

CITY OF GOSHEN
SUBDIVISION
REGULATIONS

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AMENDED SUBDIVISION REGULATIONS

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SECTION 1. IN GENERAL

Sec. 1-1. Short title; purposes.

These regulations shall be known and may be cited and referred to as the “Subdivision Regulations of the City of Goshen, Arkansas,” and shall apply to the areas outlined on the official planning area map of the city. These rules and regulations are intended to serve the following purposes:

- (1) To promote the health, safety, and general welfare of the residents of the city and its environs.
- (2) To avoid undue concentration of population and overcrowding.
- (3) To promote less congestion on the streets and highways.
- (4) To provide for adequate provisions for transportation, water, drainage, and other public requirements.
- (5) To provide for proper ingress and egress to properties, and neighborhoods.
- (6) To guide the future growth and development of the city in accordance with the land use plan and the master street plan.
- (7) To insure conformance of subdivision plans with the public improvement plans of the city and its environs
- (8) To assist orderly, efficient and integrated development with the city’s planning area.
- (9) To promote sound development through utilization of good design principles.
- (10) To facilitate the further re-subdivision of large tracts into smaller parcels.
- (11) To ensure proper legal descriptions and proper monuments on subdivided land.
- (12) To secure equitable handling of all subdivisions plans by providing uniform procedures and standards for observance both by developers and the planning commission.

Sec. 1-2. Definitions.

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

Alley shall mean a minor permanent public service way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting a street.

Benchmark shall mean a definite point of known elevation and location and of more or less permanent character.

Block shall mean an area of land surrounded by public highways, streets, streams, railroad rights-of-way, parks, or similar areas of facilities.

Building line shall mean a line on a plat between which line and the street right-of-way no portion of the building may be erected, excluding lands, open balconies, and roof overhangs, subject, however, to the further requirements of the zoning ordinance.

City shall mean the City of Goshen, Arkansas.

City Council shall mean the elected governing body of the City of Goshen, Arkansas.

Comprehensive plan shall mean a composite of the mapped and written proposals recommending the physical development of the community which shall have been adopted by the planning commission and city council. Said plan includes both Land Use Plan and Master Street Plan for the City of Goshen.

County shall mean Washington County, Arkansas.

Cul-de-sac shall mean a short street having one end open to traffic and being permanently terminated within the plat by a vehicular turnaround.

Developer shall mean that person by whom a tract will be subdivided and improved pursuant to the requirements of this chapter.

Easement shall mean a grant by a property owner for the use by the public, a corporation, or persons of a strip of land for specific purposes.

Engineer shall mean a registered professional civil engineer in good standing in the state, whose seal shall appear on all construction drawings and plans for improvements.

Flood plain shall mean a geographic area susceptible to periodic inundation from overflow of natural waterways and determined as to extent by the Federal Emergency Management Agency (FEMA).

Frontage shall mean that edge of a lot bordering a street.

Frontage road shall mean a street, parallel to and adjacent to a major highway or thoroughfare, which provides access to abutting properties.

Health department shall mean the Arkansas State Health Department.

Immediate family shall mean father, mother, children, brother, sister, and the relationships existing between those people.

Improvement plans shall mean the engineering drawings showing types of materials and construction details for the physical structures and facilities excluding dwelling units to be installed in conjunction with the development of the subdivision.

Improvements shall mean street pavement, curbs and gutters, sidewalk, pavement, pedestrianway pavement, water mains, storm sewers, signs, monuments, landscaping, streetlights, fire hydrants, and other similar items.

Lot shall mean a platted parcel of land intended to be separately owned, developed, or otherwise used as a unit.

Lot area shall mean the total horizontal area within the boundaries of a lot exclusive of any area designated for street purposes.

Lot, corner shall mean a lot abutting upon two (2) or more streets at their intersection.

Lot, double frontage shall mean a lot having frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot Line Adjustment shall mean the adjustment of the boundary line between adjacent property owners. The result of the transfer shall not cause either the receiving tract or the tract from which it is taken to be below the minimum lot area standard within the City unless the current lot size of affected lots are already less than minimum lot area, in which case, the lot line adjustment shall only be permitted to correct errors in survey, building placement which created insufficient yard area, set back issues, transfer of real estate to adjoining property owner or any other circumstances of a similar nature.

Lot Split shall mean subdividing property which involves the dividing or redesigning of an existing lot or lots and which does not involve the dedicating, vacating, widening, narrowing or change of alignment of any thoroughfare, street, alley or easement. A lot split shall not be permitted if it seeks to divide a tract of land into more than five tracts. A property owner, or in the case of a change in ownership of tract land, a subsequent owner, may not seek successive lot splits so as to avoid compliance with the subdivision regulations. No more than two (2) such splits in eighteen months, even if there have been different owners, shall be allowed before the property owner shall be required to apply for preliminary and final plat approvals for a subdivision. No parcel resulting from a lot split shall be less than the minimum area required by ordinance.

Lot Split, Survey or Lot Line Adjustment shall mean a finished drawing showing completely and accurately all legal and engineering information and certifications necessary for recording, and such other information as the Planning Commission in their discretion shall require.

Pedestrianway shall mean an easement or right-of-way dedicated to public use to facilitate pedestrian access to adjacent streets and properties.

Performance guarantee shall mean any security which may be accepted in lieu of a requirement that certain improvements be made before the planning commission approves a final plat, including performance bonds by subdividers or improvement contractors, escrow agreements, letters of credit, and other similar collateral or surety agreements.

Planning area map or boundary shall mean the area within the city's territorial jurisdiction for which the planning commission has determined it will prepare plans and recommended ordinances and regulations. The planning area shall be the area in which provisions of Goshen's Subdivision Regulations shall apply.

Planning commission shall mean the planning commission of the City of Goshen, Arkansas.

Plat shall mean a map or chart indicating the subdivision or re-subdivision of land, intended to be filed for record.

Plat, final shall mean a finished drawing showing completely and accurately all legal and engineering information and certifications necessary for recording, and includes the bill of assurance.

Plat, preliminary shall mean a drawing which shows the proposed layout of a subdivision in sufficient detail to indicate unquestionable its workability in all aspect, but is not in final form for recording and the details are not completely computed.

Plat, sketch shall mean an informal plan of the proposed subdivision to be submitted by the developer during the pre-application process, the purpose being to acquaint the developer with plans and policies relevant to the proposed subdivision.

Public open space shall mean land which may be dedicated or reserved for acquisition for general use by the general public. It includes parts, parkways, greenbelts, and recreation areas.

Roadway width or surfaced width shall mean that portion of the street available for vehicular traffic, and where curbs are land, the portion between curbs.

Slope shall mean the rate of deviation of the ground surface from the horizontal surface, as expressed in percentages.

Staff shall mean employees and designees of the City of Goshen.

Street shall be a general term denoting a public or private thoroughfare which affords the principal means of access to abutting property. The term includes all facilities which normally occur within the right-of-way; it shall also include such other designations as highway, thoroughfare, parkway, road, throughway, pike, avenue, boulevard, land, place, court, but shall not include an alley or a pedestrianway. For the purpose of this chapter, streets shall be classified as follows:

- (1) *Arterial streets.* Those streets designated as arterial on the Goshen Master Street Plan.
- (2) *Collector streets.* Those streets designated as collector streets on the Master Street Plan.
- (3) *Local or minor streets.* Streets that are used primarily for access to the abutting properties.

- (4) *Loop streets.* Minor streets that begin from one minor street and curve to end on the same minor street.
- (5) *Cul-de-sac.* Short local streets having one end open to traffic and being permanently terminated at the other end by a circular area which permits vehicles to turn around without having to stop and back up.
- (6) *Dead-end streets.* Those streets which have terminated at one end where vehicles must stop and back up in order to turn around.
- (7) *Marginal access street (service road).* A minor street parallel to and adjacent to high-volume arterial streets and highways which provide access to abutting properties and protection of through traffic.
- (8) *Controlled-access facility.* A freeway or expressway providing a trafficway for through traffic in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.

Street, existing shall mean any street which has a minimum width of eighteen (18) feet of hard surfaced material. Gravel roads or roads which are in extremely poor condition will not qualify as an existing street for purposes of this chapter.

Subdivider shall mean any person dividing or proposing to divide land so as to constitute a subdivision and includes any agent of the subdivider.

Subdivision shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether for immediate or future sale, or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided however, that the following shall not be within this definition, nor be subject to the subdivision rules and regulations of the city:

- (1) The division of land into parcels greater than ten (10) acres, where no street right-of-way dedication is involved.
- (2) The public acquisition by purchases or dedication of parcels of land for the widening or opening of street or other improvements.
- (3) Conveyances to family members. There shall be no prior approval required, nor shall there be restrictions on the recording of any property deeds described in metes and bounds for whole tract or tract splits between any owner of property and any member of the owner's immediate family. However, such transaction shall be permitted only once to each member of the family; provided that:
 - a. Roads are not proposed, built or altered (except for dedication).
 - b. Setback requirements contained in the city's zoning ordinance are met.
 - c. The use of the property is for single-family dwellings, silviculture, or agriculture.
 - d. Dedication of street right-of-way is in accordance with the master street plan.
 - e. There are no conflicts with other city ordinances or public agencies (health department, etc.).

- f. Lot design and size criteria of the subdivision regulations are met.
 - g. Flood prone property and source of information be identified.
- (4) Conveyances from an estate. There shall be no prior approval required, nor shall there be restrictions on recording any property deeds measured in metes and bounds as a result of the distribution of a decedent's estate in a whole tract or a tract split to any heirs of such decedent. However, those heirs must comply with the regulations of this chapter, if further subdivisions of land are transacted, provided that:
- a. Roads are not proposed, built or altered (except for dedication).
 - b. Setback requirements contained in the city's zoning ordinance are met.
 - c. The use of the property is for single-family dwellings, silviculture, or agriculture.
 - d. Dedication of street right-of-way is in accordance with the master street plan.
 - e. There are no conflicts with other city ordinances or public agencies.
 - f. Lot design and size criteria of the subdivision regulations are met.
 - g. Flood prone property and source of information be identified.

Surveyor shall mean a licensed state land surveyor or a registered public surveyor as authorized by the state statutes to practice the profession of surveying in the State of Arkansas.

Sec. 1-3. Penalty; enforcement.

- (a) Any person who shall violate any of the provisions of this chapter, or who shall fail to comply with any provisions hereof within the corporate limits, or within the planning area of the city, shall be guilty of a misdemeanor, and upon conviction shall be subject to a fine not to exceed two hundred and fifty dollars (\$250.00). Each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.
- (b) When directed, the city attorney shall instigate appropriate legal action to enforce the provisions of this chapter or the standards referred to herein with respect to any violation which occurs within the city, or within the planning area boundary of the city.

Sec. 1-4. Interpretation.

- (a) In their interpretation and application, the provisions of these regulations shall be held to be minimum requirements for the promotion of the public health, safety, and general welfare.
- (b) Where the conditions imposed by any provisions of these regulations upon the subdivision of land are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

- (c) These regulations are not intended to abrogate any easement, covenant, or any other private agreement, provided that where the regulations of this chapter are more restrictive or impose higher standards or regulations than such easements, covenants, or other private agreement, the requirement of these regulations shall govern.
- (d) No subdivision of land which was not lawfully existing at the time of the adoption of these regulations shall be made lawful solely by reason of the adoption of these regulations, and to the extent that such subdivision of land is in conflict in any manner with the requirements of these regulations, such subdivision of land remains unlawful hereunder.

Sec. 1-5. Severability.

It is hereby declared to be the intention of the city council that the following provisions of these regulations be severable:

- (a) If any court of competent jurisdiction shall adjudge any provisions of these regulations to be invalid, such judgment shall not affect any other provision of these regulations not specifically included in such judgment.
- (b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to be a particular subdivision of land, such judgment shall not affect the application of such provisions to any other subdivision of land, not specifically included in such judgment.

Sec. 1-6. Amendments.

For the purpose of promoting the public health, safety, and general welfare, the planning commission or city council may recommend amendments to these regulations, for which a public hearing shall be held by the planning commission, and a fifteen (15) day advance notice is published in a local newspaper of general circulation. Following such hearing, the planning commission shall present the proposed amendment to the city council, which may adopt the amendment or amendments as recommended by the planning commission.

Sec. 1-7. Intent.

These regulations are established with reasonable consideration for the existing character of the city with a view toward conserving the value of buildings upon the land and providing the best possible living environment. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions for development contained in the building code, zoning ordinance, and comprehensive (land use and master street) plan.

Sec. 1-8. Authority.

- (a) By authority of the ordinance establishing the planning commission, adopted

pursuant to the powers and jurisdictions vested through applicable state statutes, the planning commission, subject to final review and approval by the city council, does hereby exercise the power and authority to review, approve, and disapprove plats for subdivision of land within the planning area jurisdiction which shows lots, blocks, or sites with or without new streets or highways. The planning commission shall have final authority to approve minor subdivisions and lot splits and which shall not require review or approval by the city council.

- (b) By the same authority, the planning commission, subject to final authority by the city council to pass and approve, does hereby exercise the power and authority to pass and approve the development of platted subdivisions of land already recorded in the office of the county circuit clerk, if such plats are already platted and undeveloped, with no improvements.
- (c) The plat shall be considered to be entirely or partially undeveloped, if:
 - (1) Such plat has been recorded with the county circuit clerk's office without a prior approval by the planning commission;
 - (2) Such plat has been approved by the planning commission where the approval has been granted more than three (3) years prior to the granting of a building permit on the partially or entirely undeveloped land, and the zoning ordinance, either bulk or use for the district in which the subdivision is located, has been changed subsequent to the original final subdivision approval.

Sec. 1-9. Review of plats generally.

Any developer of land within the planning area shall submit to the planning commission and the city council, plats of the subdivision and plans for indicated improvements according to these regulations. The planning commission shall meet on the first Tuesday of each month, and shall review all aspects of each proposed subdivision, and shall take such action as deemed appropriate. In considering the approval of a plat, the planning commission shall have the final authority to observe and enforce the requirements and procedures as set forth herein. All authority granted herein to the planning commission shall be subject to final review and action by the city council. In the case of a plat constituting a replat of land into two (2) or more lots, all of which will be served by an existing street or streets, the planning commission shall have the power to vary such requirements so that substantial justice may be done and the public interest served.

Sec. 1-10. Special provisions.

- (a) No building, repair, plumbing, or electrical permits shall be issued by the city for any structure on a lot in a subdivision for which a final plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained in this chapter or referred to herein have not been complied with in full. Building permits may be issued for the development of the infrastructure of

the subdivision when appropriate plans have been submitted and approved by the planning commission.

- (b) The city shall not repair, maintain, install or provide any streets or public utility service in any subdivision for which a final plat has not been approved and filed for record, nor in which the standards contained in this chapter or referred to herein have not been complied with in full.
- (c) The city shall not sell or supply any utility service within a subdivision for which a final plat has not been approved or filed for record, nor in which the standards contained in this chapter or referred to herein have not been complied with in full.
- (d) If any subdivision exists for which a final plat has been approved or in which the standards contained in this chapter or referred to herein have not been complied with in full, and the city council shall pass a resolution reciting the fact of such noncompliance or failure to secure final plat approval, and reciting the fact that the provisions of paragraphs (a), (b) and (c) of this section will apply to the subdivision and the lots therein, the city clerk shall, when directed by the city council, cause a certified copy of such resolution under the corporate seal of the city to be filed in the deed records of the county. If full compliance and final plat approval are secured after the filing of the instrument in the deed records, paragraphs (a), (b) and (c) no longer apply.
- (e) The provisions of this section shall not be construed to prohibit the issuance of permits for any lots upon which a residence building exists and was in existence prior to passage of the initial subdivision, nor prohibit the repair, maintenance, or installation of any street or public utility services for, to, or abutting any lot, the last recorded conveyance of which prior to passage of this ordinance was by metes and bounds, and/or any subdivision or lot, therein, recorded, which subdivision was in existence prior to the passage of this chapter. Certificate of occupancy permits will be issued when utilities and streets are complete and accepted by the city.
- (f) Deferment of final street improvements will be accepted only under the following conditions:
 - (1) The property is adequately served by all weather facilities for ingress and egress for pedestrian and vehicular traffic, including fire apparatus.
 - (2) The property is served by all essential permanent utilities, such as water, on-site sanitary facilities and electricity.
 - (3) The reason for non-completion at this time is beyond the control of the builder and is one which makes it impossible and impracticable to proceed.
 - (4) The work can be completed in twelve (12) months or less.
 - (5) The occupancy of the deferred properties will not be seriously handicapped in the use of the properties by the deferment of the work, nor will postponement endanger, mar, or destroy work previously completed (such

as provision of adequate drainage outfall, for example).

Sec. 1-11. Modification of design requirements, deviations.

- (a) *Generally.* Where the planning commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve deviations to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such deviations shall not have the effect of nullifying the intent and purposes of these regulations; and further provided the planning commission shall not approve deviations unless it shall make findings based upon evidence presented to it in each specific case that the request conforms to all of the following conditions:
 - (1) The granting of the deviation will not be detrimental to the public safety, health, or injurious to other property.
 - (2) The conditions upon which the request for a deviation is based are unique to the property for which the deviation is sought and are not applicable generally to other property.
 - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.
 - (4) That the special conditions and circumstances do not result from the actions of the applicant.
 - (5) The deviations will not in any manner vary the provisions of the zoning ordinance, the comprehensive plan (which includes the land use plan and master street plan) or the official planning area map.
- (b) *Conditions.* In approving deviations, the planning commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations. Any deviations approved by the planning commission are subject to final review and approval by the city council.
- (c) *Procedures.* A petition for any such deviation shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the planning commission. The petition shall state the grounds for the application and all of the facts relied upon by the petitioner.

Sec. 1-12. Flood plain development.

- (a) *General.* Land may not be platted and subdivided except in conformance to the flood plain regulations of the city.
- (b) *Liability.* The city will not be financially liable for any damages due to flooding.

- (c) *Subdivision occurring in the flood plain.* The preliminary and final plat of any subdivision wholly or partially occurring in the 100-year flood plain as designated by the Federal Emergency Management Agency (FEMA) shall contain finished minimum floor elevations and existing lot elevations on each lot.

Sec. 1-13. Provisions for acquisition of land for public use.

- (a) *General: dedication, condemnation, and purchase.* Whenever a tract of land is to be subdivided, including proposed sites for public uses as indicated on any of the following maps: official planning area map, adopted land use map or master street plan map, the land can either be dedicated for public use, purchased or eminent domain procedures can be applied by the appropriate public body. The developer shall give the appropriate public body a forty-five-day period, in which the aforementioned agency may express its interest in the proposed subdivision in connection with the provision of public uses. Should such an interest be expressed, the public body shall have a period of an additional forty-five (45) days within which to arrange for the acquisition of the property. If purchase negotiations are not completed within a minimum of ninety (90) days from the original written notice sent to the appropriate public body, condemnation proceedings must have been filed in the proper court by the public body. The condemnation suit shall have the legal description as to the property to be condemned, or the public body and/or city shall have no further claim and the effect shall be as if the public body and/or city had never expressed any interest in the property.
- (b) *Purchase according to existing plans.* Where a site for a neighborhood park, public school building or other community building or the provision of public off-street parking space appears as part of a public facility plan or the comprehensive plan, such areas may be considered for public purchase by contacting the appropriate public agency. The same procedures, provisions and time limits shall apply as provided in subsection (a) of this section.
- (c) *Purchase of historic sites and scenic areas.* Historic sites, scenic areas, or areas of general community interest for public or semipublic purpose, may be considered for public purchase, as provided in subsection (a) of this section.
- (d) *Dedication of land not a condition of plat approval.* In no event shall dedication or non-dedication of land for public or private purposes, including open space, be a consideration for plat approval or disapproval, other than as specifically required in these regulations and any subsequent amendments thereto. However, the above shall not relieve the subdivider or developer from dedication requirements as specifically set out in these regulations and any subsequent amendments thereto for land to be dedicated for such uses as streets, utility easements, nor open space requirements under any other section which sets out specific amounts of land designated for open space.

Sec. 1-14. Gated subdivisions.

Due to concern for safety and so as not to restrict access by emergency response vehicles, gated entrances shall not be permitted in any subdivision to which these regulations apply.

Sec. 1-15. Commercial subdivision.

A commercial subdivision shall be processed for approval in the same manner as required for a residential subdivision provided that the area for commercial development has been properly zoned commercial by the city council. When local streets are platted within a commercial subdivision, the minimum right-of-way width shall be sixty (60) feet, and all other streets shall conform to the standards for major and secondary streets prescribed by the master street plan and this chapter. Parking lots, access drives, and service drives intended solely for the use of property owners of the subdivision are not subject to the rules and regulations contained herein and will not be maintained by the city after construction is completed

SECTION 2. PLATTING PROCEDURES

DIVISION A. GENERALLY

Sec. 2-1. Certificate of preliminary plat approval required.

No developer proposing to make or have made a subdivision within the planning area boundary shall proceed with any construction work on the proposed subdivision, including grading, before obtaining a certificate of preliminary plat approval, and shall not convey title to any lot before obtaining from the planning commission a certificate of final plat approval and acceptance of the plat.

Sec. 2-2. Sketch plat; pre-application submission.

- (a) Prior to filing of a preliminary plat, the developer shall submit to the staff a sketch plat for the tract which shall include the following information, all of which may be based on sources of information other than field survey data:
 - (1) The location of the tract in relation to the surrounding area.
 - (2) Acreage in the proposed subdivision.
 - (3) All existing streets, roads, wet and dry weather watercourses, and other significant features with the tract and within five hundred (500) feet thereof.
 - (4) Approximate location of proposed streets and property lines.
 - (5) A rough sketch of the proposed site plan.
 - (6) A north arrow and graphic scale.
 - (7) Direction of and approximate distance nearest existing major street intersection.
 - (8) Existing storm and sanitary sewer, if any.
 - (9) Proposed land use designation.

- (10) Existing adjacent development.
 - (11) Existing easement and covenants affecting the area.
 - (12) Any additional information the developer feels is pertinent.
 - (13) Color elevations with respect to the site plan perimeters to allow the staff the opportunity to understand any structures, fences, barriers, berms, or enclosures intended with respect to any boundary of the site plan.
- (b) The staff shall review and evaluate the sketch plat as soon as practical, and shall report to the developer its opinion as to the merits and feasibility of the improvements contemplated by the sketch plat. The developer shall have the option of submitting the sketch plat before the planning commission for review.
- (c) No fees shall be collected for pre-application submission, the purpose being to acquaint the developer with plans and policies in effect that would be significant to the proposed subdivision.

Sec. 2-3. Re-platting.

The re-plat shall meet all requirements for a new subdivision that may be pertinent. A fee in the amount specified herein shall be collected for each re-plat that does not require a preliminary plat. If a preliminary plat is required, the fee for the re-plat shall be the same as required for a preliminary plat. The re-plat will not be reviewed or considered in any respect until such fee has been collected.

Sec. 2-4. Schedule of fees.

The fees to be charged for various provisions of the subdivision regulations shall be those as set by the Goshen City by ordinance as it may be amended from time to time.

DIVISION 1-A

Sec. 2-5. Lot splits and lot line adjustments.

- (a) Lot split. A property owner seeking to accomplish a lot split shall make application and pay the required fee. A lot split request shall include a survey with a legal description and a scaled drawing of the parcel being split, showing dimensions of the new parcels created and shall include all the requirements for a Lot Split Survey as provided herein. A lot split shall not be permitted if it seeks to divide a tract of land into more than five tracts. A property owner, or in the case of a change in ownership of tract land, a subsequent owner, may not seek successive lot splits so as to avoid compliance with the subdivision regulations. No more than two (2) such splits in eighteen months, even if there have been different owners, shall be allowed before the property owner shall be required to apply for preliminary and final plat approvals for a subdivision. No parcel resulting from a lot split shall be less than the minimum area required by ordinance. Lot splits shall be processed in an expedited manner by considering the Lot Split Survey approval or disapproval at the same meeting. The

property owner shall be required to fulfill all regulations of this chapter that shall apply.

- (b) Lot line adjustment. A lot line adjustment is the adjustment of the boundary line between adjacent property owners. A property owner seeking to accomplish a lot line adjustment shall make application and pay the required fee. A request for a line line adjustment shall include a survey with a legal description and a scaled drawing of the parcel being split, showing dimensions of the new parcels created and shall include all the requirements for a Lot Line Adjustment Survey as provided herein. The result of the transfer shall not cause either the receiving tract or the tract from which it is taken to be below the minimum lot area standard within the City unless the current lot size of affected lots are already less than minimum lot area, in which case, the lot line adjustment shall only be permitted to correct errors in survey, building placement which created insufficient yard area, set back issues, transfer of real estate to adjoining property owner or any other circumstances of a similar nature.
- (c) Assuming all requirements of applicable regulations and ordinances are met, lot splits and lot line adjustments may be approved administratively by the Building Official or the Mayor or by the Chair of the Planning Commission. Whichever official approves it, such approval shall be represented by that official's signature on the survey. Such administrative approval shall be reported to the Planning Commission at its next meeting.

Sec. 2-6. Form and contents of Lot Split or Lot Line Adjustment Survey.

- (a) The survey shall be prepared by a licensed and qualified engineer or land surveyor.
- (b) The accuracy of all survey data must be certified by a licensed land surveyor.
- (c) The survey shall be prepared in compliance with these regulations, as the Planning Commission shall require in its discretion, but at a minimum shall contain the following:
 - (1) Blueline or blackline prints of the proposed subdivision drawn to a scale of not greater than one hundred (100) feet to the inch.
 - (2) The original surveys shall be submitted as follows: seven copies 18" x 24" and two reduced copies on 8 ½" x 11".
 - (3) Whenever two (2) or more sheets are required, they shall be accompanied by an index sheet showing the entire subdivision layout on one (1) sheet.
 - (4) The survey shall have or be accompanied by this information:
 - a. A key or vicinity map showing the tract and its relation to the surrounding area.
 - b. The name of the property owner.

- c. The name of the registered land surveyor responsible for the survey and contour information on the survey.
- d. The 911 address of the property, if one has been designated.
- e. North point, date, graphic scale, indicating the scale used.
- f. Existing and proposed restrictive covenants and restrictions which can be graphically depicted.
- g. The location, name, and width of all existing streets, alleys, and easements within or adjacent to the proposed subdivision or within a distance of two hundred (200) feet of the property. Names, locations and dimensions of all streets, rights-of-way, alleys, setbacks, utility easements, drainage easements, and other easements on the property.
- h. The survey shall show the actual boundary survey and legal description of both the original tract, only if the original tract is less than 20 acres, and any tracts that result from the split or the line adjustment. The acreage of each resulting tract shall be shown.
- i. The assessor's parcel number for the parent tract(s) shall be depicted.
- j. Names of any legal streams on or adjacent to the lot, and also, designation of any property located in 100-year floodplain or floodway.
- k. Building setback lines with dimensions.
- l. Location of all permanent structures, to include roof or other overhanging portions of such structures if such structures or portions are within the applicable setback.
- m. Use of each structure by labeling (e.g. residence, pool, covered porch, deck, storage shed, etc.).
- n. Distances from front, rear, and each side property line to all structures. The distance is measured from the point where the measurement form a right angle with the property lines.
- o. Location of existing driveway and its width at the right of way (property line). Also show the driveway location from the street to the structure.
- p. Location and dimension of any other paved areas.
- q. Location of tank and lateral lines of septic system, if applicable.
- r. City of Goshen boundary lines, if available and if within a distance of two hundred (200) feet of the property
- s. Names and county assessor's parcel numbers of adjoining property owners.
- t. Signature block with signatures of all owners of record.

(d) The following certificates shall be placed on the survey:

(1) Certificate of Survey Approval.

"All requirements of the Goshen Subdivision Regulations relative to the

preparation and submittal of a Survey having been fulfilled, approval of this Survey is hereby granted.

This certificate shall expire _____.

Date

(Signed)

Date of Execution

Goshen Mayor or Chairman
Goshen Planning Commission
Either may sign

(2) Engineering Certificate (if prepared by an Engineer).

"I, _____, hereby certify that this proposed Survey correctly represents plans and specifications completed by me, or under my supervision on _____, 20__; that the boundary shown hereon corresponds with the description in the deeds cited in the above Source of Title; and that all monuments which were found or placed on the property are correctly described and located.

(Signed)

Date of Execution

Name - Registered
Professional Engineer No. ____, Arkansas"

(3) Surveyor's Certificate (if prepared by a surveyor).

"I, _____, hereby certify that this proposed Survey correctly represents a survey completed by me, or under my supervision, on _____, 20__; that the boundary lines shown hereon correspond with the description in the deeds cited in the above Source of Title; and that all monuments found or placed on the property are correctly described and located.

(Signed)

Date of Execution

Name- Registered Land Surveyor
No. _____, Arkansas"

DIVISION B. PRELIMINARY PLAT

Sec. 2-7. Procedure for approval.

Whenever any subdivision of a tract of land is proposed to be made, the developer shall first submit to the staff at least eleven (11) calendar days prior to the planning commission meeting at which the plat is to be considered, an application for a certificate of preliminary plat approval which shall consist of:

- (a) Twelve (12) copies of the preliminary plat and other documents as described in section 2-8.
- (b) A receipt from the city acknowledging payment of the filing fee. The plat will not be reviewed or considered in any respect until the fee has been collected.
- (c) A letter formally requesting consideration by the planning commission.

Sec. 2-8. Form and contents.

- (a) The preliminary plat shall be prepared by a licensed and qualified engineer or land surveyor.
- (b) The accuracy of all survey data must be certified by a licensed land surveyor.
- (c) The preliminary plat shall be prepared in compliance with these regulations and the following:
 - (1) Blueline or blackline prints of the proposed subdivision drawn to a scale of not greater than one hundred (100) feet to the inch.
 - (2) The maximum sheet size shall be thirty-six (36) inches by forty-eight (48) inches.
 - (3) Whenever two (2) or more sheets are required, they shall be accompanied by an index sheet showing the entire subdivision layout on one (1) sheet.
 - (4) The preliminary plat shall have or be accompanied by this information:
 - a. A key map showing the tract and its relation to the surrounding area.
 - b. The name of the owner and developer.
 - c. The name of the registered land surveyor responsible for the survey and contour information on the plat.
 - d. The title or name of the subdivision which must not be so similar to that of an existing subdivision as to cause confusion.
 - e. North point, date, graphic scale.
 - f. Existing and proposed restrictive covenants and restrictions.
 - g. The location, name, and width of all existing streets, alleys, and easements within or adjacent to the proposed subdivision or within a distance of two hundred (200) feet of the proposed subdivision.

- h. Physical features of the property to be subdivided, including location and size of all watercourses, ravines, bridges, culverts, existing structures, drainage area in acres draining into the subdivision. This information shall be shown on the contour map.
- i. Ground elevation with contours at vertical intervals not exceeding one (1) foot; elevations marked on such contours shall be based on mean sea level elevation.
- j. The plat shall show the actual boundary survey and legal description; however, the layout of the proposed subdivision lots, blocks, and streets may be scaled dimensions. The acreage to be subdivided shall be shown.
- k. The proposed plan for the subdivision shall be shown, including all proposed streets and their names. Alleys, easements, width of rights-of-ways for streets and alleys, the proposed pavement width and storm drainage shall be shown.
- l. Source of water supply.
- m. Evidence that plans of proposed utility layouts (water, gas, electricity, storm sewer, etc.) and the appropriate utilities will be provided.
- n. Typical cross sections of all streets.
- o. Indication of the use of any lot other than single-family residential, proposed by the subdivider.
- p. Dimensions in feet and hundredth parts thereof, bearings, and curve data for all lot, block, street and street pavement lines.
- q. Location and description of all section line corners and government survey monuments in or near the subdivision to at least one (1) of which the proposed subdivision shall be referenced.
- r. Building setback lines with dimensions.
- s. Location and dimensions of all proposed water lines and fire hydrants.
- t. Street sign locations.
- u. Streetlight locations.
- v. Approximate location and description of all property proposed to be dedicated or reserved for public use or to be reserved by deed covenant for use of all property owners in the subdivision with conditions, if any, of such dedication or reservations.
- w. If the proposed subdivision is a portion of a tract which is later to be subdivided in its entirety, then a tentative master plan of the entire subdivision shall be submitted with the preliminary plat of the portion first to be subdivided.
- x. The master plan shall conform in all respects to the requirements of the sketch plat, except it may be on a scale not more than one (1) inch to four hundred (400) feet.
- y. Color elevations with respect to the site plan perimeters to allow the staff the opportunity to understand any structures, fences, barriers,

berms, or enclosures intended with respect to any boundary of the site plan. The Planning commission may reject any proposal which violates the spirit of the Conservation Subdivision ordinance.

z. Specifications as to street light type.

(d) The following notice shall be placed on the preliminary plat; "Preliminary Plat for Inspection Purposes Only. Not Approved for Record Purposes."

(e) The following certificates shall be placed on the preliminary plat:

(1) Certificate of Preliminary Plat Approval.

"All requirements of the Goshen Subdivision Regulations relative to the preparation and submittal of a Preliminary Plat having been fulfilled, approval of this Plat is hereby granted, subject to completion of Final Plat provisions of said Regulations.

This certificate shall expire _____.
Date

(Signed)

Date of Execution

Mayor
City of Goshen

Date of Execution

Chairman
Goshen Planning Commission"

(2) Preliminary Engineering Certificate.

"I, _____, hereby certify that this proposed Preliminary Plat correctly represents plans and specifications completed by me, or under my supervision on _____, 20__; that the boundary shown hereon corresponds with the description in the deeds cited in the above Source of Title; and that all monuments which were found or placed on the property are correctly described and located.

(Signed)

Date of Execution

Name - Registered
Professional Engineer No.____, Arkansas"

(3) Preliminary Surveyor's Certificate.

"I, _____, hereby certify that this proposed Preliminary Plat correctly represents a survey completed by me, or under my supervision, on _____, 20__; that the boundary lines shown hereon correspond with the description in the deeds cited in the above Source of Title; and that all monuments found or placed on the property are correctly described and located.

(Signed)

Date of Execution

Name- Registered Land Surveyor
No. _____, Arkansas"

Sec. 2-9. Processing.

- (a) Upon receipt of an application for a certificate of preliminary plat approval, the staff shall check the preliminary plat as to its conformity with the sketch plat, master plan, master street plan and land use plan (the comprehensive plan), zoning districts and the standards and specifications set forth or referred to herein.
- (b) The staff shall transmit the preliminary plat data to the planning commission and city council for their review, at least five (5) calendar days prior to the planning commission meeting.
- (c) Within sixty (60) calendar days after the preliminary plat is formally filed, the planning commission and city council shall approve or disapprove such plat, or conditionally approve it with modifications. The planning commission shall inform the developer in writing of the action taken within five (5) calendar days.
- (d) Approval of the preliminary plat shall be governed by the following qualifications:
 - (1) Approval of a preliminary plat is only tentative, pending submission of the final plat.
 - (2) Approval of the preliminary plat does not constitute approval of sewer, water, or utility plans. The developer shall be responsible for obtaining approval of these systems from the appropriate agencies as follows:
 - a. Streets and drainage: planning commission.
 - b. On-site sanitary facilities: planning commission/State Health Department
 - c. Private utilities: utility companies.The planning commission or designated committee thereof shall consider detailed street and drainage plans and specifications for each subdivision

at regular meetings as an agenda item. Such plans and specifications shall be submitted to the city for engineering review, at least eleven (11) working days prior to the planning commission meeting. The planning commission shall have the discretion, if it so desires, to have an independent engineer review all engineering plans and specifications at the developer's expense. It shall be the right of the developer to receive a copy of the engineer's recommendations at least four (4) full working days in advance of the planning commission meeting. It shall also be the developer's right to be present at the planning commission meeting during review and consideration of his plans and specifications.

- (3) Approval of preliminary plat shall remain in effect for a period of two (2) years. If the preliminary plat approval expires, the developer may still request an extension of two (2) years on his approved preliminary plat by submitting a formal letter to the planning commission, stating why he should be granted a time extension. If the planning commission should decide to grant an extension, the extension shall take effect immediately, and the developer shall be notified in writing by the chairman of the planning commission that his time extension has been granted.
- (e) Receipt by the developer of the executed certificate of preliminary plat approval is authorization to proceed with:
 - (1) The installation of any improvements required as approved by agencies having authority as listed in subsection (d) of this section.
 - (2) The preparation of the final plat or part thereof as specified in section 2-11.
- (f) Modification of preliminary plat shall be noted, and a letter shall be sent to the developer within five (5) days after denial indicating reasons for modifications.
- (g) Denial of preliminary plat shall be noted, and a letter shall be sent to the developer within five (5) days after denial indicating reasons for denial. Per Ark. Code Ann. §14-56-412(f)(2), denial by the planning commission may be overruled only by a recorded vote of two-thirds (2/3) of the full membership of the city council.
- (h) The approval of a preliminary plat is not approval of any proposed rezoning nor approval of any use referenced or set aside on the preliminary plat.

DIVISION C. FINAL PLAT

Sec. 2-10. Procedure for approval.

Whenever the provisions of these rules and regulations have been complied with, and while the certificate of preliminary plat approval is in effect, the developer may submit to the staff an

application for review and approval of the final plat, at least eleven (11) working days prior to the planning commission's meeting which shall consist of:

- (a) A letter formally requesting review and final approval of the plat.
- (b) The final plat and other documents as specified in section 2-11.
- (c) A statement by the engineer employed by the city (if an engineer has been employed pursuant to these regulations), that the developer has:
 - (1) Installed all improvements in accordance with the plans and specifications approved by the planning commission; or
 - (2) A performance guarantee in the form of a bond, or irrevocable letter of credit payable to the city (or other security as recommended and approved by the city attorney), has been posted with the city recorder-treasurer in sufficient amount to assure the completion of all required improvements. The city shall also have the right to refuse to accept such security.

Sec. 2-11. Form and contents.

- (a) The final plat shall be prepared in compliance with regulations and the following:
 - (1) A reproducible original and Twelve (12) blue line or black line prints of a scale of not more than one hundred (100) feet to the inch.
 - (2) The drawing shall be neat, legible and suitable for filing for record in the office of the county circuit clerk. Patching and pasting of paper or other attachments is not acceptable.
 - (3) Allowance shall be made for a one-half inch border at the top, bottom, and right edges of the sheets, and a one-and-one-half inch border at the left edge of the tracing sheets.
 - (4) When more than one (1) sheet is used for a plat, a key map showing the entire subdivision on a smaller scale shall be shown on the first sheet. In addition, whenever more than one (1) sheet must be used to accurately portray the lands subdivided, each sheet must show the particular number of that sheet, and the total number of sheets included, as well as clearly labeled match lines to show where other sheets adjoin.
 - (5) The final plat shall show or be accompanied by this information:
 - (a) Boundary and written legal description of the property in the subdivision.
 - (b) Names and addresses of the owner(s) and developer(s).
 - (c) The name of the subdivision, city, county and state shall be shown in bold letters inside the margin at the top of each and every sheet included.
 - (d) Acreage in the subdivision.

- (e) Date.
- (f) A prominent North arrow shall be drawn on every sheet included showing any portion of the lands subdivided, and when possible, it shall be placed in the upper right-hand corner. The bearing reference shall be clearly stated on the plat. A scale of one (1) inch equals one hundred (100) feet shall be used at all times unless permission to do other wise is obtained in writing. In all cases the scale used shall be both clearly stated and graphically illustrated by a bar scale drawn on every sheet showing any portion of the lands subdivided.
- (g) Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement, and building setback lines with dimensions (both front and side streets) and other areas shown on the plat, as well as the outer boundaries of the lands subdivided. The purpose of any easement shown on the plat must be clearly stated, and shall be confined to only those that deal with public utilities, such as gas, power, telephone, water, and such drainage easements as deemed necessary for the orderly development of the land encompassed within the plat. All such easements, relative to their usage and maintenance, must be approved by the planning commission.
- (h) Location and description of any land to be dedicated or reserved for parks, schools, or other public purposes. In addition, the purpose of all areas dedicated to the public must be clearly indicated or stated on the plat.
- (i) All blocks must be numbered or lettered in consecutive order. All lots within each block must be numbered in consecutive order. All streets must be named, numbered, or lettered in a manner acceptable to the planning commission.
- (j) All distances shall be shown in feet and to the nearest one-hundredth foot, and in accordance with the definition of a foot adopted by the United States Bureau of Standards. All measurements shall refer to the horizontal plane. The course of every boundary line shown on the plat shall be indicated by a direct bearing reference or by an angle between it and an intersecting line having shown bearing, except where its description is better illustrated by measurements shown at points or intervals along a meander line having shown courses. All bearings and/or angles shown shall be given to the nearest minute of arc, to a smaller fraction to be stated in seconds of arc.
 - (1) Curve data shall be stated in terms of radius, central angle, and tangent, or length of curve, and unless otherwise specified by local ordinance curve data for streets of uniform width may be shown only with reference to the centerline, and lots fronting on such curves may show only

the chord bearing and distance of such portion of the curve as is included in their boundary; in all other cases the curve data must be shown for the line affected.

- (2) When any lot or portion of the subdivision is bounded by an irregular line, the major portion of that lot or subdivision shall be enclosed by a meander line showing complete data with distances along all lines extending beyond the enclosure to the irregular boundary shown with as much certainty as can be determined or as "more or less," if variable. In all cases, the true boundary shall be clearly indicated on the plat.
- (k) The subdivision shall be referenced (tied) by bearing and distance to one (1) or more of the following established land monuments: section corner, quarter corner, or one-sixteenth corner with section lines, quarter lines, or one sixteenth lines shown noted and described on the plat.
 - (1) All monuments to be of record must be adequately described and clearly identified on the plat. Where additional monuments are to be set subsequent to the recording of the plat, the location of such additional subordinate monuments shall be shown by a distinct symbol noted on the plat as representing subordinate monuments.
 - (l) All interior excepted parcels shall be clearly indicated and labeled, "not a part of this plat."
 - (m) Existing and proposed restrictive covenants and restrictions.
 - (n) Where ponds, lakes, rivers, bayous, or canals are within or immediately adjacent to the boundary of the subdivision, normal pool elevation, mean high pool elevation, and spillway elevations where applicable shall be shown on the plat. The elevations shall be based on mean sea level data.
 - (1) The base flood elevation (BFE, also known as the one-hundred-year flood elevation), as designated by the Federal Emergency Management Agency (FEMA) shall be shown on the plat where applicable. Also, the finished minimum flood elevations, not lower than the BFE for each lot, shall be included.
- (b) In the event an appreciable error or omission in the data shown on any plat duly recorded under the provisions of this chapter is detected by subsequent examinations, or revealed by a retracement of the lines run during the original survey of the lands shown on such recorded plat, the land surveyor who was in responsible charge of the original survey and the preparation of the plat as recorded may file an affidavit confirming that such error was made, describing the nature and extent of such error or omission and the appropriate correction that

in his opinion should be substituted for the erroneous data shown on such plat. In the event that the responsible land surveyor is no longer living, or that he is no longer available, or unwilling to confirm such error, a similar affidavit may be filed by others providing that such similar affidavit be signed and acknowledged by three (3) practicing registered, licensed, certified or public land surveyors in good standing with the board of examiners of this state. In either case where such affidavit has been filed for record, it shall be the duty of the recorder to place a notation in the margin of such recorded plat stating that such affidavit has been filed, the date when it was filed, and the book and page where it is recorded; such affidavit shall have no effect upon the validity of the plat or of the information shown thereon, but shall be admissible as evidence by the courts and given the same weight as testimony offered voluntarily by qualified, expert witnesses.

(c) The following certifications shall appear on each Final Plat:

(1) Certificate of Owner

"We, the undersigned, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided said real estate in accordance with the within Plat.

(Signed)

Date of Execution

Name

Address

D. R.

Source of Title

Page _____"

(2) Certificate of Recording

"This document, number _____ filed for record,
_____, 20_____, in Plat Book _____,
Page _____.

(Signed)

(Name) Clerk"

"For Restrictive Covenants or Bill of Assurance, see Deed Record Book
_____, Page _____."

(3) Certificate of Surveying Accuracy

"I, _____, do hereby certify that this Plat correctly represents a survey and a plan made by me or under my supervision; that all monuments shown hereon actually exist; and their location, size, type, and material are correctly shown; and all requirements of the Goshen Subdivision Regulations have been fully complied with.

(Signed)

Date of Execution

Name
Address
Registered Land Surveyor
No. _____, Arkansas"

- (d) This certificate of final plat approval shall be shown on both the final plat and the restrictive covenants or the bill of assurance as follows:

Certificate of Final Approval

"Pursuant to the Goshen Subdivision Regulations, this document is given Final Approval by the Goshen Planning Commission. All of the conditions of approval having been completed, this document is hereby accepted, and this certificate executed under the authority of said Regulations.

(Signed)

Date of Execution

Mayor
City of Goshen

Date of Execution

Chairman
Goshen Planning Commission
Goshen, Arkansas"

- (e) This certificate of final plat approval shall be shown on both the final plat and the restrictive covenants or bill of assurance as follows:

Certificate of Final Plat Approval.

"Pursuant to the Arkansas State Fire Code, this document is given final approval by the City Fire Code Enforcement Official. All of the conditions of approval

having been completed, this document is hereby accepted and this certificate executed under the authority of said Arkansas State Fire Code.”

Date of Execution

City Fire Code Enforcement Official

Sec. 2-12. Availability of water and/or sewage utilities.

If a proposed subdivision does not have the availability of a sanitary sewage collection and treatment system, or beyond the area of a water distribution system, and these utilities cannot be extended to the area, the developer shall be required to furnish with his final plat satisfactory evidence, including (but without limitation) the results of soil tests and borings and statements from local and state health authorities, water engineers, and other officials, that water satisfactory for human consumption and sufficient capacity for fire protection purposes may be obtained from groundwater or surface water on the land, and that soil conditions are such that satisfactory sewage disposal can be provided by the use of approved septic systems or approved methods.

Sec. 2-13. Processing of final plat.

- (a) Whenever the final plat has been submitted to the staff, which final plat conforms in general to an approved preliminary plat, and the provisions of section 2-10, it shall be submitted to the planning commission which shall review and make its recommendation to the city council which shall have the final authority to approve the final plat.
- (b) The staff shall transmit the final plat to the planning commission and the city council for their review at least five (5) days prior to the next scheduled meeting where subdivision matters are discussed.
- (c) The City Fire Code Enforcement Official or the planning commission may cause the developer's engineer and/or surveyor to check the final plat for correctness, charging the cost to the developer if the plat is found to be in error, and the preparer fails to make the necessary corrections. In addition, the City Fire Code Enforcement Official or the planning commission, in their discretion, may have an independent engineer review all engineering plans and specifications at the developer's expense. This shall include, without limitation, all issues related to fire code enforcement.
- (d) Within thirty (30) days of receipt of the application for approval of the final plat, the planning commission shall submit the final plat with its recommendations to the city council for approval. Failure of the city council to act within twenty-one (21) calendar days from the submission by the planning commission of the

application for final plat approval shall be deemed approval of final plat, and waiver of all further plat requirements of this ordinance. Such failure to act shall be so noted on the plat to be filed for record.

- (e) The basis for disapproval of the final plat shall include any of the following:
 - (1) Failure to install improvements according to detailed plans and specifications as previously approved by the planning commission.
 - (2) Failure to comply with any written agreements or conditions of approval.
 - (3) Failure to post a satisfactory guarantee of improvements as described above in section 2-10 (c).
- (f) If the final plat is disapproved, the applicant shall be so notified in writing and the reasons therefore shall be enumerated.
- (g) If the planning commission recommends approval of a final plat, the planning commission shall forward the final plat to the city council at least three (3) days before the next regularly scheduled city council meeting. If the final plat is approved by the city council, the city council shall direct the Mayor and chairman of the planning commission to execute a certificate of final plat approval on the plat upon receipt of one (1) of the following:
 - (1) A formal letter submitted by the proper authority(s) stating that all improvements and installations to the subdivision have been completed in accordance with the plans and specifications previously approved by the planning commission. City authorities shall have eleven (11) calendar days to review the final plat and on-site improvements, determine conformance or non-conformance, and notify the planning commission and the developer of their findings.
 - (2) A performance bond or irrevocable letter of credit shall:
 - a. Be with the city.
 - b. Be in the amount determined by the city, based upon competent construction estimates, to be sufficient to complete the improvements and installations for the subdivision in compliance with these rules and regulations.
 - c. Be with surety by a company or bank licensed to do business in the state.
 - d. Specify the time for completion of the improvements and installations.
 - e. Be filed in the city clerk's office.
 - f. Be presented only in the form approved by the city attorney.

- (h) Approval of final plat by the city council shall be deemed acceptance of any dedications shown on the plat. These dedications shall be accepted by the city or county as prescribed by law.
- (i) No street or alley, which shall be dedicated to public use by the proprietor of ground in the city, shall be deemed a public street or alley, or to be under the care or control of the city council, unless the dedication shall be accepted and confirmed by an ordinance especially passed for that purpose.

Sec. 2-14. Acceptance by sections.

A developer, at his option, may obtain approval of a portion or a section of a subdivision provided he meets all requirements of this chapter with reference to such portion or section in the same manner as is required for a complete subdivision. In the event that a subdivision and a final plat thereof are approved in section by the city council, each final plat of each section shall carry the name of the entire subdivision, but shall bear a distinguishing letter, number, or subtitle. Block numbers shall run consecutively throughout the entire subdivision, even though such subdivision may be finally approved in sections.

Sec. 2-15. Reserved.

Sec. 2-16. Driveways.

When platting a subdivision, the developer shall create lots which shall readily comply with the Driveway Ordinance [first adopted by Ordinance 63 along with all subsequent amendments] of the City of Goshen. A developer shall include proposed driveway locations upon any plat where there might be an issue as to whether the subdivision and all lots within it can comply with the Driveway Ordinance. When a subdivision abuts a Minor Collector, Major Collector, Minor Arterial, or Principal Arterial Street and it cannot satisfy the requirements of Driveway Ordinance with the lots abutting such street, then the developer shall be required to cause those lots to have frontage and driveways onto a Local, Cul-de-Sac or Loop Street to be built as part of the improvements contemplated by the subdivision. Every effort shall be made to minimize interference with the through traffic operations and to reduce vehicular and pedestrian accident hazards. The Planning Commission, prior to approving the plat of a subdivision, may impose such conditions upon a developer as necessary to carry out these regulations.

SECTION 3. MINIMUM REQUIRED IMPROVEMENTS AND DESIGN STANDARDS

DIVISION A. GENERALLY

Sec. 3-1. General improvements.

- (a) Every developer shall be required to install, at his own expense, or to have installed by the appropriate public utility, the improvements in this article,

provided the subdivisions are located within the boundary indicated on the official planning area jurisdiction map filed in the city clerk's office.

- (b) Subdivisions on existing streets. At the discretion of the city council, the requirements pertaining to street improvements indicated in this article may be waived by the city council on existing streets which are paved, and at least eighteen (18) feet in width, if terrain and conditions are limiting. Regardless of whether a subdivision occurs along an existing street or not, the subdivider will still be required to have plats properly filed and proper dedication of street right-of-way, as indicated on the master street plan.
- (c) Subdivisions requiring new streets. The improvements indicated in this article shall be required on all new streets in a subdivision.

Sec. 3-2. Responsibility for payment of installation cost.

- (a) Streets. The responsibility for the payment of the installation cost of streets under this chapter shall be as follows:
 - (1) General. The developer shall pay the entire cost of constructing all streets that do not exceed thirty-five (35) feet between the backs of curbs. The thirty-six-foot-wide street is recognized as the standard collector pavement width in the city.
 - (2) Local streets. The developer shall pay the entire cost of constructing all local streets.
 - (3) Collector streets. The developer shall construct collector streets as part of the subdivision.
 - (4) Boundary streets:
 - a. Existing streets. When the proposed subdivision abuts upon an existing paved street that does not have curb and gutter, the developer may be required install these improvements to the satisfaction of the planning commission.
 - b. New streets. New boundary streets that are platted for the primary purpose of providing traffic routes into and through the subdivision, shall be constructed by the developer as part of the subdivision development.
 - (5) Marginal access streets (service or frontage). The developer shall pay the entire cost of construction of marginal access streets.
 - (6) Arterial Streets. All arterial street design and construction as shown on the master street plan may be handled on a participation basis.
 - (7) Half streets. Half streets are streets that border a subdivision or a tract of undeveloped land. When this situation arises, the developer is only required to dedicate half the right-of-way and construct half the street improvements. Half streets (local streets) should be discouraged by designing the subdivision where this situation will not occur. When in the

opinion of the planning commission, a half street cannot be avoided through the use of design considerations, the developer shall be required to dedicate half of the street improvements, particularly if the adjacent property has the potential to be subdivided at a later date. Half street improvements and dedications (collector and arterial streets), when required in the master street plan, shall be provided by the developer.

- (b) Street signs. The developer shall pay for street signs and their installation. The city will install, or have the signs installed.
- (c) Sewage collection and treatment. There being no public sanitary sewer collection and treatment system in Goshen at this time, installation of an on-site septic or other sanitary system approved by the State Health Department, shall be the responsibility of the respective developer if the development is to be served by a single sewer collection/septic treatment system. For development of two acres home sites not served by a single sewer collection/septic treatment system, the responsibility shall be that of the respective developer of each individual lot.
- (d) Storm drainage system. The developer shall pay all costs of the drainage system except that the city may participate in the cost of oversized drainage facilities designed to service a larger drainage area than that actually being subdivided.
- (e) All other costs. The developer shall pay all other costs that are not specifically covered by this section.

Sec. 3-3. Construction standards.

- (a) All improvements shall be made in accordance with the standards established by this chapter that are in effect at the time of the pre-application conference.
- (b) An engineer as may be designated by the city, shall be authorized to enforce rules, regulations, standards, specifications, and other documents as necessary to established minimum criteria for the construction of streets and utilities to be constructed within the city and within the limits of its planning area.

Sec. 3-4. Authority of city designated engineer.

The engineer that may be designated by the city, shall have the authority to inspect any and all improvements to insure that they are in conformance with all plans, specifications, and any written agreements which have been approved by the planning commission. He has the authority to require the removal and/or replacement, subject to concurrence by the city council upon recommendation of the planning commission, at the expense of the developer, of any phase of the work which is not in accordance with the requirements of the plans approved in accordance with this chapter.

Sec. 3-5. Conformance to applicable rules and regulations.

- (a) In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules and regulations.
 - (1) All applicable statutory provisions.
 - (2) The zoning ordinance, fire, building, and housing codes, and all other applicable laws of the State of Arkansas and the City of Goshen.
 - (3) The master street plan (which is an element of the comprehensive plan), the guidelines and general provisions of the land use plan (also an element of the comprehensive plan), and all other plans of the city, as adopted.
 - (4) The special requirements of the regulations and rules of the health department and/or appropriate state agencies.
 - (5) The rules of the state highway department if the subdivision on any lot contained therein abuts a state highway or connecting street.
 - (6) Plat approval may be withheld if a subdivision is not in conformity with the above guides on policy and purposes of these regulations in section 1-1.

Sec. 3-6. Construction plans and specifications.

- (a) Generally. Prior to the construction of any streets and utilities, the developer shall furnish two (2) complete sets of plans and specifications for such construction to the city for possible engineering review. These documents shall be transmitted in writing. These plans and specifications will be reviewed for conformity with this chapter and the city standards. The plans and specifications shall be approved in writing prior to any construction. The city shall be notified prior to the beginning of construction so that the work may be inspected.
- (b) Plans.
 - (1) General. The plans shall be securely bound and shall consist of a title sheet and such plan-profile and detail sheets as are required to meet the requirements of this chapter and to properly define the proposed work. The title sheet shall show the name of the subdivision, engineer, date, and an index of drawings. Each plan-profile will generally be drawn to a horizontal scale of no greater than one (1) inch to one hundred (100) feet and a vertical scale of one (1) inch to ten (10) feet.
 - (2) Plan-profile sheets for streets and alleys. There shall be a plan-profile for typical streets and alleys. The profile shall show the existing ground on each side of the street at the property line, the proposed grade of the top of the curb for each side of the street, location of utilities, and other information necessary to define the work. The existing and proposed street centerline grades may be shown in lieu of property line and curb grades when permitted.

- (3) Plan-profile sheets for storm sewer. The plans shall show all information necessary to locate and construct the proposed work and shall show the locations of all manholes, inlets, and other appurtenances of the system. The profile shall show the existing natural ground at the storm sewer centerline and the proposed grade at the centerline if such grade will not be the same as the existing grade. The size, grade, and material of the proposed pipes and the flowlines of all manholes, inlets, etc., shall be shown. Both the flowline and the inside top of the pipes shall be shown in the profile. These plans shall be accompanied by the engineer's calculations when requested by the city.
- (c) Specifications. The specifications shall be securely bound and shall consist of the following minimum information: General condition of agreement, special conditions of agreement, and all applicable technical specifications. The special conditions shall contain provisions for time of completion, performance, and payment bonds, and other pertinent requirements.

Sec. 3-7. Final inspection.

- (a) Upon completion of construction, the developer shall arrange a final inspection of all streets and utilities. This inspection may be attended by the developer, his engineer, the contractor, and an engineer designated by the city.
- (b) If the engineer designated by the city determines that the streets and utilities are complete and in accordance with the approved plans and specifications, he shall so inform the city in writing, and copy the developer. The developer shall then transmit in writing to the city a notice of completion, the required bonds, and the as-built drawings.

Sec. 3-8. As-built drawings.

Upon completion of construction, and prior to the city's acceptance, the developer shall furnish the city with a complete set of reproducible as-built drawings marked "As-Built" and shall be signed by the engineer who prepared the plans and supervised the construction, provided such may be in a digital format. In addition the developer shall submit to the city one (1) copy of all black or blue line prints of the project.

Sec. 3-9. Formal acceptance by the city.

- (a) After the work has been inspected, and the developer has been advised that the streets and utilities conform to approved plans, the developer shall give a formal notice of completion to the city. This notice shall be in writing and shall be accompanied by the as-built drawings, payment, performance bonds, and all fees that are due.

- (b) Approval of final plat by the city council shall be deemed acceptance of any dedication shown on the plat. These dedications shall be accepted by the city or county as prescribed by law.
- (c) No street or alley, which shall hereafter be dedicated to public use by the proprietor of grounds in the city, shall be deemed a public street or alley, or to be under the care or control of the city council, unless the dedication shall be accepted and confirmed by an ordinance especially passed for that purpose.

Sec. 3-10. Plats straddling municipal boundaries.

When access to the subdivision is required across land in another municipality, the planning commission or city council may request assurance from the respective city attorney that access is legally established, and from the said city's engineer that the access road is adequately improved or that a performance bond has been duly executed and is sufficient to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.

Sec. 3-11. Monuments, markers and survey criteria.

- (a) Monuments required. Prior to the offering of the plat of any subdivision for record the land surveyor shall establish, or confirm the prior establishment of permanent monuments at each and every controlling corner on the boundary of land being subdivided, and shall be seen at the following locations:
 - (1) At every corner and angle point of every lot, block or parcel of land created.
 - (2) At every point of intersection of the outer boundary of the subdivision with an existing or created right-of-way line of any street, railroad, or other way.
 - (3) At every point of curve, point of tangency, point of reversed curve, or point of compounded curve on each and every right-of-way line established.

In such cases where the placement of a required monument at its proper location is impractical, it shall be permissible to set a reference monument close by that point; and if such reference monument is set prior to the recording of the plat and its location properly shown, it shall have the same status as other monuments of record; where any point requiring monumentation has been previously monumented, the correctness of the existing monument shall be confirmed by the land surveyor, if used, and if so confirmed, shall likewise be considered a monument of record when properly shown and described on the plat recorded.

- (b) Type of monuments. The type of permanent monument to be placed shall be selected from the following types. The surveyor shall select a type providing the

degree of permanency consistent with that of the adjacent terrain and physical features.

- (1) Iron pipe not less than one-half-inch inside diameter and/or solid or coated steel rods not less than one (1) inch in diameter and not less than twenty-four (24) inches in length. These monuments shall be solid and free from movement and below normal frost line.
 - (2) Metal markers shall be no less than twenty-four (24) inches in depth unless encased in concrete with its precise position marked by a point or cross. These monuments shall be placed so as to be solid and free from movement and below normal frost level.
 - (3) Concrete monuments consisting of reinforced concrete at least four (4) inches in width or diameter and not less than twenty-four (24) inches in depth with its precise position marked on a metal cap, by a formed cross or metal rod.
 - (4) Brass disk not less than two (2) inches in diameter, countersunk and well cemented in a drill hold in either solid rock or concrete with its precise position marked by a point or cross.
- (c) Reference to direction and basis of bearing. Reference to direction shall be established by one (1) of the following methods: Astronomical Observation (true North), state plane coordinate north, a recorded bearing of an established and well fixed line, or use of modern devices for the determination of true north that have been proven equal or superior to the previously stated methods. The final plat shall carry on its face a note explaining the basis of bearing.
- (d) Error of closure. The accuracy of the fieldwork thus performed shall be substantiated by the computations of a closed traverse. The relative error of closure permissible shall be no greater than one (1) foot in ten thousand (10,000) feet.
- (e) The positional tolerances. Block or lot corners must relate to one another within specified tolerances. Such tolerances shall be designated under the following classification:
- (1) Class I. Small areas wherein dense monument controls exist, as in a downtown commercial area. Lots fifty (50) by one hundred (100) feet.
 - (2) Class II. Longest side under two hundred fifty (250) feet.
 - (3) Class III. Longest side from two hundred fifty (250) feet to one thousand three hundred twenty (1,320) feet. No side under one hundred (100) feet.
 - (4) Class IV. All sides one thousand (1,000) feet or larger and those having a periphery of five thousand two hundred eighty (5,280) feet or more.

- (5) The positional tolerances for these classes will be:
- | | | |
|----|-----|-----------|
| a. | I | 0.10 foot |
| b. | II | 0.25 foot |
| c. | III | 0.50 foot |
| d. | IV | 1.00 foot |

(f) Maximum Degree of Curve

Arterial streets:	10 degree curve
Collector streets:	15 degree curve
Commercial streets:	20 degree curve
Local streets:	40 degree curve

Sec. 3-12. Storm drainage improvements.

- (a) Every subdivision shall be served by storm drainage facilities, which may include drains, sewers catch basins, culverts, swales, or other facilities.
- (b) All drainage facilities shall be so designed to serve the entire drainage area. In major drainage areas, the city may participate in the cost of certain improvements.
- (c) All surface water drainage shall be transported to existing storm sewers or to drainage facilities approved by the city council.
- (d) The city council shall approve all drainage facilities.
- (e) Curb and gutters shall be installed on all public streets within the corporate limits, except where terrain or landscaping renders it inappropriate or unnecessary in the discretion of the city council. Outside the corporate limits, installation shall be in accordance with the city specifications. As an alternative to curb and gutters, a developer may install open drainage per the standards of Washington County.
- (f) After completion of the streets and utilities, the site shall be cleaned up and graded to drain properly.
- (g) The city may engage an engineer who shall review drainage plans, and report his findings and recommendations to the planning commission.

Sec. 3-13. Storm drainage criteria.

- (a) Storm drainage for residential areas shall be designed for a ten-year frequency rainfall, shopping centers for a ten-year frequency, and the downtown and central business district for a twenty-five-year frequency rainfall.

- (b) The drainage system shall be designed and constructed to handle rainfall runoff that originates in or traverses the subdivision.
- (c) Street crowns shall not be flattened, or warped, from one side of the street to the other for the purpose of causing water to flow from one side of the street to the other side, unless specifically approved by the city based on sound engineering advice.
- (d) Water shall be picked up in all streets at least every six hundred (600) feet by means of catch basins, drainage pipes or curb and gutter. Unpaved drainage swales or ditches shall be allowed along rear lot lines or in common space where it can be demonstrated to the city council that surface drainage is adequately accommodated. Where catch basins are located, drainage shall be underground along front or side yard easements or street rights-of-way.
- (e) Individual drainage of each lot shall be the responsibility of the individual homebuilder or lot purchaser. However, it is the responsibility of the developer to provide adequate drainage easements and structures such that proper drainage can be effectuated through use of "Turtle Back" lot contours or swales.
- (f) No open drainage channels shall be constructed within the area dedicated as public streets and alleys.
- (g) As a general policy, a developer shall be required to improve major drainage channels on a prorated basis, based on the percentage of total drainage area contributed by a given development. The design characteristics of each development and its provision for drainage shall also be considered when calculating major drainage improvements.
- (h) Whenever drainage ditches are used, such ditches may require concrete or gunite lining, designed to retain their original design characteristics, and designed so they can at all times be kept clean and easily maintained.

Sec. 3-14. Lot design criteria.

- (a) Insofar as practical, side lot lines shall be perpendicular or radial to street lines. Each lot shall abut upon a street.
- (b) The size, shape and orientation of every lot shall be as the planning commission or city council deems appropriate for the type of development and use contemplated. Unless otherwise provided by law, new residential lots shall not be less than two (2) acres in size.
- (c) For residential lots not served by a public or community sanitary sewage system, lot sizes shall be determined as follows: A subdivider shall have a percolation set

test or soil morphology test conducted on each proposed lot of a subdivision and indicate the location and result of each test on the preliminary plat; the dimensions and area of each lot may be established at the levels necessary to fulfill the requirements of the State Health Department and the Arkansas Department of Environmental Quality; provided no new lot shall be platted that is less than two (2) acres unless otherwise provided by law.

- (d) Building lines for R-1 residential lots shall be at least thirty (30) feet from each street property line. Corner lots shall be at least one hundred and fifty (150) feet wide at the building line to allow for side building lines.
- (e) Lots, other than corner lots, fronting on two (2) streets, shall not be platted except under exceptional circumstances, in which case building line shall be established on both frontages.
- (f) Depth and width of properties reserved or laid out for business or commercial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated for.
- (g) Every lot shall front on or abut a street.
- (h) Size, shape and arrangements of commercial lots, where platted, shall be subject to the approval of the city council.
- (i) Building lines for commercial lots shall be at least twenty-five (25) feet from each street property line, or as required by the city council.

Sec. 3-15. Block design criteria.

- (a) Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions of this prescribed block width shall be permitted in blocks adjacent to major streets or waterways.
- (b) The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block length in residential areas shall not exceed two thousand (2,000) feet, nor less than five hundred (500) feet in length. Wherever practicable, blocks along major arterial and collector streets shall be less than one thousand (1,000) feet in length.
- (c) Pedestrianways or crosswalks, not less than ten (10) feet wide, may be required by the planning commission or city council through the center of blocks more than eight hundred (800) feet long where deemed essential to provide circulation or access to playgrounds, shopping areas, transportation, or other community facilities.

Sec. 3-16. Easements.

- (a) In all new residential subdivisions, all utilities including stormwater, cable television, electrical and telephone distribution systems or other services shall be laid underground. It shall be the responsibility of the developer to initiate any request for exception to the laying of underground utilities.
- (b) Easements for electrical and telephone service shall be a minimum of ten (10) feet wide and be established at the front, rear, and along other such lot lines as to provide continuity of alignment from block to block; to be installed underground within easements of public dedication. Pole position for each streetlight to be served from underground street light supply lines should be designated on the plat and necessary easements provided to furnish access to such position.
- (c) Utility easements not less than five (5) feet wide should be provided on each side of all rear lot lines and where necessary, along side lot lines.
- (d) Where a subdivision is traversed by a watercourse, drainage-way, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the line of such watercourse and of such width or construction or both as will be adequate. Wherever possible, it is desirable that the drainage be carried by an open channel with landscaped banks and adequate width for minimum potential volume of flow.
- (e) In all new subdivisions, a utility easement for the general use of the public shall be provided by the subdivider or developer to permit the extension of water lines across the property being developed so as to allow further expansion of water service to adjacent properties.

DIVISION B. STREETS

Sec. 3-17. Street improvements.

- (a) Street grading. All streets shall be cleared and graded in conformance with approved plans.
- (b) Street paving. Streets shall be paved to widths specified in herein. The city may participate in the construction of streets designated on the master street plan as arterials. The developer shall install pavement up to thirty-five (35) feet in width from back-of-curb to back-of-curb. The developer shall pay the cost up to collector standards and the city shall pay the additional costs except that right-of-way shall be dedicated at no cost to the city.
- (c) Street name signs. Street name signs shall be required in all subdivisions and paid for by the developer. Such signs shall conform to specifications of the city.

Sec. 3-18. General requirements.

- (a) All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way as established by the master street plan (see comprehensive plan).
- (b) All thoroughfares shall be properly related to special traffic generators such as industries, business areas, schools, churches and shopping areas; to population densities; and to the pattern of existing and proposed land uses.
- (c) Minor streets shall be laid out to conform as much as possible to the topography, to discourage use by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient, safe access to property.
- (d) The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged where such use will result in more desirable layout.
- (e) Proposed streets shall be extended to the boundary lines of the tract to be subdivided unless prevented by topography or other physical conditions, or unless in the opinion of the city council such an extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.
- (f) In business developments, the streets and other accessways shall be planned in connection with the grouping of buildings, the provisions of alleys, truck loading and maneuvering areas, fire protection, and walking and parking areas, so as to minimize conflicts of movement between the various types of traffic, including pedestrian.
- (g) Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the above minimum street width requirements from each side of the centerline as applicable, if the existing dedicated right-of-way is insufficient to meet the minimum requirements for right-of-way dedication.
- (h) When the subdivision is located on only one side of the centerline of an existing street, one half of the required right-of-way, in no case less than twenty-five (25) feet, nor more than fifty (50) feet measured from the centerline of the existing roadway shall be provided.
- (i) When a tract fronts on streets other than minor streets or collector streets, the city council may require affected lots fronting on such major streets to be provided with frontage roads.

- (j) Grades on minor streets and cul-de-sacs shall not exceed fifteen (15) percent. Grades on all other streets shall not exceed standards of the master street plan, or when no standards have been established, seven (7) percent shall be the maximum grade permitted. Street grades along the gutter shall not be less than four-tenths (0.4) percent or as approved by an engineer designated by the city.
- (k) Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle less than seventy-five (75) degrees. Detailed designs of intersections may be required.
- (l) Property line radii at street intersections shall not be less than twenty-five (25) feet and where the angle of street intersection is less than ninety (90) degrees, the planning commission may recommend that the city council require a greater radius.
- (m) Curb line radii at street intersections shall be at least twenty-five (25) feet and where the angle of the street intersection is less than ninety (90) degrees, the planning commission may recommend that the city council require a greater radius.
- (n) Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted. There shall be no jogs on collector or arterial streets.
- (o) Cul-de-sac streets or courts designed to have one (1) end permanently closed shall be no more than twelve hundred (1,200) feet long. The planning commission, if it deems this requirement creates an undue hardship on the developer, may allow a cul-de-sac street or court to extend to a maximum of fifteen hundred (1,500) feet. If the developer feels that a cul-de-sac street or court should exceed fifteen hundred (1,500) feet, he will be required to seek a deviation for relief from the city council.
- (p) Alleys may be required at the rear of all lots to be used for business purposes, but shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the planning commission and city council, of the need of alleys.
- (q) Reserve strips controlling access to streets shall be prohibited except under approved conditions.
- (r) All pole lights shall be configured such that no light shall be visible on a horizontal plane.

Sec. 3-19. Street design criteria.

- (a) The location and width on all highways, thoroughfares, streets and roads shall

conform to the master street plan. Proposed street systems shall extend existing streets on projections at the same or greater width, but in no case less than the required minimum width.

- (b) A functional street pattern that discourages through traffic on minor streets will be encouraged. Entrances to a subdivision should be via collector streets and arterials where possible.
- (c) Interior parcels shall be wide enough to provide two (2) tiers of lots of minimum depth, except where fronting on freeways, expressways, or major thoroughfares or prevented by topographical conditions or size of property, in which case the planning commission may approve a single tier of lots of minimum depth.
- (d) The planning commission shall have the authority to disapprove street lot patterns that will, in its judgment, result in hazards to the general health, safety, and welfare of the citizens of the city.
- (e) Street right-of-way widths.
 - (1) Controlled access facility: 200 feet
 - (2) Principal arterial: 90/80 feet
 - (3) Minor arterial: 70 feet
 - (4) Major collector: 70 feet
 - (5) Minor collector: 60 feet
 - (6) Cul-de-sac: 50 feet
 - (7) Local & loop streets: 50 feet
 - (8) Alleys: 20 feet

(Right-of-way requirements in excess of one hundred (100) feet as shown on the recorded master street plan, shall be reserved for acquisition by the appropriate public body at a later date, on all properties purchased on or after the adoption of these regulations).

- (f) Street paving widths.
 - (1) Freeways and expressways: as specified in the master street plan.
 - (2) Arterial (principal and minor): as specified in the master street plan.
 - (3) Major collector: forty-seven (47) feet from back-of-curb to back-of-curb.
 - (4) Minor collector: thirty-five (35) feet from back-of-curb to back-of-curb.
 - (5) Cul-de-sac: twenty-seven (27) feet from back-of-curb to back-of-curb.
 - (6) Local and loop streets: twenty-seven (27) feet from back-of-curb to back-of-curb.
 - (7) Alley: twenty (20) feet.

(g) Street paving construction.

- (1) Asphalt, hot mix-hot laid, two (2) inches thick, laid on six (6) inches of compacted soil cement, and primed with MCO primer, and shall be placed on subgrade with all unsuitable material removed and with a minimum density of ninety-five (95) percent Modified Proctor; or
- (2) Asphalt, hot mix-hot laid, two (2) inches thick, laid on an eight-inch stabilized aggregate subgrade, and primed with MCO primer. The aggregate base shall weather from November 1 through April 30 and have as a minimum a ninety-five (95) percent compaction prior to paving; or
- (3) Two (2) inches of asphaltic concrete hot mix surface course and compacted crushed stone base placed on compacted subgrade. The base course shall be eight (8) inches of material conforming to the current Arkansas State Highway Specifications, Base Course Material, Designation SB-2 or GB-3, and shall be placed on subgrade with all unsuitable material removed and with a minimum density of ninety-five (95) percent Modified Proctor; or
- (4) Concrete, laid six (6) inches thick, with three thousand (3,000) pounds strength and shall be placed on sub grade with all unsuitable material removed and with a minimum density of ninety-five (95) percent Modified Proctor; or
- (5) In accordance with specifications established by the city.
- (6) Alley paving construction. Double seal coat on an eight-inch stabilized aggregate base course and primed with MCO primer; except in residential subdivisions, easements shall be allowed in lieu of alleys.

(h) The following tables and diagrams apply to this section:

LOCAL, CUL-DE-SAC, & LOOP STREETS

Service Volume	-	2,500 vpd
Speed	-	25-30 mph
Traffic Lanes	-	2-12 ft. thru lanes
Parking Lanes	-	None
Paved Width *	-	27 ft.
Right-of-Way	-	50 ft. 0
Sidewalks	-	At least one 3 ½ ft. minimum sidewalk should be provided; 8 ft. clearance from traffic lanes should be provided where possible.

* Back-of-Curb to Back-of-Curb

MINOR COLLECTOR

Service Volume	-	4,000 vpd
Speed	-	30-35 mph
Traffic Lanes	-	2—11 ft. thru lanes; 10 ft. turn lane at intersections when necessary (this will increase service volumes to approximately 5,800).
Parking Lanes	-	10 ft. lane provided but not necessarily defined; none when turn lane is provided.
Paved Width*	-	35 ft.
Right-of-Way	-	60 ft.
Sidewalks	-	At least one 3 ½ ft. minimum sidewalk should be provided preferably adjacent to parking lane when a lane is delineated; 8 ft. clearance from traffic lanes should be provided where possible.

* Back-of-Curb to Back-of-Curb

MAJOR COLLECTOR AND MINOR ARTERIAL

Service Volume	-	12,200 vpd
Speed	-	35-40 mph
Traffic Lanes	-	4—11 ft. thru lanes; 11 ft. left turn lane at intersections when necessary (14,800 vpd service volume).
Parking Lanes	-	None
Paved Width*	-	47 ft.
Right-of-Way	-	70 ft.; 80 ft. for intersection widening
Sidewalks	-	2—3 ½ ft. minimum sidewalks; 8 ft. clearance from traffic lanes where possible; consideration should be given to widening in vicinity of high pedestrian traffic.

* Back-of-Curb to Back-of-Curb

PRINCIPAL ARTERIAL

Service Volume	-	17,600
Speed	-	40-45 mph
Traffic Lanes	-	4-12 ft. thru lanes; 12 ft. left turn lane at intersections where necessary.
Parking Lanes	-	None
Paved Width*	-	51 ft.
Right-of-Way	-	80 ft.; 90 ft. for intersection widening

- Sidewalks - 2—3 ½ ft. minimum sidewalks; 8 ft. clearance from traffic lanes where possible; consideration should be given to widening in vicinity of high pedestrian traffic.

* Back -of-Curb to Back-of-Curb

FREEWAYS AND EXPRESSWAYS

- Service Volume - 28,300 vpd expressway; 44,800 vpd freeway
- Speed - 55-70 mph
- Traffic Lanes - 4—12 ft. thru lanes; where at-grade intersections occur, right and left turn lanes should be provided.
- Parking Lanes - None; emergency parking permitted on shoulders.
- Shoulders - 10 ft. outside and 6 ft. inside shoulders.
- Side Slopes - Slopes should not exceed a minimum ratio of 6:1 to a distance 30 ft. from the edge of traffic lanes.
- Paved Widths - 98 ft. depressed; 84 ft. raised.
- Right-of-Way*** - 200 ft.
- Sidewalks - None
- Median - 24 ft. minimum, desirable; median is measured between inside edges of opposing traffic lanes.
- Frontage Roads - Where heavy development—especially commercial and industrial—design should be altered to provide for frontage roads, preferably one-way.

* When federal funding is involved, the depressed median shown as 18' should be 48'; this provides a 60' median—48' plus two 6' shoulders.

** When raised median is used, a New Jersey barrier wall is normally incorporated into the design for safety.

*** On federally funded and state projects, R-O-W requirements will normally be greater—usually 300'—with widening interchanges.

DIVISION C. UTILITIES

Sec. 3-20. Improvements outside corporate limits.

All costs incurred in the extension of utilities (within and) beyond the corporate limits of the city shall be paid by the developer and/or group receiving the benefits of such extensions.

Sec. 3-21. Water supply.

- (a) Where a public water supply is within one-quarter mile, the developer shall install or have installed a system of water mains and connect to such supply. No street

cuts for utility connections will be allowed after the street has been paved.

- (b) Where a public water supply is not available, each lot in a subdivision shall be furnished with a water supply system approved by the State Health Department.
- (c) Fire hydrants shall be required in all subdivisions. The maximum distance between fire hydrants shall be five hundred (500) feet.

Sec. 3-22. Sewage disposal.

- (a) With there being no public sanitary sewer system in Goshen, an alternate method of sewer disposal system may be used when in compliance with the standards of the Arkansas State Board of Health and these regulations.

Sec. 3-23. Utility design criteria.

- (a) Water supply and distribution. All subdivisions shall be provided with water supply and water distribution systems approved by and meeting the requirements of the state department of health.
- (b) Water service connections. Water service connections shall be provided for every lot in the subdivision and the respective water system specifications shall govern the size and material used in the installation of water service connections.

Sec. 3-24. Private water supply, septic tanks and absorption systems.

- (a) Where a public water supply is not available, or a public sanitary sewer is not accessible, a certificate or letter from the county health department shall be presented showing the results of soil morphology or percolation tests for septic tanks and a statement as to the ability of soil to absorb water. The statement must set out that septic tanks meet the requirements of the state health department. The letter shall also state the state health department's recommendation as to the approximate recommended depth of wells, if known. If unknown, the subdivider shall sink a test well to enable the state health officer to evaluate the adequacy of the individual well water supply. The statement must set out that the well meets the requirements of the state health department.
- (b) Whenever an on-site septic tank and an absorption system or water supply is to be provided, the subdivider shall require, as a condition in the bill of assurance of the subdivision, that those facilities shall be installed by the builders of the improvements in accordance with regulations and in compliance with the standards of the Arkansas State Department of Health.

SECTION FOUR [FORMERLY APPENDIX A] CONSERVATION SUBDIVISIONS

Sec. 4-1 Purposes.

- A. To provide a residential district that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land.
- B. To preserve in perpetuity unique or sensitive natural resources such as groundwater, flood plains, wetlands, streams, steep slopes, woodlands and wildlife habitat.
- C. To preserve important historic and archaeological sites.
- D. To permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.
- E. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.
- F. To promote interconnected greenways and corridors throughout the community.
- G. To promote contiguous greenspace with adjacent jurisdictions.
- H. To encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places and encouraging use of parks and community facilities as focal points in the neighborhood.
- I. To encourage street designs that reduce traffic speeds and reliance on main arteries.
- J. To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles.
- K. To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of Open Space.
- L. To protect prime agricultural land and preserve farming as an economic activity.

Sec. 4-2 General Regulations.

- A. Applicability of Regulations. This Conservation Subdivision option is available as a use by right in all residential zoning districts, including the NR district. The applicant shall comply with all other provisions of the zoning regulations and all other applicable laws, except those that are incompatible with the provisions contained herein.

Sec. 4-3 Application Requirements.

- A. Minimum Site Size. The site must contain at least forty (40) acres.
- B. Site Analysis Map Required. Concurrent with the submission of a site concept plan, the applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed Open Space will meet the requirements of this appendix. The preliminary site plan shall include the following features:
 - 1. Property boundaries;

2. All streams, rivers, lakes, wetlands and other hydrologic features;
3. Topographic contours of no more than 2-foot intervals;
4. General vegetation characteristics;
5. The planned location of protected Open Space;
6. Existing roads and structures;
7. Potential connections with existing greenspace and trails; and
8. For property adjacent to navigable waters, all U.S. Army Corp. of Engineer “take” lines and flowage easements.

C. Open Space Management Plan Required. An Open Space management plan, as described in Section 1-4, shall be prepared and submitted prior to the issuance of the notice to proceed. No land may be disturbed prior to issuance of the notice to proceed.

D. Instrument of Permanent Protection Required. An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant and as described in Section 4-4, shall be placed on the Open Space concurrent with issuance of the notice to proceed.

E. Restriction on Frontage Property. No more than one-third (1/3) of the land that lies along major road frontage (i.e. primary arterial, minor arterial and collector streets) can be used for commercial or residential lots. The Planning commission of Goshen shall be permitted to make exceptions on properties that are positioned at the intersections of major roadways.

F. Calculation of Lot Density. The number of lots permitted within a subdivision developed pursuant to this ordinance shall be determined by multiplying the total area by 0.45. This number shall be rounded to the lower whole number.

G. Minimum Lot Size. Seventy Five percent (75%) of all lots must be one (1) acre or more, with the remaining percentage of lots required to be at least three quarters (3/4) acre.

H. Other Requirements. The applicant shall adhere to all other applicable requirements of the underlying zoning district, and the subdivision regulations.

Sec. 4-4 Open Space.

A. Definition. Open Space is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the Open Space are restricted in perpetuity through the use of an approved legal instrument.

B. Standards to Determine Open Space.

1. The minimum restricted Open Space shall comprise at least 40% of the gross tract area.
2. Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected Open Space but cannot be counted towards the 40% minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the Open Space.
3. At least 25% of the Open Space shall consist of land that is suitable for building.
4. At least 75% of the Open Space shall be in a contiguous tract and not divided up into multiple small areas. The Open Space shall adjoin any neighboring areas of Open Space, other protected areas, and non-protected natural areas that would be

candidates for inclusion as part of a future area of protected Open Space.

5. The Open Space shall be placed to have the optimal scenic impact, especially along primary arterial, minor arterial and collector streets.

6. The Open Space shall be directly accessible to the largest practicable number of lots with the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the Open Space.

7. The Open Space shall have a minimum depth of two hundred feet (200') measured at a perpendicular from any of its perimeter boundary.

8. At least forty-five percent (45%) of the Open Space shall be natural area which is defined as substantially undisturbed by development.

C. Permitted Uses of Open Space.

1. Uses of Open Space may include the following:

- a. Conservation of natural, archeological or historical resources;
- b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
- c. Walking or bicycle trails;
- d. Passive recreation areas, such as open fields;
- e. Active recreation areas, provided that they are limited to no more than 10% of the total Open Space. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected Open Space;
- f. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;
- g. Landscaped stormwater management facilities, community wastewater disposal systems and individual wastewater disposal systems located on soils particularly suited to such uses;
- h. Easements for drainage, access, and underground utility lines; and
- i. Other conservation-oriented uses compatible with the purposes of this appendix.

D. Prohibited Uses of Open Spaces.

1. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
2. Agricultural and forestry activities not conducted according to accepted best management practices; and
3. Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.
4. Other activities as determined by the city council and recorded on the legal instrument providing for permanent protection.

E. Ownership and Management of Open Space.

1. Ownership of Open Space. A homeowners association representing residents of the conservation subdivision shall own the Open Space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The homeowners' association shall have lien authority to ensure the collection of dues from all members. The homeowners' association shall have the

responsibility for maintaining the Open Space and any facilities.

2. Management Plan. The applicant shall submit a Plan for Management of Open Space and Common Facilities ("Plan") that:

- a. allocates responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
- b. estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outlines the means by which such funding will be obtained or provided;
- c. provides that any changes to the Plan be approved by the Board of Planning commissioners; and
- d. provides for enforcement of the Plan.

3. In the event the party responsible for maintenance of the Open Space fails to maintain all or any portion in reasonable order and condition, the City of Goshen may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowner's association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

F. Legal Instrument for Permanent Protection.

1. The Open Space shall be protected in perpetuity by a binding legal instrument that is recorded. The instrument shall be a permanent conservation easement in favor of the City of Goshen in the form attached to these regulations as Attachment "A".

2. The instrument for permanent protection shall include clear restrictions on the use of the Open Space. These restrictions shall include all restrictions contained in this appendix, as well as any further restrictions the applicant chooses to place on the use of the Open Space.

G. Tax Assessment of Open Space. Once a legal instrument for permanent protection has been placed upon the Open Space, the City of Goshen shall notify the Washington County Assessor's Office of the City's recommendation that the Open Space be reassessed at a lower value to reflect its more limited use. If the Open Space is used purely for passive recreational purposes and the terms of the instrument for permanent protection effectively prohibit any type of significant economic activity, then the lowest possible assessment value shall be recommended.

H. Enforcement. The zoning official will have the authority to enforce compliance of the Open Space use and management plan. Upon recommendation of the zoning official to the Goshen mayor, the city would have authority to repair and maintain any neglected Open Space at the POA/owners expense. Appropriate liens would be placed on all or any properties of the subdivision if the city is not reimbursed for such repair and maintenance.

ATTACHMENT "A"

PERMANENT CONSERVATION EASEMENT

STATE OF ARKANSAS)

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF WASHINGTON)

That for and in consideration of one dollar and other valuable consideration to the undersigned, _____, Grantor, cash in hand paid, the receipt of which is hereby acknowledged, the said Grantor does hereby grant, bargain, sell and convey unto the City of Goshen, Grantee, its successors and assigns, a permanent conservation easement consistent with Ordinance No. 44 adopted by the City Council of the City of Goshen, Arkansas with the rights of ingress and egress to and from the same, on, over, across and under the following described real estate, to-wit:

Property Description:

Grantee shall have all of the rights and the foregoing property, as well as any person or entity who has ownership of it, shall be burdened with all the restrictions with respect to the foregoing property which is hereby designated as Open Space, consistent with Ordinance No. 44 adopted by the City Council of the City of Goshen, Arkansas on March 9, 2004. The restrictions contemplated by the Ordinance, as such existed at the time of the grant of this easement, are all hereby incorporated into this instrument by reference as though set out word for word. Said restrictions shall be considered perpetual covenants which run with the land. No subsequent amendment of such Ordinance shall have the effect of removing any of the restrictions contemplated by the Ordinance as such existed at the time of the grant of this easement. Grantee cannot, by action of any council, remove these restrictions or release this easement. Neither can these restrictions be removed by subsequent sale or acquisition of the above-described property, even if acquired by Grantee. It is the specific intent of the parties that the doctrine of merger of title shall not apply to any acquisition by Grantee. Similarly, it shall not affect this easement and the restrictions contained herein if the property is removed from the city limits of the City of Goshen by subsequent statutory procedure or Court action. This easement is perpetual and the only manner in which this easement and the restrictions contained herein can be lifted is by court order issued by a court of competent jurisdiction. In such action, the Grantor and the City of Goshen, or their heirs, successors and assigns, shall be necessary parties and notice must be given to all property owners within a one-mile radius of the property, all of whom are intended by the parties herein to have standing to intervene or otherwise be a party to such court action. In such action, the court, before lifting any of the restrictions contained herein, must find, after hearing from all parties, as a matter of fact and law, consistent with the legal principles found in the case of *Storthz v. Midland Hills Land Company*, 192 Ark. 273, 90 S.W. 2d 772 (1936) that the conditions surrounding the property have so changed as [1] to utterly destroy its value for the purpose for which the restriction was promulgated to prevent, and [2] that this change of conditions is due to no fault on the part of the petitioner and [3] will work no irreparable injury to others.

No buildings, structure, or other improvements shall be constructed on the property, nor shall any other action be taken with respect to the property which is inconsistent with the rights and restrictions created hereby.

It is further understood that this easement shall be exclusive to Grantee and that Grantor shall convey no rights to any person, utility or corporation on, across or under said property inconsistent herewith, without the express written permission of Grantee.

TO HAVE AND TO HOLD the above-described easement and right unto said Grantee, their successors and assigns, forever or until said right of way is finally abandoned.

And Grantor agrees to warrant and forever defend all and singular the above described easement and rights unto said Grantee, their successor and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

And we, _____, for and in consideration of the aforementioned consideration, do hereby release and relinquish unto the said Grantees all our right of curtesy, dower and homestead in and to the said lands.

IN WITNESS WHEREOF, the hand and seal of Grantor is hereunto set, this ____ day of _____, 20__.

A C K N O W L E D G M E N T

STATE OF ARKANSAS)
)ss.
COUNTY OF WASHINGTON)

BE IT REMEMBERED, that on this date, before me a Notary Public within and for said County and State duly planning commissioned and acting, personally appeared, _____, to me well know as the persons who executed the foregoing permanent conservation easement, and that they had executed the same consideration and purpose herein mentioned and set forth.

WITNESS my hand and seal on this ____ day of _____, 20__..

Notary Public

My commission expires:

DRIVEWAY ORDINANCE

SECTION 1. DRIVEWAY PERMIT AND FEES.

Prior to construction of a driveway, a Driveway Permit shall be required and shall be obtained from the Building Official, upon forms prescribed for that purpose, accompanied with the appropriate fee established by the City Council to defray processing costs. Such permits shall be granted only upon the condition that the applicant satisfy the necessary requirements for proper drainage and construction. The application shall be accompanied by graphic representation showing the location and proposed use of the driveway, the size of the proposed drainage tile, along with such other descriptive material necessary for decision-making.

SECTION 2. SPECIFICATIONS.

a. Driveways and Access

1. Driveway design shall be such that minimization of interference with through street traffic is achieved, and shall be subject to site plan approval. The types of vehicles that a driveway is intended to serve shall be a prime factor in determining the acceptable radii of driveways.
2. At least one driveway shall be permitted for each lot.
3. Driveways shall be located a minimum of two feet (2') from the side property lines. At the intersection with the street and for a minimum distance of fifteen feet (15') of the depth of the driveway apron, a driveway shall be a minimum of twenty feet (20') from the side property lines. At the intersection with the street classified as a Local, Cul-de-Sac or Loop Street: (i) a separation of forty feet (40') is required between the driveways on one lot and the driveways on the adjacent lots; and, (ii) driveways on the same lot shall be no closer than fifty feet (50') to each other. At the intersection with the street classified as a Minor Collector, Major Collector, Minor Arterial, or Principal Arterial Street: (i) a separation of three hundred feet (300') is required between the driveways on one lot and the driveways on the adjacent lots; and, (ii) driveways on the same lot shall be no closer than three hundred feet (300') to each other.
4. Driveways on corner lots shall be located as far away from the intersection as possible. In no case shall a driveway be installed closer than twenty-five feet (25') to the beginning of the curb radius.

- b. Ingress/Egress Driveway Width. The width of the driveway throat shall not exceed forty feet (40') in width. Driveway lanes shall be a minimum of thirteen feet (13') in width and shall not have more than three (3) lanes in one

entrance/exit. Any arch over a driveway shall not have a vertical clearance less than fifteen (15') feet.

c. Ingress/Egress Driveway Apron.

1. If a driveway slopes down from the street, the apron of the driveway which connects it to the street shall be concrete or asphalt for a minimum distance of fifteen (15') feet from the street and shall be constructed so as not to shed water onto the street. If a driveway slopes up from the street, the apron of the driveway which connects it to the street shall be concrete or asphalt for a minimum distance of twenty-five (25') feet from the street and shall be designed so as not to shed water onto the street or permit loose gravel be washed onto the street.

2. If gravel washes onto the street from a driveway, the property owner may be: (i) given a written warning in which owner shall be instructed to remove the gravel on the street and remedy the problem so it does not recur; or (ii) if previously given a warning, given a citation for violation of this ordinance; or (iii) be required to pave more of the driveway apron to eliminate the problem. This subsection shall apply to all driveway aprons, new or existing.

d. Proper Drainage Tile. If it traverses a drainage ditch, any driveway to be connected to a public street must use a drainage tile or culvert of sufficient size so as to carry the flow of water along such street or road ditch during times of heavy rain. Such tile shall be installed in accordance with state highway standards, in the case of a state highway, or in the case of a county road or city street, Standard Specifications for Highway and Roadway Construction for Washington County then in effect.

SECTION 3. VARIANCE.

A variance is a relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant or someone acting at the direction of the applicant, a literal enforcement would result in unnecessary and undue hardship. Application for a variance from the literal provisions of this Driveway Ordinance shall be made to the City Council who shall not grant any variance unless and until an applicant demonstrates:

a. Special conditions. That special conditions and circumstances exist which are peculiar to the land involved.

b. Deprivation of rights. That literal interpretation of the provisions of this Driveway Ordinance would deprive the applicant of rights commonly enjoyed by other property in the City under the terms of the Driveway Ordinance.

c. Resulting actions. That the special conditions and circumstances do not result from the actions of the applicant.

d. No special privileges. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Driveway Ordinance to other property, in the City.

e. Nonconforming uses. No nonconforming use of neighboring lands, structures, or buildings in the City shall be considered grounds for the issuance of a variance.

f. Posting of decision. The decision by the City Council to grant or deny a variance shall be put in writing and sent to the applicant. It shall also be posted at City Hall at the same time it is sent to the applicant and a copy shall be given to the Recorder.

SECTION 4. PENALTY.

Any owner of property subject to this ordinance, who acts contrary to the requirements of this ordinance, shall be considered in violation of this ordinance. Any builder or contractor constructing a driveway not in compliance with this ordinance shall be considered in violation of this ordinance. Any person who violates this ordinance shall be subject to a fine or penalty up to \$250 for each violation. For purposes of this ordinance, each day of activity proscribed as unlawful under this ordinance shall be considered a separate violation for which the party violating the ordinance shall be subject. Any violation may form the basis of a citation to be issued by the City Marshall or may be referred to the City Attorney who shall apply to the appropriate court for relief, seeking either penalties or injunctive relief as permitted by law.