tract of land, which includes four, or fewer lots, which also meets the following conditions:

- (1) Each lot of the subdivision shall have frontage on an existing public street, and shall not require the creation of any new street, or the extension of any existing street;
- (2) The subdivision shall be served by existing municipal utilities of adequate capacity, and shall not require the extension of any municipal utilities, except for the installation of service lines to the individual lot(s) from existing mains of adequate capacity; and
- (3) No variance from the standards of this Code is required.

(Ord. No. 8815, § 2, 1-27-00)

Sec. 126-106. - Platting procedures.

- (a) *Submission of preliminary plat.* Application for the approval of a minor plat shall be made by the owner or his authorized agent and shall be made on a form prescribed by the director of planning and community development. The applicant shall submit the completed application form and five copies of the preliminary plat to the director.
- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for a minor plat.
- (c) *Administrative review.* The director of planning and community development shall review the proposed minor plat to ensure compliance with all appropriate requirements of this Code. The director of planning and community development may submit the minor plat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the minor plat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.
- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the director of planning and community development its final plat which shall include the following items:
 - (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
 - (2) Five true to scale 18 inch by 24 inch copies of the final plat;
 - (3) Tax certificates stating that no taxes are delinquent against the property; and
 - (4) The appropriate fees for filing the plat with the county clerk.

If the items listed in this subsection are timely submitted and if all of the issues and corrections have been addressed as required by the Code as determined by the director of planning and community development, the director may approve the minor plat.

- (e) *Expiration of preliminary plat.* If the items listed in subsection (d) of this section are not submitted within ten business days of the applicant's receipt of the written analysis or if the issues and corrections have not been addressed as required by the Code as determined by the director of planning and community development within such period of time, the minor plat application along with the preliminary pat shall automatically expire and the applicant will be required to submit a new application for the proposed subdivision.

(Ord. No. 8815, § 2, 1-27-00; [Ord. No. 12,986](#), § 10, 10-8-15)

Note— It should be noted that § 10 of [Ord. No. 12,986](#), adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Sec. 126-107. - Review by the commission.

- (a) The director of planning and community development may, for any reason, elect to forward the minor plat to the commission for review and approval.
- (b) The director of planning and community development must refer any minor plat, which he refuses to approve to the commission for its consideration.

(Ord. No. 8815, § 2, 1-27-00)

Sec. 126-108. - Limitation.

Land subdivided through the minor plat process shall not be resubdivided or replatted by amendment or otherwise for a period of one year from the approval of the original minor plat, unless it is approved by the commission.

(Ord. No. 8815, § 2, 1-27-00)

DIVISION 3.6. - MINOR REPLATS

Sec. 126-109. - Definitions.

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

Minor replat shall be defined as a replat of a tract of land, which involves four, or fewer lots, which also meets the following conditions:

- (1) Each lot of the subdivision shall have frontage on an existing public street, and shall not require the creation of any new street, or the extension of any existing street;
- (2) The subdivision shall be served by existing municipal utilities of adequate capacity, and shall not require the extension of any municipal utilities, except for the installation of service lines to the individual lot(s) from existing mains of adequate capacity; and
- (3) No variance from the standards of this Code is required.

(Ord. No. 11,363, § 1, 5-27-10)

Sec. 126-110. - Platting procedures.

- (a) *Submission of preliminary plat.* Application for the approval of a minor replat shall be made by the owner or his authorized agent and shall be made on a form prescribed by the director of planning and community development. The applicant shall submit the completed application form and five copies of the preliminary plat to the director.
- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for a minor replat.

- (c) *Administrative review.* The director of planning and community development shall review the proposed minor replat to ensure compliance with all appropriate requirements of this Code. The director of planning and community development may submit the minor replat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the minor replat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.
- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the director of planning and community development its final plat which shall include the following items:
 - (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
 - (2) Five true to scale 18-inch by 24-inch copies of the final plat;
 - (3) Tax certificates stating that no taxes are delinquent against the property; and
 - (4) The appropriate fees for filing the replat with the county clerk.

If the items listed in this subsection are timely submitted and if all of the issues and corrections have been addressed as required by the Code as determined by the director of planning and community development, the director may approve the minor replat.
- (e) *Expiration of preliminary plat.* If the items listed in subsection (d) of this section are not submitted within ten business days of the applicant's receipt of the written analysis or if the issues and corrections have not been addressed as required by the Code as determined by the director of planning and community development within such period of time, the minor replat application along with the preliminary replat shall automatically expire and the applicant will be required to submit a new application for the proposed subdivision.

(Ord. No. 11,363, § 1, 5-27-10; [Ord. No. 12,986](#), § 11, 10-8-15)

Note— It should be noted that § 11 of [Ord. No. 12,986](#), adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Sec. 126-111. - Review by the commission.

- (a) The director of planning and community development may, for any reason, elect to forward the minor replat to the commission for review and approval.
- (b) The director of planning and community development must refer any minor replat, which he refuses to approve to the commission for its consideration.

(Ord. No. 11,363, § 1, 5-27-10)

Sec. 126-112. - Limitation.

Land subdivided through the minor replat process shall not be resubdivided or replatted by amendment or otherwise for a period of one year from the approval of the original minor replat, unless it is approved by the commission.

(Ord. No. 11,363, § 1, 5-27-10)

Secs. 126-113, 126-114. - Reserved.

DIVISION 3.7. - AMENDING PLATS

Sec. 126-115. - Definitions.

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

Amending plat means an amendment to a plat, previously approved by the commission and duly recorded, which is resubmitted to the commission for reapproval and recording, which is signed by the applicants and is solely for one or more of the purposes enumerated in section 126-116. An amending plat is not to be considered as a replat or re-subdivision and may not contain any changes or additions to the physical characteristics of the original subdivision, but is intended only to correct errors or miscalculations.

(Ord. No. 8815, § 2, 1-27-00)

Sec. 126-116. - Purpose of amending plat.

An amending plat may be filed solely for one or more of the following purposes:

- (1) To correct an error in a course or distance shown on the preceding plat;
- (2) To add a course or distance that was omitted on the preceding plat;
- (3) To correct an error in a real property description shown on the preceding plat;
- (4) To indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;
- (5) To show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- (6) To correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- (7) To correct an error in courses and distances of lot lines between two adjacent lots if:
 - a. Both lot owners join in the application for amending the plat;
 - b. Neither lot is abolished;
 - c. The amendment does not attempt to remove recorded covenants or restrictions; and
 - d. The amendment does not have a material adverse effect on the property rights of the other owners in the plat;
- (8) To relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement;
- (9) To relocate one or more lot lines between one or more adjacent lots if:
 - a. The owners of all those lots join in the application for amending the plat;
 - b. The amendment does not attempt to remove recorded covenants or restrictions; and
 - c. The amendment does not increase the number of lots;
- (10) To make necessary changes to the preceding plat to create six or fewer lots in the subdivision or a part of the subdivision covered by the preceding plat if:

- a. The changes do not affect applicable zoning and other regulations of the municipality;
 - b. The changes do not attempt to amend or remove any covenants or restrictions; and
 - c. The area covered by the changes is located in an area that the municipal planning commission or other appropriate governing body of the municipality has approved, after a public hearing, as a residential improvement area; or
- (11) To replat one or more lots fronting on an existing street if:
- a. The owners of all those lots join in the application for amending the plat;
 - b. The amendment does not attempt to remove recorded covenants or restrictions;
 - c. The amendment does not increase the number of lots; and
 - d. The amendment does not create or require the creation of a new street or make necessary the extension of municipal facilities.

(Ord. No. 8815, § 2, 1-27-00)

Sec. 126-117. - Platting procedures.

- (a) *Submission of preliminary plat.* Application for the preliminary approval of an amending plat shall be made by the applicants or their authorized agent and shall be made on a form prescribed by the director of planning and community development. The application shall be accompanied by five copies of the preliminary development plan of the entire development drawn to scale and showing streets or drives, utility easements, and lots. A boundary survey or a certified boundary description by a registered public surveyor shall also be submitted.
- (b) *Application fee.* An application fee in the amount prescribed in section 2-595 shall accompany every application for an amending plat.
- (c) *Administrative review.* The director of planning and community development shall review the proposed amending plat to ensure compliance with all appropriate requirements of the Code. The director of planning and community development may submit the amending plat to other departments for review and comment, as the director deems necessary. Within ten business days after the date of the application, the amending plat shall be returned to the applicant along with written analysis detailing the items which must be addressed in order to comply with the Code.
- (d) *Submission and approval of final plat.* Within ten business days of receipt of the written analysis, the applicant shall submit to the director of planning and community development its final plat which shall include the following items:
 - (1) A reproducible mylar of the final plat, and the copies of the original submittal with staff analysis and commentary;
 - (2) Five true to scale 18-inch by 24-inch copies of the final plat;
 - (3) Tax certificates stating that no taxes are delinquent against the property; and
 - (4) The appropriate fees for filing the plat with the county clerk.

If the items listed in this subsection are timely submitted, if all of the issues and corrections have been addressed as required by the Code as determined by the director of planning and community development, and if the amending plat is signed by the applicant only, the director may approve the amending plat.

- (e) *Expiration of preliminary plat.* If the items listed in subsection (d) of this section are not submitted within ten business days of the applicant's receipt of the written analysis or if the issues and corrections have not been addressed as required by the Code as determined by the director of planning and community development within such period of time, the amending plat application

along with the amending plat shall automatically expire and the applicant will be required to submit a new application for the amending plat.

(Ord. No. 8815, § 2, 1-27-00; [Ord. No. 12,986](#), § 12, 10-8-15)

Note— It should be noted that § 12 of [Ord. No. 12,986](#), adopted Oct. 8, 2015, has an effective date of Jan. 1, 2016.

Sec. 126-118. - Review by the commission.

- (a) The director of planning and community development may, for any reason, elect to forward the amending plat to the commission for review and approval.
- (b) The director of planning and community development must refer any amending plat, which he refuses to approve to the commission for its consideration.

(Ord. No. 8815, § 2, 1-27-00)

Secs. 126-119—126-125. - Reserved.

DIVISION 4. - REVIEW PROCEDURE

Subdivision I. - In General

Sec. 126-126. - Process.

There shall be a three-stage process for subdivision plats required to be submitted to the commission for approval, consisting of a departmental review (stage one) as described in subdivision II of this division, preliminary approval (stage two) as described in subdivision III of this division and final approval (stage three) as described in subdivision IV of this division. The number of copies of the development plan required to be filed at the appropriate times shall be 15 copies for stages two (preliminary approval) and three (final approval).

(Code 1967, § 27-18; Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96)

Secs. 126-127—126-145. - Reserved.

Subdivision II. - Departmental Review

Sec. 126-146. - Plot plan and information required.

The owner of the proposed subdivision or his authorized agent shall submit to the department of planning and community development a plot plan, drawn to a scale of not less than one inch equals 100 feet (preferably the scale of one inch equals 20 feet or one inch equals 60 feet). The developer and the planning staff shall meet together and determine whether the applicable requirements of this Code have been complied with. If there is disagreement on this issue, the applicant, by request, or the staff may take

this pre-preliminary information to the commission for its determination. If the staff and applicant reach a satisfactory agreement, the applicant may proceed to prepare data for stage two, preliminary approval.

(Code 1967, § 27-18(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96)

Sec. 126-147. - Preliminary approval application.

Application for preliminary approval of the subdivision plat shall be made by the owner or his authorized agent of all affected property and shall be filed on a form prescribed by the city planning staff and filed with the planning and community development department. The application shall be accompanied by a fee prescribed in the fee schedule, section 126-36, and shall be accompanied by the following information:

- (1) Copies of the preliminary development plan of the entire development drawn to scale and showing streets, rights-of-way, utility easements, building lines, relevant operational data, drawings and elevations clearly establishing the scale and open space. Such development plan shall include a location map showing information on the surrounding area within 400 feet of the development. A boundary survey or a certified boundary description by a registered public surveyor, plus contour information, shall also be submitted. The contours shall be indicated on the preliminary plan, and such points shall be given to true elevation above mean sea level as determined by the datum specified by the city engineer. The base data shall be clearly indicated and shall be compatible to city datum, if benchmarks are not adjacent. The following intervals are required:
 - a. One-foot contour intervals for ground slopes up to five percent;
 - b. Two-foot contour intervals for ground slopes between five percent and ten percent; and
 - c. Five-foot contour intervals for ground slopes exceeding ten percent;all elements listed in this subsection shall be characterized as existing or proposed and sufficiently detailed to indicate intent and impact;
- (2) A tabulation of the land area to be devoted to various uses and a calculation of the average residential density per net acre;
- (3) A development schedule demonstrating that the developer intends to commence construction within one year after the approval of the final development plan and will proceed diligently to completion; and
- (4) If it is proposed that the final plan will be executed in stages, a schedule thereof shall be required.

(Code 1967, § 27-18(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96)

Sec. 126-148. - Submission of required data.

The data required under this subdivision shall be submitted to the director of planning and community development not less than 14 days prior to the commission meeting at which preliminary approval is sought.

(Code 1967, § 27-18(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 1, 4-27-89; Ord. No. 7693, § 1, 5-9-96; Ord. No. 8649, § 2, 8-12-99)

Secs. 126-149—126-165. - Reserved.

Subdivision III. - Preliminary Approval

Sec. 126-166. - Procedures.

- (a) The application for preliminary approval of a subdivision plat shall be considered by the commission in a public meeting. The developer or his engineer shall be present.
- (b) The commission shall determine whether the proposal conforms to city and other applicable regulations and may approve or disapprove the application and the accompanying preliminary development plan or require such changes therein or impose such conditions of approval as are in its judgment necessary to ensure conformity to such regulations. If positive or negative action is not taken within 30 days after filing, the application and preliminary development plan shall be deemed approved, unless the time has been extended by the developer.
- (c) Preliminary approval does not constitute acceptance of the plat by the city, but is merely authority to proceed with preparation of the final plat. It shall be unlawful for any work to be done on the ground until the preliminary plat and plan has been approved, except basic site clearing may commence at the developer's risk.

(Code 1967, § 27-19; Ord. No. 3655, § 3, 7-28-83)

Sec. 126-167. - Engineering report.

After preliminary approval of the subdivision plat by the commission, the developer shall file three copies of the engineering plans with the city engineer for review and approval. The developer shall forward copies to the appropriate county agency for review of all public improvements. When the development lies outside the city's extraterritorial jurisdiction, the plans shall be forwarded to the appropriate agencies and shall be designed to meet the county agencies' standards. Within the city and the city's extraterritorial jurisdiction, all improvements shall comply with the city's engineering specifications.

(Code 1967, § 27-20.1; Ord. No. 3655, § 3, 7-28-83; Ord. No. 5004, § 2, 5-12-88)

Secs. 126-168—126-185. - Reserved.

Subdivision IV. - Final Approval

Sec. 126-186. - Commission review; extension of time.

- (a) Within 1,095 days after preliminary subdivision plat approval and within 30 days of submission of the final plan, the commission shall examine such plat and determine whether it conforms to all applicable criteria and standards and whether it conforms in all substantial respects to the previously approved plat. The developer or his engineer shall be present at the meeting.
- (b) When the developer believes that an extension of time is needed beyond the time allowed in subsection (a) of this section, the developer may appeal in writing to the director of planning and community development for additional time and must specify the reasons therefor. The director of planning and community development may extend the 1,095 days by up to 90 days, which shall not

be more than 1,185 days from preliminary approval action by the commission, if the director of planning and community development finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

(c) When the developer believes that an extension of time is needed beyond the time allowed in subsections (a) and (b) of this section, the developer may appeal in writing to the commission for additional time and must specify the reasons therefor. The commission then may grant an additional extension of time not to exceed:

(1) Ninety days from the extension granted pursuant to subsection (b) of this section, or

(2) One hundred eighty days if no extension was granted pursuant to subsection (b) of this section,

if the commission finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

(d) When the developer believes that an extension of time is needed beyond the time allowed in subsections (a), (b) and (c) of this section, the developer may appeal in writing to the city council for additional time and must specify the reasons therefor. The city council then may grant an additional extension of time not to exceed:

(1) One hundred eighty days from the extensions granted pursuant to subsections (b) and (c) of this section,

(2) Two hundred seventy days if an extension was granted pursuant to subsection (b) or (c) of this section, but not both, or

(3) Three hundred sixty days if no extension was granted pursuant to subsections (b) and (c) of this section,

if the city council finds that the requested extension of time is not caused, directly or indirectly, by any action or omission of the developer, his engineer, or their respective officers, agents or employees or by the diligent pursuit thereof by such persons.

(Code 1967, § 27-20.2(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 8973, § 1, 8-24-00)

Sec. 126-187. - Submission of plat to director.

The final plat of the subdivision shall be submitted to the director of planning and community development not less than 14 days prior to the commission meeting at which final approval is sought.

(Code 1967, § 27-20.2(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 8649, § 3, 8-12-99)

Sec. 126-188. - Engineering report.

Three sets of plans and specifications for water, sewer, paving and drainage prepared by an engineer registered in the state and approved in writing by the city engineer, along with one digital copy of such plans and specifications shall be submitted to the engineering department prior to the beginning of any construction of the subdivision. The digital copy shall be submitted in DXF, DWG, or DGN format containing state plane coordinates south central zone based on NAD 83 and elevations based on Geoid99 NAVD88 referenced to approved city monumentation and utilizing survey grade (RTK) procedures.

(Code 1967, § 27-20.2(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 9544, § 1, 4-10-03)

Sec. 126-189. - Contents of final plat; construction approval.

- (a) The final plat of the subdivision shall show or be accompanied by the following data:
- (1) Plats shall be drawn upon sheets 24 inches by 36 inches to the scale of 100 feet to the inch, unless another scale is approved by the director of planning and development services;
 - (2) A title, including the name of the subdivision, the owner and the certification of a registered public surveyor responsible for the plat; and the scale and location of the subdivision with reference to original land grants or surveys, the data and north point;
 - (3) A certificate of ownership and dedication of all streets, easements, parks and playgrounds to public use forever, signed and acknowledged before a notary public by the owner and lienholder of the land;
 - (4) An accurate on-the-ground boundary survey of the property with bearings and distances and showing the lines of all adjacent land, streets and easements with their names and width. Streets and lot lines in an adjacent subdivision shall be shown dotted. All necessary data to reproduce the plat on the ground must be shown on the plat, including building lines;
 - (5) A certificate of approval to be signed by the chairman and secretary of the commission shall be placed on the face of the plat;
 - (6) A certificate of approval from the county flood control district shall be placed on the face of the plat when one of its facilities is immediately adjacent or dedication to it is required;
 - (7) Two copies of the proposed deed restrictions; and
 - (8) If any part of the plat lies in a flood hazard area, one-foot contour lines shall be drawn with a very heavy line and designated. The plat shall also show the following statement in print equal in size to the certificates of approval:

"Parts of this plat lower than the 100-year flood elevation have a one percent chance each year of being inundated by flooding."
- (b) All construction shall be inspected while in progress by the city engineering department and must receive final approval upon completion by the city engineer. A letter by such officers stating that the construction conforms to the specifications and standards contained in or referred to in this division must be presented to the planning and development services department prior to filing the final plat unless a security is filed in accordance with subsection (c) hereof.
- (c) If the subdivider chooses to file security in lieu of completing construction prior to final plat filing, he may utilize one of the methods of posting security detailed herein based upon the type of development.
- (1) For all developments except for those listed in subsection (c)(2) and (c)(3) of this section, a subdivider may only file security in lieu of completing construction if all water lines, sanitary sewer lines, and stormwater systems are completed and approved by the city engineer and if at least 50 percent of all required improvements, including streets, sidewalks, and lift stations, if any, have been completed. If these requirements are met, the subdivider may:
 - a. File with the department of planning and development services a bond executed by a surety company licensed to do business in the state and acceptable to the city, on the form provided by the city, in an amount equal to 110 percent of the estimated cost of the improvements required by this chapter and conditioned upon the satisfactory completion of all required improvements, including streets and lift stations, if any, in full compliance with the Code within the time for completion as established by the city engineer. The estimated

cost shall be approved by the city engineer, and the performance bond shall be approved as to form and legality by the city attorney;

- b. Place on deposit in a bank or trust company in the name of the city and approved by the city and file a copy of such with the department of planning and development services in a trust account a sum of money equal to 110 percent of the estimated cost of all improvements required by this chapter, which account shall be conditioned upon the satisfactory completion of all required improvements, including streets and lift stations, if any, in full compliance with the Code within the time for completion as established by the city engineer. The estimated cost shall be approved by the city engineer. Selection of the trustee shall be subject to approval by the city, and the trust agreement shall be executed on the form provided by the city and approved as to form and legality by the city attorney;
 - c. File with the department of planning and development services a letter, on the form provided by the city, signed by a principal officer of a bank or federally insured savings and loan association or other financial institution acceptable to the city, agreeing to pay to the city, on demand, a stipulated sum of money equal to 110 percent of the estimated cost of improvements required by this chapter to apply to the costs of installation of all improvements for which the subdivider or developer is responsible under this chapter. The time for completion shall be established by the city engineer and the guarantee payment sum shall be the estimated costs as approved by the city engineer. The letter shall state the name of the subdivision and shall list the improvements and amounts which the subdivider or developer is required to provide; or
 - d. File with the department of planning and development services a cashier's or certified check payable to the city in an amount equal to 110 percent of the estimated cost of the improvements required by this chapter.
- (2) For developments located within an area annexed for limited purposes by the city, a subdivider may file security in lieu of completing construction of water lines, sanitary sewer lines, stormwater systems, and required improvements, including streets, sidewalks, and lift stations, if any, if the development:
- a. Is located within a light industrial (LI) or heavy industrial (HI) zoning district; or
 - b. Is comprised of only commercial uses, one of which has a building footprint in excess of 100,000 square feet.

The security may be in any of the forms referenced in subsection (c)(1)a. through (c)(1)d. of this section.

- (3) For developments located within the corporate limits of the city, a subdivider may file for final plat prior to completing construction of water lines, sanitary sewer lines, stormwater systems, and required improvements, including streets, sidewalks, and lift stations, if any, if:
- a. The subdivider has entered into a cost-share agreement with the city regarding the construction of all or a portion of the required improvements;
 - b. The subdivider has rendered its share of the cost of the required improvements to the city in accordance with the cost-share agreement;
 - c. The cost-share agreement provides for the dedication of any easements or rights-of-way not shown on the final plat; and
 - d. Either:
 - 1. The development is comprised of only commercial uses, one of which has a building footprint in excess of 100,000 square feet; or
 - 2. The development is comprised of only commercial uses consisting of at least 30 acres.

For purposes of this subsection, "commercial uses" shall include multifamily and industrial uses.

The security for the required improvements not subject to the cost-share agreement may be in any of the forms referenced in subsections (c)(1)a. through (c)(1)d. of this section.

- (d) After final inspection, the city engineer shall notify the subdivider and the director of planning and development services in writing as to his acceptance or rejection of the construction. If accepted, the security is released. He shall reject such construction only if it fails to comply with the standards and specifications contained or referred to in this chapter. If he rejects such construction, the city attorney shall proceed to enforce the guarantees provided in this section. The city engineer may approve partial releases of the security retained by the city upon partial acceptance by the city engineer of required improvements. Where good cause exists, the city engineer may extend the period of time for completion under subsection (b) of this section. Such extension of time shall be reported to the department of planning and development services. No such extension shall be granted unless security as provided in subsection (b) of this section has been provided by the subdivider covering the extended period of time.

(Code 1967, § 27-20.2(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 5263, § 2, 4-27-89; Ord. No. 7693, § 2, 5-9-96; Ord. No. 9284, § 1, 12-13-01; Ord. No. 11,979, § 1, 7-26-12; Ord. No. 11,980, § 3, 7-26-12; Ord. No. 11,982, § 3, 7-26-12; Ord. No. 12,647, § 1, 9-25-14)

Secs. 126-190—126-215. - Reserved.

DIVISION 5. - VARIANCES

Sec. 126-216. - Criteria for issuance.

The commission may authorize a variance from this chapter when, in its opinion, undue hardship will result from requiring strict compliance. In granting a variance, the commission shall prescribe any condition it deems necessary or desirable considering the public interest. In making the findings required in this division, the commission shall take into consideration the following:

- (1) The nature of the proposed use of the land involved and existing uses of land in the vicinity;
- (2) The number of persons who will reside or work in the proposed subdivision;
- (3) The probable effect of such variance upon traffic conditions and upon the public health, safety, convenience and welfare of the vicinity; and
- (4) Any and all other facts the commission may deem relevant.

(Code 1967, § 27-62(a); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

Sec. 126-217. - Findings.

- (a) No variance from this chapter shall be granted unless the commission finds:
- (1) There are special circumstances or conditions affecting the land involved, such that the strict application of this chapter would deprive the applicant of the reasonable use of his land;
 - (2) The granting of the variance will not be detrimental to the public health, safety, welfare or will be injurious to other property in the area; and
 - (3) The granting of the variance will not have the effect of preventing the orderly subdivision of other land in the area in accordance with this chapter.

- (b) Such findings of the commission, together with the specified facts upon which such findings are based, shall be incorporated into the official minutes of the commission meeting at which such variance is granted. Variances may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the subdivider, standing alone, shall not be deemed to constitute hardship requiring variance under this division.

(Code 1967, § 27-62(b); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

Sec. 126-218. - Denial for certain conditions; design elements.

- (a) No variance shall be granted pursuant to this division as to required improvements, minimum lot sizes, flood hazard area regulations, bond requirements or utilization. However, a variance may be granted for drainage improvements in a subdivision located wholly outside the corporate city limits by the commission.
- (b) Nothing in this division is to be construed as prohibiting either the commission or city council from granting a variance from the design elements of required improvements. The term "design elements" refers to the minimum and maximum criteria set forth in this chapter for designing the length, width or configuration of required improvements, such as the maximum length of dead-end roadways or easements, the minimum radius of curves, the minimum width of rights-of-way, etc.

(Code 1967, § 27-62(c); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

Sec. 126-219. - Subdivisions outside city limits.

Variances to this chapter may be granted as to all required improvements in subdivisions located wholly outside the city, but within its extraterritorial jurisdiction, provided the subdivision complies with the minimum standards set by the appropriate county governing body.

(Code 1967, § 27-62(d); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

Sec. 126-220. - Applicability to 100-year storm requirements.

The granting of a variance from this chapter shall not relieve the developer from meeting the 100-year storm runoff requirements.

(Code 1967, § 27-62(e); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

Sec. 126-221. - Submission of requests.

All requests for a variance from this chapter shall be submitted in writing to the commission with preliminary approval. The request shall state why the developer feels his project meets the variance requirements.

(Code 1967, § 27-62(f); Ord. No. 3655, § 3, 7-28-83; Ord. No. 6149, § 2, 2-13-92)

Secs. 126-222—126-250. - Reserved.