

CHAPTER 1244

Subdivision Procedures

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CROSS REFERENCES

Approval of plats; street system - see M.C.L.A. Sec. 125.43

Regulations governing subdivision of land; bond to secure improvement; publication of regulations - see M.C.L.A. Sec. 125.44

Approval or disapproval of plats; procedure; effect – see M.C.L.A. Sec. 125.45

Certification of city plats - see M.C.L.A. Secs. 125.51 et seq.

1244.01 PRE-APPLICATION SKETCH.

- (a) Unless waived in writing by the City Engineer, the proprietor shall submit ten copies of a sketch of a proposed subdivision to the City Clerk. The sketch plan shall show the entire development scheme of the subdivision in a schematic form, including the area for immediate development. The existing conditions and characteristics of the land and all pertinent features therein and adjacent to the site shall be noted. The general layout of streets, alleys, blocks and lots and any general area set aside for public open space shall be noted. The scale shall not be less than one inch equals 100 feet.
- (b) A letter or report from the proprietor's engineer or surveyor concerning the general feasibility of the land for subdividing shall be submitted if required by the City.
- (c) The City Clerk shall promptly transmit copies of the preliminary plat to affected City administrative officials.
- (d) The Planning Commission and City administration will review the plans with the proprietor or his or her agent. If requested, the Commission shall inform the proprietor or his or her agent of the policies of the City regarding the type of development proposed. Appropriate comments and suggestions concerning the proposed development scheme will be discussed. In the event of a disagreement regarding the design and layout, the proprietor shall be requested to revise his or her plans according to the recommendations of the Commission.
- (e) When the pre-preliminary sketch is satisfactory to the Commission, the proprietor may submit his or her preliminary plat. Acceptance of the sketch does not ensure acceptance of the preliminary plat.

(1976 Code Sec. 15.031)

1244.02 TENTATIVE APPROVAL OF PRELIMINARY PLATS.

- (a) Information and Data. The following shall be shown on the preliminary plat or submitted with it:
 - (1) The proposed name of the subdivision by which it shall be legally and commonly known. The name shall not closely approximate or duplicate any other subdivision on record in the City or in its immediate vicinity.

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- (2) A description of the boundaries of the proposed subdivision acceptable to the City Engineer;
- (3) The name and address of the proprietor; and the name, address, registration number and official seal impression on the preliminary plat of the engineer or surveyor who designed the preliminary plat. The scale shall be not smaller than one inch equals 100 feet. A north arrow shall be shown. Total acreage within the subdivision shall be indicated.
- (4) Drawings indicating the existing and proposed contours at intervals not to exceed two feet, subject to the approval of the City Engineer. Elevations shall be based on City datum, USC and GS datum. Other engineering data as may be required by the City related to street crossings, sewer elevations, water elevations and similar conditions shall be submitted.
- (5) The location of flood plain areas, rivers, streams, creeks, lakes, County drains, lagoons, slips, waterways, bays, canals and artificial impoundments, either existing or proposed, within or adjacent to the area to be platted;
- (6) The layout of all proposed lots with approximate dimensions and lot numbers. All lots shall be designated by consecutive numbers. Building set-back lines, parallel to proposed streets, shall show the pertinent dimensions.
- (7) Existing water mains, storm sewers, sanitary sewers, gas lines, power lines, telephone lines or other existing facilities, together with any ditches, culverts or natural watercourses, including data on general sizes, types and elevations of such existing utilities which are within or adjacent to the area to be subdivided;
- (8) Preliminary engineering plans and general descriptions and drawings showing proposed improvements. The engineering plans shall contain enough information and detail to enable the City to make a preliminary determination as to the conformity of the proposed improvements to applicable City requirements.
- (9) A map of the entire area scheduled for development, if the proposed plat is a portion of a larger holding intended for subsequent development;
- (10) The location of section lines, City limit lines and existing previously platted lots within the area to be platted and in areas immediately adjacent thereto. Existing streets, alleys, easements, railroads, utility right of ways, parks, public open spaces, buildings, structures and other existing improvements shall be shown.
- (11) The existing land use and zoning of the proposed subdivision and adjacent properties and intersecting boundaries thereof; and tax numbers of adjacent unplatted parcels or lot numbers if the adjacent land is subdivided;
- (12) The layout of all proposed streets, alleys and easements showing general courses, widths, lengths and proposed street names;
- (13) A statement of the intended uses of the proposed plat, such as residential single-family, two-family, multiple housing, commercial, industrial or recreation;
- (14) A general description of any site proposed for parks, playgrounds or schools, or of any parcel of land within the subdivision intended to be dedicated or reserved for public use or set aside for use by the property owners within the subdivision;
- (15) A description of all land owned by the proprietor adjacent to the land in the preliminary plat, together with a statement of present plans for the development of that adjacent land; and

- (16) A description of the type of residential buildings and the number of dwelling units contemplated, if specifically requested by the City. In addition, the proprietor shall furnish a draft of his or her proposed protective covenants or deed restrictions, if any, whereby he or she proposes to regulate land use in the subdivision and otherwise protect the proposed development.

(b) Authority of Planning Commission.

- (1) Application. The proprietor shall submit one brown line sepia and ten copies of the preliminary plat, and one original and ten copies of the documents containing all of the information required by subsection (a) hereof, to the City Clerk at least twenty-four calendar days before the next regular meeting of the Planning Commission at which the request for tentative approval of the preliminary plat is to be first considered.

(2) Action.

- (A) The Planning Commission shall hold a public hearing on the preliminary plat and accompanying information and shall review the same for compliance with law and recommendations of the City.
- (B) The Secretary of the Planning Commission shall publicly advertise such hearing in the official newspaper of the City and shall send notice thereof by mail to all owners of land immediately adjoining or within 300 feet of the property proposed to be platted. The time and place of the meeting of the Commission to consider such preliminary plat and accompanying information shall be given.
- (C) The Commission may, immediately following the public hearing, but within sixty days after the preliminary plat is first submitted to it, unless the proprietor agrees to an extension, in writing, grant tentative approval, grant tentative approval subject to certain modifications and/or written conditions or disapprove the proposed plat. Otherwise, such plat shall be deemed to have been approved. A certificate to that effect shall be issued by the Commission on demand.
- (D) If the plat is approved with modifications and/or conditions by the Commission, the reasons therefor shall be specified in writing. In approving a plat, with or without modifications or conditions, the Commission may grant variances from these Subdivision Regulations, but only in accordance with Section 1242.03, and must state its reasons therefor in writing.
- (E) If approved conditionally, the conditions and reasons therefor shall be stated in writing. For any conditional approval requiring a change in the plat, the Planning Commission may require the proprietor to submit a revised preliminary plat to the City Commission.
- (F) If disapproved, the reasons for that action shall be stated in writing. The Planning Commission shall, in writing, recommend such modifications as would render the plat acceptable to the Commission.
- (G) One copy of the preliminary plat as acted on by the Commission, signed by its Secretary and noting the action taken shall be retained in its records. One signed copy shall be delivered to the proprietor.

- (H) Tentative approval of the preliminary plat by the Commission shall be effective for one year. Following such approval, the general terms and conditions of the approval shall not be changed. However, if there is a change in the zoning classification of the land contained within a proposed plat, any approval given shall be null and void. No zoning change within the proposed plat shall be considered unless such change is consented to by the proprietor, in writing, and filed with the City.
- (I) A resolution containing the action of the Planning Commission, together with five copies of the plat and accompanying documents, shall be forwarded to the City Commission for consideration of tentative approval of the preliminary plat.

(c) Authority of City Commission.

- (1) Within thirty days from the date of the action of the Planning Commission, unless the proprietor agrees to an extension, in writing, the City Commission shall tentatively approve, tentatively approve subject to certain modifications and/or written conditions, or disapprove the proposed plat. Any approval shall be effective for one year. After such approval, the general terms and conditions of that approval shall not be changed. The City Commission may, but need not, hold a public hearing on the proposed preliminary plat.
- (2) No installation or construction of any improvement shall be made before final approval of the preliminary plat by the City Commission, and then only after the engineering plans have been approved by the City Engineer.
- (3) If approved conditionally, all conditions must be met prior to any consideration by the City Commission for final preliminary plat approval.
- (4) If a preliminary plat is disapproved at the tentative approval stage by the City Commission, it shall not be again considered by the City Commission until it has been again considered and acted upon by the Planning Commission.

(1976 Code Sec. 15.032)

1244.03 FINAL APPROVAL OF PRELIMINARY PLATS.

- (a) The proprietor shall submit to the City Clerk:
 - (1) Written approval of the preliminary plat by all authorities whose approval is required under Sections 112 through 119 of the 1967 Subdivision Control Act, being Act 288 of the Public Acts of 1967, as amended (M.C.L.A. 560.112 through 560.119).
 - (2) A written statement from the City Treasurer that there are no special assessments or ad valorem taxes outstanding against such property;
 - (3) Written approval of the preliminary plat by all public utility companies proposed to service the area to be subdivided; and
 - (4) Copies of the plat bearing the written approval of such authorities, boards and utility companies as may be designated by the City.
- (b) Upon receipt of the information set forth in subsection (a) hereof, the City Commission shall, at its next regular meeting or within twenty days, grant preliminary plat approval if the proprietor has met all the conditions, if any, of tentative approval. The City Commission shall instruct the City Clerk to notify the proprietor, in writing, of approval or rejection. If the plat is rejected, the reasons for such action shall also be noted. The

proprietor may revise such rejected plat and resubmit the same to the City Commission at a time within one year from the granting of tentative approval by the City Commission.

- (c) Final approval of the preliminary plat under this section shall confer upon the proprietor, for two years from the date of approval, the conditional right that any variance or other general term or condition under which approval was granted will not be changed. The two-year period may be extended by the City Commission if applied for by the proprietor in writing. Written notices of the extension shall be sent by the City Commission to other approving authorities. Failure on the part of the proprietor to proceed in accordance with these Subdivision Regulations with final plat procedures within the period specified shall result in automatic withdrawal of the approval of the preliminary plat. In order to regain such approval, the proprietor must again apply and precede through the pre-application sketch and preliminary plat stages in accordance with this chapter.

(1976 Code Sec. 15.033)

1244.04 APPROVAL OF FINAL PLATS.

- (a) The proprietor shall submit the final plat to the City Clerk.
- (b) The final plat shall comply with the Subdivision Control Act.
- (c) The final plat shall conform substantially to the preliminary plat as approved, except that it may constitute only that portion of the approved preliminary plat which the proprietor proposes to record and develop at the time.
- (d) The proprietor shall submit to the City Clerk, as evidence of title, an abstract of title certified to date with the written opinion of an attorney at law thereon, or at the option of the proprietor, a policy of title insurance or copy thereof, for examination in order to ascertain whether or not the proper parties have signed the plat.
- (e) The final plat shall be accompanied by one set of the approved, proposed construction plans and specifications for improvements and the necessary surety. However, if improvements have been satisfactorily completed and accepted by the City, as-built plans and any other plans as may be required by the City shall be submitted.
- (f) The City shall review the final plat for conformity with the preliminary plat and may prepare a set of recommendations to be submitted to the Planning Commission.
- (g) The Planning Commission shall examine the final plat and shall approve the plat, with or without modifications or conditions, or shall reject it. If the final plat is approved with modifications and/or conditions, the Commission shall specify, in writing, the reasons therefor. In approving a plat, the Commission may grant variances from these Subdivision Regulations, but only in accordance with the standards set out in Section 1242.03, and must state its reasons therefor in writing. If the final plat is rejected, the grounds for rejection, including citation to the applicable regulation, shall be stated on the record of the Commission. The Planning Commission shall transmit a written report of its action to the City Commission.
- (h) No final plat shall be approved by the City Commission without the prior approval of the Planning Commission.

The City Commission shall approve the final plat, with or without modifications or conditions, or shall reject it, within twenty days after the filing with the City Clerk of the written report of the Planning Commission.

Rejected plats may be referred back to the Planning Commission for further study and review and required correction.

One mylar copy and three paper prints of the final plat shall be filed by the proprietor with the City Clerk, and the proprietor shall deposit such sums of money as the City Commission may require under these Subdivision Regulations or other ordinances. Upon approval by the City Commission, the City Clerk shall sign the plat attesting to such action. (1976 Code Sec. 15.034)

1244.05 LAND DIVISION.

(a) Definitions.

- (1) "Boundary adjustment" means a property transfer between two or more adjacent parcels that results in no new buildable lots or creates fewer buildable lots than originally platted.
- (2) For all other terms in this section, the definitions contained in Section 1240.06 of the Codified Ordinances and the State Land Division Act, PA 288 of 1967, as amended by PA 591 of 1996 shall apply. In the event that Section 1240.06 and the Land Division Act contain a definition for the same term, the provisions of Section 1240.06 shall control to the extent permitted by law.

(b) Consent. Notwithstanding anything contained in the ordinances of the City to the contrary, no building permit shall be issued for any construction on any lot, outlot or other parcel, which lot, outlot or other parcel has been divided or has had its boundary adjusted, or for any construction on a lot, comprised in whole or in part of such a divided or boundary adjusted lot, outlot or parcel, unless and until the City consents, in writing, to such division or boundary adjustment.

(c) Application. An application for a division or boundary adjustment of any tract, lot, outlot or parcel of land signed by the owner thereof, shall be filed with the City Clerk. Such application shall be made on a form prescribed by the City and obtainable from the office of the City Clerk. The application shall include the following:

- (1) A survey drawn to scale in a manner and form prescribed by the application.
- (2) Certification that boundary corner monuments have been or will be placed.
- (3) A complete and accurate legal description of each proposed lot or parcel created by the land division or boundary adjustment.
- (4) An application fee in an amount set by resolution of the City Commission.
- (5) A memo from the City Treasurer indicating that there are no due and unpaid city taxes or special assessments on all of the tracts, lots, parcels, or outlots involved.
- (6) If the proposed division is of an unplatted tract, parcel or parcels, the history and specifications of any previous division of land of which the proposed division was a part sufficient to establish that the parcel to be divided was lawfully in existence as of March 31, 1997, the effective date of the State Land Division Act.
- (7) A legal, recorded instrument demonstrating proof of ownership of the subject tract, lot, outlet or parcel of land.

(d) Lot or Tract in a Recorded Plat. The City Manager may permit the division of a lot or tract in a recorded plat or a boundary adjustment following:

- (1) The City Planning Director's certification that the resulting parcels comply with all minimum lot requirements contained in the Zoning Ordinance, including, but not limited to lot size, lot dimensions, street frontage, driveway spacing, zoning

- setbacks, water frontage and number of lots on a single street right-of-way pursuant to the Zoning Ordinance.
- (2) The City Engineer's certification that each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities and the resulting parcels proposed to be created by the proposed land division are accessible.
 - (3) The City Assessor's certification that the resulting parcels created by the proposed land division complies with all standards of the State Land Division Act, PA 288 of 1967, as amended by PA 591 of 1996.
- (e) Unplatted Parcels. Pursuant to the Land Division Act, the City Manager shall permit a division of an unplatted tract or unplatted parcels within 45 days of the filing of a completed application following:
- (1) The City Planning Director's certification that the resulting parcels comply with all minimum lot requirements contained in the Zoning Ordinance including, but not limited to, lot size, lot dimensions, street frontage, driveway spacing, zoning setbacks, water frontage and number of lots on a single street right-of-way pursuant to the Zoning Ordinance.
 - (2) The City Engineer's certification that each resulting parcel that is a development site has adequate easements for public utilities from the parcel to existing public utility facilities and the resulting parcels proposed to be created by the proposed land division are accessible.
 - (3) The City Assessor's certification that the resulting parcels created by the proposed land division complies with all standards of the State Land Division Act, PA 288 of 1967, as amended by PA 591 of 1996.
- (f) Unusual or Unique Circumstances. Where there are exceptional topographic, physical conditions, or other unusual or unique circumstances as determined by the City's Planning Director associated with a tract proposed to be divided, a division resulting in parcels that do not satisfy the minimum lot size requirements of the Zoning Ordinance may only be approved by resolution of the City Commission after consideration by the Planning Commission following a determination that the proposed division would allow the development of the land in such a manner as to be compatible with the surrounding land use and development and would not be contrary to the spirit and purpose of this section and the Zoning Ordinance. The City Commission may deny, approve or approve with conditions such requests after notice and a hearing, which conditions may include if the proposed division would result in a not buildable parcel, the City Commission may require the applicant to execute and record a deed restriction with the County Register of Deeds designating the parcel as "not buildable." Any such parcel shall also be designated as "not buildable" in the municipal records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for variance relief from the applicable lot and area requirements, and shall not be developed with any building or above ground structure.
- (g) Effect of Approval. Approval of a land division or boundary adjustment under this section does not grant approval for any specific uses of a parcel of property nor is it a determination that the resulting parcels comply with other ordinances or regulations. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within such period a document is recorded with the County

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Register of Deeds office and filed with the City Assessor accomplishing the approved land division or transfer.

(1976 Code Sec. 15.035; Ord. 71. Passed 9-5-78. Ord. 609. Passed 8-4-03. Ord. 681. Passed 5-16-05.)