

CHAPTER 12 SUBDIVISION REGULATIONS

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ORDINANCE 1255 REQUIRED BASIC IMPROVEMENTS

Section 1255.01: INTERPRETATION. All of the required improvements specified in this section shall be constructed in accordance with the state building code and all other applicable city, county, and state regulations.

Section 1255.02: PROCEDURE.

- A. Before a final plat is approved by the City Council, the owner and Developer of the land covered by the plat shall execute and submit to the City Council an agreement which shall be binding on the owner and Developer, and their heirs, personal representatives, and assigns, in a form approved by the City, stating that the owner and Developer will cause no construction (other than site grading) to be made on the plat nor file or cause to be filed any application or building permit for the construction until all improvements required under this chapter have been made or arranged for in the manner following.
- B. Prior to the making of required improvements, the owner or Developer shall deposit with the City Clerk an amount consistent with that stipulated in the Development Agreement. The deposit shall be either in cash or letter of credit, with sureties satisfactory to the City, conditioned upon the payment of all expenses incurred by the City for engineering, planning, and legal fees and other expenses in connection with the making of such improvements.
- C. With the approval of the Council and in lieu of the obligations imposed by (B.) above, the owner or Developer may submit a petition pursuant to M.S. Chapter 429 with respect to the land to be subdivided, requesting the City to install some or all of the improvements. Upon approval by the Council, the City may cause the improvements to be made and special assessments for all costs of the improvements to be levied on the land, except any land which is or shall be dedicated to the public. Subsequent to approval by the Council and before execution by the City of the final plat or other appropriate forms of City approval, the owner or Developer shall submit to the City a letter of credit or cash deposit ("security") which guarantees payment of special assessments levied on account of improvements installed pursuant to this chapter. The amount of the security shall be in an amount consistent with that stipulated in the Feasibility Report prepared by the City Engineer. The security shall be in a form and contain such other provisions and terms as may be required by the City Attorney. The security posted by the owner or Developer may be monitored annually by the City with a pro rata reduction in the amount thereof based upon the number of lots for which assessments have been paid and on the number of approved land transfers.
- D. Whenever public improvements are required to be installed either pursuant to (B) or (C) above, the owner and Developer shall execute a Development Agreement embodying the terms and conditions of the approval given by the City Council including, but not limited to, requirements set forth in this chapter.

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- E. No final plat shall be approved by the City Council without first receiving a report from the City Engineer certifying that the proposed improvements described herein, together with the agreements and documents required herein, meet the minimum requirements of all applicable ordinances.
- F. All of the required public improvements to be installed under the provisions of this chapter shall be inspected during the course of their construction by the City Engineer.
- G. Prior to any street or other improvement being accepted by the City as hereinafter provided, the Developer shall post a maintenance bond and/or other security in a form acceptable to the City naming the City as obligee in an amount deemed appropriate by the City Council to insure maintenance of the improvements for a period of at least 24 months from the date of acceptance by the City.

Section 1255.03: INSTALLATION.

- A. Improvement Installation. Improvements associated with the subdivision shall be installed in accordance with one of the following methods:
 - 1. Private installation.
 - (a) Prior to the installation of any required improvements by the applicant and prior to approval of the final plat, the applicant shall enter into a Development Agreement in writing with the City requiring the applicant/developer to furnish and construct the improvements at their sole cost and in accordance with approved plans and specifications and usual contract conditions. This shall include provision for inspection of the construction of the public improvements by the City Engineer.
 - (b) The Agreement shall require the applicant to post a financial security consisting of a deposit, irrevocable letter of credit, certified check, or bond with the City guaranteeing performance in accordance with the terms of the Development Agreement. The type, conditions, and term of the financial security must be reviewed by the City Attorney and approved by the City Council. The amount of the security is to be based on the City Engineer's estimate of the total cost of the improvements to be furnished under the contract, including, but not limited to: sanitary sewers, water mains, on-site storm sewers, streets, grading, and erosion control. The project costs must be reviewed by City staff. The security amount shall be equal to 125% of the project estimate.
 - (c) If evidence is presented that the described improvements have been paid for, the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance plat of the development.
 - (d) The schedule for completion of the work described in the final plat and the Development Agreement shall be determined by the City Council, upon recommendation of the Engineer after consultation with the applicant. The schedule shall be reasonable taking into account the work to be done, the seasons of the year, and proper coordination with

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construction activities in the plat and subdivision.

- (e) Improvements shall be constructed only in platted real estate. When determined necessary by the City, utilities and streets shall extend to plat boundaries to provide for future extensions.
- (f) The City of Kimball may require improvement to abutting roads not located in plat.
- (g) No applicant/developer shall be permitted to start work on any subdivision improvements without entering into a Development Agreement and posting a City-approved financial security.

2. City Installation.

- (a) Any person desiring to have utility and street improvements installed may request the City to install them, if the request is accompanied by a petition of 100% of the landowners and a waiver of assessment appeal. Acceptance of the request shall be discretionary on the part of the City Council, based on benefit to property owners, and subject to the following conditions and as authorized by state law.
- (b) If so approved by the City Council, the person requesting the installation of utility and street improvements shall supply a security consisting of an escrow deposit, irrevocable letter of credit, certified check, or bond guaranteeing payment for the installation of the improvements in an amount based on the City Engineer's estimate of the total cost of the improvements to be installed. The type, conditions, and term of the financial security must be reviewed by the City Attorney and approved by the City Council. The security amount shall equal five years of special assessments held until 50 % of the special assessments have been paid. At such time, the City may reduce the amount of security required of the developer in amounts equivalent to subsequent assessments for which payment has been made.
- (c) Improvements shall be constructed only in platted real estate. When determined necessary by the City, utilities and streets shall extend to plat boundaries to provide for future extensions.
- (d) No applicant/developer shall be permitted to start work on any subdivision improvements without entering into a Development Agreement and posting a city-approved financial security.

- B. Deposit by Developer. In order to cover the legal, engineering and administrative costs and expenses incurred by the City in connection with the approval of the subdivision and in connection with the review by the City Engineer of the plans, specifications and design of the proposed improvements, and the inspection of the actual installation and construction of the improvements, the developer shall, before recording the final plat of the subdivision, deposit with the City a certified check or money order made payable to the City of Kimball in an amount equal to 5 % of the Engineer's estimate of the cost of construction of the improvements. If actual costs and expenses incurred by the City

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exceed the amount of the deposit, the developer shall be liable for the balance owed to the City. The unused portion of the deposit, if any, shall be returned to the developer, without interest, within 30 days after the public Improvements have been installed and accepted by the City.

Section 1255.04: MONUMENTS AND SURVEY REQUIREMENTS.

- A. Official monuments, as designated and adopted by the County Surveyor's Office and approved by the County District Court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor's irons to be indicated, each angle point of the boundary perimeter to be so monumented.
- B. Proper survey monumentation shall be placed at each lot corner and points of curvature and tangency along street rights-of-way. All United States, State, County, or other official bench marks, monuments, or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and blocks, as an aid to future surveys, shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.
- C. To insure that all irons and monuments are correctly in place following the final grading of a plat, a second monumentation shall be in the form of a surveyor's certificate and this requirement shall additionally be a condition of certificate of occupancy as provided for in the Zoning Ordinance.
- D. All lot corners and survey control monuments shall be set and in place at the time the plat is recorded. An exception to this requirement may be granted for up to one year by the City Council, provided approval is made part of the Development Agreement and a financial guarantee in a form determined by the City Attorney is provided.

Section 1255.05: STREETS.

- A. The full width of the right-of-way shall be graded in accordance with the provisions for construction as outlined in the approved Grading Plan.
- B. All streets shall be improved in accordance with the standards and specifications for street construction as required by the City Council.
- C. All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the City Council. The portion of the right-of-way outside the area surfaced shall be seeded or sodded by the developer. Streets shall be accepted by the City upon the completion of the first lift of bituminous. Until the completion of the first lift and acceptance by the City, occupancy permits shall be withheld. The second lift of bituminous shall be completed not less than one year following completion of the first lift.
- D. Concrete curb and gutter shall be constructed in accordance to the standards and specifications for street construction as set forth and approved by the City Council.

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- E. Boulevard sodding or seeding shall be planted in conformance with the standards and specifications as required by the City Council.
- F. Street signs of the design approved by the City Council shall be installed at each street intersection.
- G. The Planning Commission and/or City Council may require the provision of sidewalks on arterials and collectors and other streets in proximity to public service areas such as parks, schools, or shopping facilities or in other appropriate locations of a similar nature. The design of the sidewalks shall be considered in their relation to existing and planned sidewalks, to reasonable circulation of traffic, to topographic conditions, to run-off of storm water, and to the proposed uses of the area to be served.
- H. Street lighting fixtures as may be required by the City Council shall be installed.

Section 1255.06: WATER AND SEWER. Sanitary sewers and water facilities shall be installed in accordance with the standards and specifications as required by the City Council and subject to the approval of the City Engineer.

Section 1255.07: DRAINAGE.

- A. The grade of drainage requirements for each plat shall be approved by the City Engineer at the expense of the applicant. In an area not having municipal storm sewers, the applicant shall be responsible, before platting, to provide for a storm water disposal plan, without damage to properties outside the platted area, and the storm water disposal plan shall be submitted to the City Engineer, who shall report to the City Council on the feasibility of the plan presented. Storm sewers, culverts and ditches shall be designed to accommodate a ten-year or greater frequency storm. Low points shall have an overflow that will direct the runoff from a 100-year frequency storm to a satisfactory outlet without damage to property or structures. The rate of runoff from new development shall not exceed the rate from pre-development conditions. No plat shall be approved before an adequate storm water disposal plan is presented and approved by the City Council. The use of dry wells for the purpose of storm water disposal is
- B. Storm drainage facilities shall be installed in accordance with the standards and specifications as required by the City Council and subject to the approval of the City Engineer. In providing the facilities, specific attention shall be given to culvert locations, trash guards, riprap, and in-place storm drainage facilities.

Section 1255.08: UTILITIES. Telephone, electric (including street lights), cable TV, and/or gas service lines are to be placed underground in accordance with the provisions and standard details of all applicable City ordinances and code provisions. All necessary utility easements must be recorded prior to utility installation.

Section 1255.09: TRAILS. Trails shall be established in accordance with the requirements set forth in Section 6 of Design Standards. Overland trail corridors shall be established as outlots not less than 20 feet in width. Trailway surfacing shall be not less than eight feet in width and shall make provision for handicap access.

Section 1255.10: VIOLATIONS.

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- A. Sale of Lots from Unrecorded Plats. It shall be a misdemeanor to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat, or replat shall have first been recorded in the office of the County Recorder.
- B. Receiving or Recording Unapproved Plats. It shall be unlawful for a private individual to receive or record in any public office any plans or plats of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public or private use or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this chapter, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.
- C. Misrepresentations. It shall be a misdemeanor for any person owning an addition or subdivision of land within the City to represent that any improvement upon any of the streets, alleys, or avenues of the addition or subdivision or any sewer in the addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the City, when the improvements have not been so constructed, supervised, or inspected.

Section 1255.11: PENALTY. Anyone violating any of the provisions of this chapter shall be guilty of a misdemeanor.. Each month during which compliance is delayed shall constitute a separate offense. In addition, the City, at its sole discretion, may enforce any provisions of this Ordinance by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction and may require reimbursement of all legal fees required for the enforcement of any provision of this Ordinance from persons found guilty of a violation.