

ORDINANCE NO. 2358

AN ORDINANCE TO AMEND CHAPTER 111 OF THE LEXINGTON CITY CODE, TO PROVIDE FOR ADOPTION OF SUBDIVISION REGULATIONS; TO REPEAL ORIGINAL SECTIONS 111-1 THROUGH 111-134, AND ALL OTHER ORDINANCES OR SECTIONS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE AND FOR PUBLICATION IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF LEXINGTON, NEBRASKA AS FOLLOWS:

Section 1. That Chapter 111 of the Lexington City Code is hereby amended to read as follows:

ARTICLE I. TITLE, PURPOSE, AND DEFINITIONS

Section 111-1. Title.

These regulations shall be known, referred to and cited as "The Subdivision Regulations of Lexington, Nebraska".

Section 111-2. Purpose.

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

Section 111-3. Definitions.

Alley: shall mean public or private right-of-way which is used for secondary vehicular service access to the rear or side of those properties whose principal frontage is on a street.

Block: shall mean a piece or parcel of land entirely surrounded by public highways or streets, other than alleys or by a combination of streets and public parks, cemeteries, railroad right-of-way, watercourses, municipal boundaries, or unplatted lands.

Building Official: shall mean the City Manager or his/her designee.

City Engineer: shall mean the city engineer of the City of Lexington retained by the City for the recommendation, advice, and implementation of engineering work as requested by the City or such other engineer as the City may assign in the particular matter.

Comprehensive Development Plan: shall mean the master plan for the improvement and development of Lexington, Nebraska, as adopted by the Planning Commission and the City in accordance with the laws of the State of Nebraska and the ordinances of Lexington.

Dedication: shall mean the intentional appropriation of land by the owner to some public use.

Easement: shall mean a space or a lot or parcel of land reserved for or used for public utilities or public or private uses.

Improvements: shall mean street grading, street surfacing, paving, curbs, drainage facilities, street lights, street signs, sidewalks, culverts, bridges, public utilities, or other such installation as designated by the City.

Lot: shall mean a tract, plot, or portion of a subdivision or other parcel of land created in conformance with this ordinance that may be separately owned, used, developed or built upon.

Plat, Administrative: Shall provide for lots splits and boundary adjustment which result in lots divided or combined into not more than four lots without having to replat said lot, provided that the resulting lots shall not again be divided without replatting.

Plat, Final: shall mean the final plan of a plat, subdivision or dedication of land prepared for filing or recording in conformance with this ordinance.

Plat, Preliminary: shall mean the preliminary plan of a plat, subdivision or dedication prepared in accordance with the requirements of this ordinance.

Sidewalk: shall mean that portion of a dedicated right-of-way or easement improved and intended for pedestrian use only.

Replat: is the act of platting the lots, parcels and easements in a recorded subdivision to achieve a reconfiguration of existing subdivision or to increase or decrease the number of lots in the subdivision.

Street: shall include public streets, highways, avenues, boulevards, parkways, roads, lanes, alleys, viaducts, subways, tunnels, bridges, public easements and right-of-way. Where explicitly authorized by the City, private streets may be authorized.

Street, Arterial: shall mean a street or highway used primarily for high volume traffic and not intended to be a residential street. An arterial street provides connections with major state and interstate roadways and has a high potential for the location of significant community, commercial, and industrial facilities.

Street, Collector: shall mean a street that is intended to carry traffic between arterial streets and/or activity centers. Collector streets function as the principal traffic artery within residential areas, and carry relatively high traffic volumes.

Street, Lane: shall mean a short street, cul-de-sac, or street with branching places or lanes; intended to conduct traffic to and from dwelling units to higher classification streets; with no through traffic between two streets of higher classification.

Street, Local: shall mean a street intended to provide access to lower classification streets and conducts traffic to collector and arterial streets.

Street, Place: shall mean a short street or cul-de-sac intended to conduct traffic to and from dwelling units to higher classification streets; usually with little or not through traffic and limited parking.

Subdivider: shall mean any person, group, corporation, partnership, or other entity, or any agent thereof, dividing or proposing to divide land so as to constitute a subdivision.

Subdivision: shall mean the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of sale, lease, offer, or development, one of which is less than ten acres in area.

Subdivision Agreement: shall mean an agreement between the City of Lexington and a subdivider regarding individual responsibilities as to improvements contemplated or required by the subdivision including but not limited to grading, street surfacing, paving, utilities, storm water drainage, sidewalks, and dedication of public lands.

ARTICLE 2: GENERAL PROVISIONS

Section 111-4. General Provisions.

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

Section 111-5. Jurisdiction.

The provisions of this ordinance shall apply to all land located within the legal boundaries of the city, as the same may be amended by subsequent annexation, and shall also include all land lying within two (2) miles of the corporate limits of the City, or as indicated on the Official Zoning Map of the City.

Section 111-6. Powers.

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

It shall be unlawful for the owner, agent, or person having control of any land within the corporate limits of the City, or within the area shown on the Official Zoning Map to subdivide land except in accordance with these provisions; provided, however, that any subdivision of land caused by the acquisition of land by the federal government, the state of Nebraska, any county, the City, or any city incorporated or unincorporated, within the jurisdiction of the City, shall be deemed to have received necessary approval.

Section 111-7. Applicability.

Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of this ordinance, shall be prepared, presented for approval, and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract, parcel of land into two or more lots, tracts, or other division of land for the purpose of sale or development, whether immediate or future, including the subdivision or replatting of land or lots, except that the division of land when the smallest parcel created is more than ten (10) acres in area shall be exempt from this ordinance. Further, the regulations set forth by this ordinance shall be minimum regulations which shall apply uniformly throughout the jurisdiction of this ordinance except as hereinafter provided.

Section 111-8. Interpretation.

In interpreting and applying the terms of this ordinance, subdividers shall be held to the minimum requirements for the promotion of the public health, convenience, comfort, morals, prosperity and general welfare.

Section 111-9. Conflict.

No final plat of land within the force and effect of the existing Zoning Ordinance shall be approved unless it conforms to the Subdivision Regulations contained herein. Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the Zoning Ordinance, Building Regulations, or other official regulations or ordinances, the most restrictive shall apply. These regulations are not intended to abrogate any private easement, covenant or any other private agreement or restrictions, provided that any private subdivision covenant, easements, and agreements are not under the jurisdiction of the City to enforce.

Section 111-10. Permits.

Unless a lot shall have been platted in accordance with the provisions of this article, no building permit shall be issued.

Section 111-11. Amendments.

Any provisions of this ordinance may from time to time be amended, supplemented, changed, modified, or repealed by the City Council; provided, however, that such amendments shall not become effective until after a public hearing and consideration by the Planning Commission; and a public hearing by the City Council in relation

thereto has been held, public notice of which shall have been published in a newspaper of general circulation within the City of Lexington at least one time, ten days prior to such hearing.

Section 111-12. Modifications.

Where, in the case of a particular proposed subdivision, the subdivider can show that the strict compliance with this ordinance would result in extraordinary hardship to the subdivider because of unusual topography; or other such conditions not inflicted by the applicant; or where conditions would result in inhibiting the achievement of the objectives of this ordinance, the City Council, after receiving a report from the Planning Commission, may vary, modify, or waive certain requirements so that substantial justice may be done and the public interest secured. Provided, that such modifications or waivers will not adversely affect the development, the character of which shall be in conformance with recommended platting and development practices in the general area of the proposed subdivision; will not have the effect of nullifying the intent and purpose of the regulations; and, will not interfere with carrying out the Comprehensive Development Plan of the City.

Sections 111-13 to 111-30. Reserved

ARTICLE 3: PROCEDURES

Section 111-31. Pre-application Plans and Data.

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

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

These pre-application plans and data shall not require a formal application fee. After discussion with the subdivider and review of the data, the Building Official will inform the subdivider whether such plans and data submitted meet the objectives of this ordinance and shall describe any inconsistencies with the requirements of this ordinance.

Section 111-32. Preliminary Plat.

- (1) A preliminary plat shall be prepared in accordance with the regulations set forth herein, and shall be submitted to the Building Official prior to the completion of final surveys of streets and lots and before the start of grading or construction work upon the proposed streets and lots and before any map of said subdivision is made in a form suitable for recording. The Building Official shall determine whether the plat is in proper form and shall not receive and consider such plat as filed until it is submitted in accordance with the requirements hereof. The street layout shall be in conformity with a plan for the most advantageous development of the entire neighboring area and in conformity with the Comprehensive Development Plan.
- (2) All plats, preliminary and final, shall be prepared in conformance with the provisions of this ordinance and in conformance with the Comprehensive Development Plan and Zoning Ordinance. The subdivider shall be responsible for such conformance.
- (3) One electronic copy of the preliminary plat and required supplementary material as specified in Section 111-33 of this ordinance shall be submitted to the Building Official.
- (4) The Building Official shall distribute a copy of a preliminary plat with a request for comments to the Lexington Public School District, and Dawson County (when deemed appropriate), which shall have 30 days to recommend in writing to the City that such plat be approved or disapproved, in whole or in part, or with such changes as may be desirable, which recommendation shall be advisory. Failure of the school district or county to make a written recommendation within 30 days shall be construed as approval of the proposed plat as submitted.

Section 111-33. Preliminary Plat Specifications.

The preliminary plat shall be drawn to a scale of at least one (1") inch to one hundred (100) feet with a sheet size not to exceed 42"x30" and shall be plainly marked "preliminary plat" and shall include, show, or be accompanied by the following information:

- (1) A location map showing the general location of the proposed subdivision in relation to surrounding developments with a north arrow, scale and legend.
- (2) Both existing and proposed grades shall be shown.
- (3) Phasing lines shall be delineated on the plat and a phasing schedule, if developed in phases.
- (4) The proposed name of the subdivision.
- (5) The names and addresses of the owner and subdivider; the engineer or surveyor, responsible (all of which are licensed to practice in Nebraska) for the subdivision layout; and the names of all landowners abutting the proposed subdivision.
- (6) The legal description of the area being platted, and boundary line (accurate in scale) and dimensions, and the location of monuments found or set, section lines, existing and the approximate acreage of the proposed development.
- (7) Width and location of platted streets and alleys within 200 feet of the property; physical features of the property, including location of water courses, ravines, bridges, culverts, present structures and other features affecting the subdivision; contours with intervals of one (1') foot; the location of all existing utilities with their sizes indicated, as well as flow lines; elevations of existing sanitary and storm sewer, the outline of wooded areas.
- (8) Location and name(s) of adjoining subdivision(s) or undeveloped land and owners and persons having ownership interest within 300 feet of the subject property (not including streets and right-of-ways).
- (9) The proposed lot layout, lot and block numbers and approximate lot dimensions and square footage and grounds proposed to be dedicated for public use, such as schools, parks, pathways, playgrounds and streets.
- (10) The location and width of proposed streets, all easements, building setback lines, rights-of-way, corner radii, pavement width, thickness and type, sidewalks, alleys, location of all proposed improvements including: sanitary sewers, water mains, storm water drainage and other features and improvements required by this ordinance.
- (11) Easements for public utility and right-of-way purposes. The book and page number of existing easements shall be labeled on the plan and any private easements should be labeled as such.
- (12) All established floodway, floodway-fringe, and flood plain overlay lines.
- (13) The existing zoning classification and proposed uses of land within the proposed subdivision shall also be designated.
- (14) A draft subdivision agreement.
- (15) Requests for waivers of design standards.

Section 111-34. Final Plat.

A final plat shall conform to the preliminary plat as approved by the Building Official and may be comprised of only that portion of the approved preliminary plat which the subdivider proposed to record and develop at the time. A final plat shall be submitted to the Planning Commission and City Council for consideration.

- (1) The Planning Commission will consider a final plat at a public hearing, of which notice is given in a newspaper of general circulation within the City of Lexington, and will:
 - a. Review the final plat and other material submitted for conformity thereof to this ordinance,
 - b. Review any recommendations received on the proposed subdivision, and
 - c. Recommend to the subdivider changes or amendments deemed advisable.
- (2) The Planning Commission shall act on the plat as submitted or amended, and state conditions of approval or disapproval.
- (3) Planning Commission approval of a final plat shall not constitute an acceptance of the plat, but shall be deemed an expression of approval of the layout submitted on the final plat, with any conditions noted.

- (4) Upon Planning Commission recommending disapproval or approval, the City Council will consider the final plat at a public hearing, of which notice is give in a newspaper of general circulation within the City of Lexington, and may (a) concur with the Planning Commission's Recommendation; (b) reverse the Planning Commission's recommendation; (c) refer the final plat back to the Planning Commission for reconsideration with specific instructions to the Planning Commission; or (d) approve with some change or amendment from the Planning Commission's recommendation. City Council approval of a final plat shall be by resolution directing the same to be filed with the Register of Deeds.
- (5) One full sized signed reproducible (Mylar) copy and one electronic copy of the final plat shall be submitted to the Building Official.

Section 111-35. Final Plat Specifications.

After approval of the preliminary plat by the Building Official, the subdivider shall prepare and submit to the Planning Commission a final plat prepared by a registered land surveyor for recording purposes and shall submit in conformance with the approved preliminary plat drawn to a scale of at least one (1") inch to one hundred (100) feet with a sheet size not to exceed 42"x30" accompanied by the following information:

- (1) Name of subdivision designated, by name or as otherwise prescribed, in bold letters inside the margin at the top of each sheet included in the plat.
- (2) Date, north arrow and graphic scale.
- (3) Lot designation, street names, location, and rights-of-way width for all streets within or abutting the plat shall be shown.
- (4) An accurate boundary survey of the property, with bearings and distances, referenced to section lines and/or adjacent subdivisions.
- (5) Fractional lines and corners of the Government Township and section surveys shall be approximately labeled and dimensioned as applicable to the plat.
- (6) Boundary dimensions from angle point to angle point shall be used for all sides of the closed traverse.
- (7) Bearings, based on assumed meridian approximating North, of all boundary lines or internal angles of all angle points on the boundary shall be shown.
- (8) The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:5,000 for any individual lot.
- (9) Adjacent subdivisions, streets, alleys and easements, with their widths and names.
- (10) Names and widths of the streets, and block and lot numbers (numbered consecutively).
- (11) Location of lots including square footage of each lot, streets, public highways, alleys and other property features, with accurate bearings and distances. At a minimum all curves shall be identified with the following data; radius, arc distance, chord distance and chord bearing. It is intended that enough information be shown, so the subdivision can be reestablished on the ground.
- (12) All distances shall be shown in feet to the nearest one-hundredth of a foot.
- (13) A notarized dedication signed and acknowledged by all parties having any titled interest in, or lien upon the land to be subdivided consenting to the final plat including the dedication of parts of the land for streets, easements, and other purposes
- (14) A block for the certification signed by the county treasurer stating that there are no regular or special taxes due or delinquent against the platted land.
- (15) A block for the approval of the Planning Commission.
- (16) A block for the approval of the City Council to be signed by the mayor and attested to by the city clerk.
- (17) A legal description including total acreage.
- (18) A block for Certificate of County Register of Deeds.
- (19) A block for Surveyors Certification.
- (20) A copy of any private restrictions or covenants affecting the subdivision or any part thereof, if applicable.
- (21) Prior to approval of the City Council, at least one signed reproducible copy (Mylar) of the final plat shall be submitted as well as one electronic copy.

(22) An acceptable subdivision agreement prior to City Council action.

(23) Waivers being requested.

Section 111-36. Subdivision Agreement.

No plat shall be approved by the City Council until a subdivision agreement shall have been entered into between the subdivider and the City.

- (1) In any subdivision outside the corporate limits of the City, the dedication or street right-of-way and utility easements and the maintenance and repair of said roadways and easements shall be submitted to the Dawson County for its acceptance or rejection by way of preliminary and final plat approval. Should Dawson County not accept dedication, maintenance and repair, then an acceptable form of landowners association to maintain and repair said roadways and easements shall be formed prior to approval of the final plat.
- (2) The subdivision agreement shall provide for the needs of the subdivision including but not limited to pavement, water mains, sanitary sewers, storm sewers, sidewalks, grading and dedication of public lands. Security may be required to ensure performance under the agreement.
- (3) The subdivision agreement shall provide for engineering of public works construction. If the city engineer is required to provide services, provision shall be made for reimbursement to City for the expense of such services. If a private engineer or engineering firm is to provide services, a separate agreement shall be entered into between city and such engineer, which agreement shall include the following:
 - a. A statement of credentials of each engineer or other person assigned to the project;
 - b. The scope of services to be performed, which shall include site surveys, design, preparation of bid specifications and construction supervision;
 - c. A certification of professional liability insurance coverage for each project;
 - d. Submission of plans to the Building Official for review of compliance with public works construction specifications, no contract shall be let for construction until such approval is given by the Building Official;
 - e. In the event of controversy relating to plans and specifications for a project, or controversy with the city engineer in regard to inspection of public works construction, such controversy shall be subject to binding arbitration under state law, with arbitration to be performed by a licensed civil engineer who is appointed by agreement of the City and the private engineer.

Section 111-37. Plats Outside Corporate Limits.

Procedure for approval of preliminary and final plats of land within extraterritorial zoning jurisdiction but outside the corporate limits of the City shall be the same as set forth in this Ordinance.

Section 111-38. Vacation of Plats.

Any existing plat or any part of any existing plat may be vacated by the City upon the application of the owner or all the owners of lots or lands in such plat, to which a copy of such plat shall be attached, requesting the same to be vacated.

The Planning Commission shall after public hearing, send recommendations to the City Council regarding such application.

The City Council after public hearing may:

- (1) reject any such application which abridges or destroys any public rights in any of its public uses, improvements, street or alleys, or is contrary to the Comprehensive Development Plan;
- (2) by ordinance vacate any such existing plat and addition to the municipality or such parts thereof as it may deem appropriate. An ordinance vacating a plat or addition shall specify whether, and, if any, what public streets, alleys, and public grounds thereof are to be retained by the City; otherwise such streets, alleys, and public grounds shall upon such vacation revert to the owner or owners of lots or lands abutting the same in proportion to the respective ownerships of such lots or grounds. In case of total or partial vacation of such plat or addition, the ordinance providing therefor shall be, at the cost of the owner or owners, certified to the office of the register of deeds and be there recorded by the owner or owners.

Section 111-39. Administrative Plats.

The City Manager is hereby empowered to administratively approve an instrument effecting a subdivision when the following conditions exist:

- (1) No new streets or private roadway is dedicated, accepted or needed within the area of new lots.
- (2) The area affected by the instrument effecting a subdivision is wholly contained within the boundaries of a previous subdivision which has been platted and recorded.
- (3) New individual lots created shall meet all zoning requirements of the zoning district in which they are situated.
- (4) The instrument effecting a subdivision shall create no more than four lots from any prior lot, tract, or parcel of land. If said four lots have been created by prior administrative approval, any further subdivision shall be done by filing and processing a plat as otherwise provided in this ordinance. Exceptions to the restriction set forth in this section shall be permitted to allow adjustment of lot lines; all new lots shall continue to be described in terms of the preexisting lot description.
- (5) Any easements required for utilities, drainage and any other improvements shall be provided.

Requests for an administrative plat approval shall be made by the subdivider to the Building Official, along with a filing fee as set by the City. The administrative plat shall include the following:

- (1) A survey of the lot(s).
- (2) Location of all existing structures and utilities.
- (3) Location and dimensions of the proposed administrative plat.
- (4) A block for Surveyors Certification.
- (5) A block for Certificate of County Register of Deeds.
- (6) A block for the approval of the City.
- (7) A block for others as deemed necessary.

Prior to the approval of an administrative plat, the subdivider shall provide a statement from the County Treasurer's Office showing that all general real estate taxes assessed against the land within the proposed subdivision or any part thereof have been paid in full, that all special assessment installment payments are current as applied to said proposed subdivision or any part thereof.

Sections 111-40 to 111-70. Reserved.

ARTICLE 4: DESIGN STANDARDS

Section 111-71. Minimum Design Standards.

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

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

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

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

If a proposed subdivision contains lots which are sufficiently larger parcels than the minimum required lot size of the zoning district, such parcels shall be arranged to permit, and the preliminary plat shall show, a logical future

street and utility system and logical re-subdivision.

Section 111-72. Streets.

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

The street layout of the proposed subdivision shall provide for the continuation or appropriate projection of streets and alleys already existing in areas adjacent to the area being subdivided. Where, at the determination of the City with recommendation from the city engineer, it is desirable to provide street access to adjoining properties, proposed streets shall be extended by dedication to the boundaries of the subdivision. Where the City deems it necessary, such dead-end streets may be provided with a temporary turnaround having a radius at outside of the pavement of at least forty (40) feet or other approved design.

Section 111-73. Dedication of Rights-of-way for New Streets.

The dedications of rights-of-way for new streets measured from lot line to lot line shall be shown on the plat and shall meet the right-of-way requirements as stated in Section 111-90 of this ordinance. Access to lots located on arterials and other arterials shall be approved by the City.

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

Section 111-74. Dedication of Rights-of-way for Existing Streets.

Subdivisions platted along existing streets shall dedicate additional right-of-way or easements if necessary to meet the minimum street width requirements set forth in this ordinance. The entire minimum right-of-way width shall be dedicated where the subdivision is on both sides of an existing street. When the subdivision is located on only one side of an existing street, one half (1/2) of the required right-of-way width, measured from the centerline of the existing roadway, shall be dedicated along with any proposed easements. Dedication of one-half (1/2) of the right-of-way for a proposed street along the boundaries of land proposed for subdivision shall be prohibited except where it is found to be practical and reasonable to require the dedication of the other half of the right-of-way when adjoining property is subdivided.

Section 111-75. Intersections.

Streets shall intersect as nearly as possible at an angle of ninety (90) degrees, and no intersection shall be at an angle of less than sixty (60) degrees. Street curb intersections shall be rounded by radii of at least twenty (20) feet. When the smallest angle of street intersection is less than seventy-five (75) degrees, the City may require curb radii of greater length. Whenever necessary to permit the construction of a curb having a desirable radius without reducing the sidewalk at such street corner to less than nominal width, the property line at such street corner shall be rounded or otherwise set back sufficiently to permit such construction. No lot or other parcel of land which abuts on and has access to either a collector or minor street shall have a service drive, curb cut, or other means of access to an arterial street.

Section 111-76. Street Grades and Elevations.

All streets shall be designed so as to provide for the discharge of surface water from the pavement and from the right-of-way by grading and drainage. For adequate drainage, the minimum street grade shall not be less than four tenths (0.40' / 100') of one percent. Minimum grades for gutters and ditches shall be four tenths (0.4' / 100') and two tenths (0.2' / 100') of one percent respectively. Storm sewer construction shall be required where necessary to meet these minimum grade requirements. Street grades shall conform to the minimum requirements provided in section 111-90 of this ordinance.

Section 111-77. Frontage Roads/Marginal Access Streets.

Where a subdivision fronts on or contains an existing or proposed arterial street, the City may require marginal access streets in all situations indicated below or, reverse frontage lots with screen planting located in the non-

access arterial street frontage along the rear of the lots, or such other treatment as may be necessary for adequate protection of properties from the arterial street and to protect and preserve the safety and traffic handling capabilities of the arterial street.

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

Section 111-78. Access/Egress.

There shall be a minimum of two (2) vehicular access points per platted subdivision.

Section 111-79. Street Jogs.

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

Section 111-80. Cul-de-sac Streets.

A cul-de-sac shall not be longer than six hundred (600) feet and shall provide a turnaround conforming to the requirements of section 111-90 of this ordinance. The length of a cul-de-sac shall be measured from the center of the turnaround to the center of the intersecting street.

Section 111-81. Street Names.

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

Section 111-82. Private Streets.

New private streets or drives may be created in accordance with application of the Zoning Ordinance, provided such streets are specifically authorized by the city council.

Section 111-83. Blocks.

The lengths, widths and shapes of blocks shall be determined with due regard to the provisions of adequate access and circulation, building sites suitable to the needs of the use contemplated, zoning requirements regarding minimum lot sizes, widths and frontages and the limitations or opportunities presented by the topography. Block lengths, except in unusual circumstances, shall not exceed one thousand three hundred twenty (1,320) feet and shall be a minimum length of three hundred (300) feet. Pedestrian easements ten (10) feet wide shall be provided through or near the center of blocks more than six hundred (600) feet long in order to provide for pedestrian circulation.

Section 111-84. Lots.

The lot sizes, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated. Corner lots for residential uses shall have additional width to permit appropriate building setback distances and orientation to both streets. The subdividing of land shall be such as to provide each lot with satisfactory vehicular access by means of public street or approved private street. Side lot lines shall be substantially at right angles or radial to curved street lines.

Section 111-85. Easements.

Easements centered on rear lot lines shall be provided for utilities (private and municipal); such easements shall be at least 20 feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishment of utility easements established in adjoining properties.

Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least 20 feet in width shall be provided alongside lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

Section 111-86. Storm Sewer System.

Provisions shall be made to limit the peak rate of storm water discharge from the subdivision. Post development runoff (cubic feet per second) shall not exceed 1.25 times the pre-development runoff rate at any time following post development, based upon a 10-year storm event. Pre-development shall be the condition prior to improvements being completed, including cultivated row crops. In determining the size or type of storm sewer system the design shall be sufficient to handle the computed runoff at the point in question. For large drainage areas, the City may require cross drainage structures such as culverts, bridges, etc. The City may require retention or detention basins in order to control post-development run-off.

Section 111-87. Sanitary Sewer System.

Design standards for sanitary sewers shall conform to Nebraska Department of Environmental Quality Standards. Design standards for water systems shall conform to Nebraska Health and Human Services Standards.

Section 111-88. Sidewalks.

- (1) Sidewalks shall be placed parallel to the roadways providing direct access to:
 - a. Commercial/retail facilities;
 - b. Schools;
 - c. Public recreational facilities;
 - d. Elsewhere in accordance with the pedestrian circulation system as necessary.
- (2) All sidewalks within subdivisions shall have a minimum pavement width of four feet and minimum pavement thickness of six inches along arterial streets and four inches everywhere else, all of which shall be located within the right- of-way.
- (3) Sidewalks may be eliminated along one or both sides of streets if the subdivision provides an alternative pedestrian circulation system to facilitate pedestrian safety.
- (4) Sidewalk design, including, but not limited to, cross slope, thickness joints and material composition shall be approved by the City.
- (5) Pedestrian-vehicular separation shall be considered where possible.

Section 111-89. Flood Hazards.

Land subject to flooding and land deemed to be topographically unsuitable for residential or other development shall not be platted for such purposes. Such land may be set aside on the plat for such uses compatible with the hazards associated with flooding or erosion. All development shall be flood proof in accordance with the flood hazard zoning provisions of the City Code.

Section 111-90. Minimum Street Standards.

Street Classifications	Minimum Right-of- Way (ft.)	Minimum Pavement Width ¹ (ft.)	Minimum Number of Traffic Lanes	Minimum Pavement Thickness ^{4,5}
Arterial Street ³	80'	42'	3	8"
Collector Street	60'	36'	3	6"
Local Street	60'	32'	2	6"
Lane/Place	50'	28'	2	6"
Cul-De-Sac ² Turnaround Radius	50'	40'	2	6"
Marginal Access (Frontage Road) (No Parking)	35'	28'	2	6"

- (1) Pavement width measured back to back of curb.
- (2) Larger dimensions may be required in commercial and industrial areas as directed by the City.
- (3) All section line roads shall be designated as arterial streets.

- (4) Streets in commercially zoned subdivisions shall be minimum seven inches thick, or as required by City.
- (5) Streets in industrially zoned subdivisions shall be minimum eight inches thick, or as required by City.

Section 111-91. Conformance with Other Regulations.

No final plat of land within the City or its jurisdictional area shall be approved unless it conforms to existing zoning regulations unless waived by the Planning Commission and City Council in accordance with this ordinance. Whenever there is a variance between the minimum standards set forth in this ordinance and those contained in other regulations, the most restrictive standard shall govern.

Sections 111-92 to 111-120. Reserved.

ARTICLE 5: REQUIRED IMPROVEMENTS

Section 111-121. General.

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

The work shall be done in accordance with specifications approved by the City and shall be completed within the time limitations established herein. The minimum requirements for materials shall be in accordance with specifications approved by the City. Standards applicable to health and sanitation as required by the Nebraska Department of Environmental Quality and the Nebraska Department of Health and Human Services shall apply.

All inspection and testing costs shall be paid by the subdivider.

Section 111-122. Monuments and Markers.

Monuments and markers placement shall be as follows: concrete monuments shall be located at all quarter section points or other reference points tied to the federal survey system on the boundaries of or within the area being platted.

Section 111-123. Monument Construction.

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

- (1) The surveyor shall establish or confirm the prior establishment of permanent monuments at each corner on the boundary lines of the parcel being surveyed. Monuments shall be solid and substantially free from movement. In such cases where the placement of a permanent monument at the true corner is impractical because of instability or is likely to be destroyed, the surveyor shall set a corner accessory monument and show its relationship by dimension to the true corner.
- (2) The monuments set shall be constructed of material capable of being detected by commonly used magnetic locators. These monuments shall consist of an iron pipe or steel rod with a minimal diameter of five-eighths (5/8) inch and minimal length of twenty-four inches (24"). When extenuating circumstances dictate, the surveyor may use monuments (i.e., nail and washer) that have a probability of permanence. Where a corner or a line falls on or within a wall, column line or other physical feature and the placement of a monument is not feasible, the wall, column line or physical feature shall become the monument by reference thereto.
- (3) In addition, monuments shall be set at all block corners, lot corners, deflection points and points of curvature, except in cases where it is deemed clearly unreasonable or infeasible by the City.

Section 111-124. Street Grading and Construction.

All streets shall be graded to the full width of right-of-way and to within six (6) inches of the street grade established in the approved final plat construction plans and specifications. Final construction plans shall be in conformance with Section 111.90.

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

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

The applicant shall comply with all NPDES requirements as administered by the State of Nebraska.

Section 111-125. Street Lighting, Electrical Power, Mail Boxes, Fire Hydrants.

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

New subdivision lighting and electrical power shall be underground wiring and easements for such wiring shall be indicated on the plat. All underground wiring shall meet proper specifications for installation.

All fire hydrants shall be located at intervals authorized by the City. The layout and flow design must meet the minimum requirements as set forth by the City.

Mailboxes owned and serviced by the post office shall be clustered whenever possible and coordinated through the Building Official to be consistent with future parking restrictions.

Section 111-126. Drainage.

- (1) **Requirements.** The Building Official shall not recommend for approval any plat of subdivision which does not make adequate provision for storm water runoff. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be in conformance with existing storm drainage plans. A copy of design computations shall be submitted along with plans. 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 block.
- (2) **Location.** The applicant may be required by the Building Official to carry away by pipe or open ditch any surface water that may exist 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 City standards and specifications.
- (3) **Accessibility.** 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 City specifications. If a connection to a public storm sewer will be provided eventually, as determined by the city planning department and the planning commission, 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 performance bond required for the subdivision plat.
- (4) **Accommodation of Upstream Flows.** 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 Building Official shall determine the necessary size of the facility, based on the provisions of City standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance.
- (5) **Effect on Downstream Drainage.** The city planning department 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 or flood existing development upstream, the Building Official may withhold approval of the subdivision until provision has been made for the improvement of said potential condition in the sum as the Building Official shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.
- (6) **Easements.** Where a subdivision is traversed by a watercourse, drainageway, 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, or both, 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.

- (7) Curbing. The Building Official shall specify the design for each type of curb permitted in the city, when curbs and gutters are required. The curb designs so specified shall be the standard, acceptable curb unless a special exception is granted. Curbs and gutters will be required when they are necessary:
- a. To handle runoff for the section of the roadway to which they are applied;
 - b. For the maintenance of the pavement and the prevention of pavement edge raveling.
 - c. Curbs and gutters may be eliminated along certain roadways, when drainage is provided in swales, which are designed to reduce the rate of runoff, restore and/or supply needed water to vegetation in the street right-of-way.

Section 111-127. Sanitary Sewers.

Where a sanitary sewer is accessible by gravity flow within 500 feet of the final plat, the developer shall connect thereto and provide adequate sewer lines and stubs to benefit each lot. Where a sanitary sewer is not accessible by gravity flow within 500 feet of the final plat, the developer shall make provisions for the disposal of sewage required by law. Where a sanitary sewer is not accessible by gravity flow within 500 feet of the final plat, but where plans for installation of sanitary sewers within such proximity to the plat have been prepared and construction will commence within twelve (12) months from the date of the approval of the plat, the developer shall be required to install sewers in conformity with such plans. All sanitary sewers shall be constructed in accordance with sanitary sewer standards approved by the City.

Section 111-128. Water Mains.

The subdivision shall be provided with an adequate water supply system, which shall be connected to an approved water supply source as approved by the City.

Sections 111-129 to 111-170. Reserved.

ARTICLE 6: DEDICATIONS AND RESERVATIONS OF PUBLIC LAND

Section 111-171. Dedication.

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

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

Section 111-172. Reservation and Dedication of Public Land and Open Space.

Before preliminary or final plat approval is given, the City may require the subdivider to dedicate reserve sites for parks, playgrounds, open space, schools, and other public land consistent with the Comprehensive Development Plan, as determined by the City. Reservation of land for public acquisition and/or use shall be for a period not to exceed three (3) years from the date the plat is officially recorded unless otherwise provided for in the subdivision agreement. If such reserved site is not acquired by the City or other governmental entity within said three (3) year period, the subdivider may then re-subdivide the site for alternative purposes and sell any or all of the site.

In certain situations, the contemplated use of land creates or contributes to the public need for land or facilities including but not limited to recreational and public safety facilities created by the nature of the development and use of land. In such situations, the City may require dedication and/or other appropriate subdivider contribution to the cost of satisfying such need.

Where a park, playground, school, or other site for public use indicated in the Comprehensive Development Plan is

located in whole or in part in the applicant's subdivision the City will determine the density and location of said park(s) and may require the immediate acquisition or reservation of such area or may accept the dedication of such area.

Sections 111-173 to 111-190. Reserved.

ARTICLE 7: ADMINISTRATION, WAIVERS AND AMENDMENTS

Section 111-191. Administration.

The following apply towards administration of this ordinance:

- (1) It shall be the duty of the Building Official to enforce this ordinance and to bring to the attention of the Planning Commission and City Council any violation or lack of compliance herewith.
- (2) No owner, or agent of an owner, of any parcel of land located in a proposed subdivision shall transfer or sell any parcel before a plat of such subdivision has been approved by the Planning Commission and City Council in accordance with the provisions of this ordinance, and filed for record with the Register of Deeds.
- (3) The subdivision of any lot or any parcel by the use of metes and bounds description for the purpose of sale, transfer or lease with the intent of evading these regulations shall not be permitted. All such subdivisions shall be subject to all the requirements contained in this ordinance.
- (4) No permit shall be issued for the construction of any building or structure located on a lot or parcel subdivided, sold, transferred or leased in violation of the provisions of this ordinance.
- (5) Appropriate actions and proceedings may be taken by law or in equity to prevent any violations of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation to prevent illegal occupancy of a building, structure or premises, and these remedies shall be in addition to the penalties described in Section 1-7 of the City Code.

Section 111-192. Granting of Waivers (Exceptions) and Conditions.

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

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

Section 111-193. Amendments.

Any provision of this ordinance may be amended, supplemented, changed, modified, or repealed from time to time by the City Council as provided by law.

Section 2. That original Sections 111-1 through 111-134 of the Lexington City Code, together with all ordinances or sections of ordinances in conflict herewith are hereby repealed.

Section 3. That this Ordinance shall be published in pamphlet form and take effect as provided by law.

Passed and approved this 10th day of February, 2015.



Gene H. Feyer
Mayor

Samela Baruth
City Clerk