

ARTICLE VII
Special Provisions and Regulations

§ 170-25. Cluster subdivision development.

- A. When a cluster subdivision development of a tract of land is proposed, this section will apply by itself and may not be applied to any other subdivision developments unless excepted by this section.
- B. In a cluster subdivision, buildings may be permitted to be clustered or grouped to permit the construction of dwellings and buildings to be closer together; thus permitting more open space, common areas or recreational areas and permitting private pedestrian and vehicular access to dwellings compared to the public walks and public streets required in the other sections of the subdivision regulations.
- C. In connection with cluster subdivisions, the following exceptions may be approved by the City Council as follows:
 - (1) An additional open space, common ground or recreational area is to be provided for the use and the benefit of the family dwelling units in the development.
 - (2) The total land area of the development divided by the total number of dwelling units provides an average land area per family dwelling unit equal to or more than

that required by the regulations of the zoned district or districts in which the development is located. Total land area of the development should include the land area of open space, common ground or recreational areas, but shall not include any land area being dedicated for public street rights-of-way or set aside for ingress or egress or common off-street parking areas or public parks and public school sites.

- (3) All cluster lots and dwelling units must abut and have access to open space, common ground or recreational areas.
- D. Exceptions to the requirements that cluster lots abut and have access to a public street may be permitted when:
- (1) Adequate and permanent access by easement from a public street to each cluster lot is provided for pedestrian and vehicular traffic.
 - (2) Adequate and permanent off-street parking areas shall be provided for each cluster lot.
- E. Maintenance of open space. As a condition of approving the cluster subdivision and permitting exceptions to the standard subdivision requirements, the subdivider shall submit with the final plat the declaration of covenants; homeowner's association organization bylaws and agreements; conditions and restrictions. regarding the permanent maintenance of the open space, common ground or recreational areas. The Declaration of Covenants and Restrictions shall be filed and recorded with the Register of Deeds at the time of filing the final plat. No exceptions to the requirements shall be permitted unless the City Council determines that the subdivider has adequately provided for such upkeep and maintenance of open space, common ground or recreational areas.
- F. Access easements. As a condition of approving the cluster subdivision, the subdivider shall submit with the final plat a written declaration specifying any easements for access, ingress and egress, setting out maintenance, use and other required conditions and qualifications. Such easements shall be filed and recorded with the Register of Deeds, Sarpy County, at the same time as filing of the final plat.

§ 170-26. Waivers.

- A. Granting of waivers; conditions. The City Planning Commission may recommend and the City Council may grant waivers from the provisions of these regulations but only after determining that:
- (1) There are unique circumstances or conditions affecting the property.
 - (2) The waiver is necessary for the reasonable and acceptable development of the property in question.
 - (3) The granting of the waiver will not be detrimental to the public welfare or injurious to adjacent property.
- B. Recording of plat. In no case shall the requirement of filing and recording a plat for subdivision be waived.

- C. Planned development. The City Council may also grant reasonable waivers to these regulations if the subdivider concurrently submits an application for, and obtains approval of, a planned development. The subdivider shall indicate where plans vary from these regulations and shall present sufficient evidence to support the request, indicating why the request will not be detrimental to the public health, safety and welfare.
- D. Waiver for small subdivisions. Whenever the tract of land proposed to be subdivided is less than three acres and does not involve any dedication for street purposes; is of such unusual shape or topography; or is affected by surrounding developments or unusual conditions such that strict application of the requirements contained in these regulations would result in substantial hardships or inequities, the Council may vary or modify such requirements so that the subdivider is allowed to develop the property in a reasonable manner but also, at the same time, the public welfare and interest of the city and surrounding areas are protected and the general intent and spirit of these regulations are preserved.
- E. The City Council, after receiving a recommendation from the Planning Commission at least two calendar weeks prior to a hearing before the Council, shall have the power to waive any portion of the plat submission requirements and approve a plat constituting a preliminary and final plat simultaneously, which plat divides a lot, tract or parcel of land into only three lots or less when no new dedication of public rights-of-way or easements are involved, and such a division complies with the ordinance requirements concerning minimum areas and dimensions of such lots and blocks and does not create a new building site under one or more of the following stated conditions: **[Amended 5-19-1992 by Ord. No. 1120]**
- (1) Where the subdivision involves rural land and the parcels of land created by the subdivision exceed one acre in size.
 - (2) Where the subdivision involves the creation of not more than two new building sites and does not involve the dedication of a full width street.
 - (3) Where the subdivision involves minor changes in lot boundaries and does not create additional building sites.
 - (4) Where the subdivision involves the replatting of one or more lots of record into not more than three lots.
- F. A subdivider requesting a waiver under the provisions of Subsections D and E of this section shall submit said request in writing to the City Planning Commission prior to submission of the preliminary plat for review and recommendation to the City Council. The request for waiver shall include a list of all requirements for which a waiver is sought by reference to the section numbers and the descriptive catch-heads which appear in these regulations.

§ 170-27. Administrative adjustments. [Added 5-19-1992 by Ord. No. 1120]

- A. Administrative adjustments defined. For the purpose of this section, the property owner may be eligible to seek approval to adjust an interior lot line or combine two or more lots without replatting, provided that the following conditions are met:
- (1) Lot line adjustment. The adjustment of an interior lot line between two adjoining platted lots, provided that the following conditions are met:
 - (a) The lots involved must have the same zoning and the proposed adjustment will not create a violation of Chapter 205, Zoning, of the Code of the City of Papillion, Nebraska.
 - (b) The lots involved must be existing platted lots.
 - (c) The adjustment involves only a minor change in lot line location.
 - (2) Lot consolidation. The combination of two or more lots into a lesser number of lots, provided that the following conditions are met:
 - (a) The lots involved must have the same zoning and the proposed consolidation will not create a violation of Chapter 205, Zoning, of the Code of the City of Papillion, Nebraska.
 - (b) The lots involved must be existing platted lots.
 - (c) The adjustment involves only a minor change in lot line location.
- B. Administrative approval. The City Administrator and Chief Building Official shall have the joint right to approve lot line adjustments and lot consolidations when in compliance with this section. The City Administrator and Chief Building Official shall not approve the request for an administrative adjustment if one or more of the following conditions are present:
- (1) The application would create multifamily lots from previously platted single-family lots.
 - (2) The applicant would involve the dedication or vacation of any public right-of-way.
 - (3) The application involves nonplatted lots (e.g., tax lots).
 - (4) In the opinion of the Chief Building Official, the application should be processed under a different section of this chapter.
- C. Application procedures. An application for a lot line adjustment or lot consolidation shall be submitted to the Chief Building Official. The following shall be submitted with the application:
- (1) Application fee.
 - (2) Written consent of all property owners.

- (3) Four original surveyor's certificates signed and sealed by a State of Nebraska land surveyor.
 - (4) Certificate signed by the Sarpy County Treasurer stating that there are no regular or special taxes due or delinquent against the property.
- D. Administrative review and action. Upon filing, the Chief Building Official shall forward the application and all supplemental information to the Public Works Department for review and comment.
- E. Administrative action. The City Administrator and Chief Building Official must both approve or disapprove the request for a lot line adjustment or lot consolidation within 10 working days of the filing date. In the event of disapproval, the City Planner shall give the applicant a written statement of the reasons for the disapproval.
- F. Administrative certificate of approval.
- (1) The surveyor's certificate shall include a certificate of approval to be signed by the City Administrator and Chief Building Official.
 - (2) Upon receiving approval, the applicant shall file all four original surveyor's certificates as follows; four original surveyor's certificates to be stamped by the Register of Deeds office and routed as follows:
 - (a) One to the Papillion Planning Department.
 - (b) One to the Sarpy County Register of Deeds.
 - (c) One to the Sarpy County Surveyor.
 - (d) One to remain with the applicant.
- G. Filing time limit. Approval of the lot line adjustment or lot consolidation shall become null and void if the applicant has not filed the surveyor's certificate with the Sarpy County Register of Deeds within 30 days from the date of approval. It shall be the responsibility of the applicant to furnish the Chief Building Official's office with one original surveyor's certificate which has been filed with the Register of Deeds to show compliance with this requirement.

§ 170-28. Small subdivisions. [Added 4-15-2003 by Ord. No. 1405]

- A. Small subdivision defined. For purposes of this section, the property owner may be eligible to seek subdivision approval of a small subdivision if the following conditions are met:
- (1) The tract of land has not been previously subdivided as a small subdivision.
 - (2) The subdivision does not contain more than four lots, except as provided for in Subsection A below.

- (3) The subdivision fronts on an existing street, does not involve any new street or road, or the extension of municipal facilities or the creation of any public improvements.
 - (4) The subdivision does not adversely affect the remainder of the parcel or adjoining property.
 - (5) The subdivision may contain up to six lots if is the opinion of the City Planner, City Engineer and the City Administrator, that the information listed in § 170-11 is not required or has been submitted previously. [Amended 5-20-2003 by Res. No. 1335]
- B. Administrative approval. The Planning Director or designee shall have the right to approve small subdivision plats in compliance with Subsection A. of this section. The Planning Director or designee may approve a small subdivision plat if the following conditions are met:
- (1) The City Engineer and City Administrator have affixed their signature to the plat.
 - (2) The subdivision is not in conflict with any provisions or portion of the Comprehensive Plan, Zoning Ordinance, or these regulations.
 - (3) The subdivision would not require the vacation of any occupied utility easements.
 - (4) The subdivision would not require the dedication of additional public right-of-way.
 - (5) The parcel has not been previously denied replatting by the City Council.
 - (6) The subdivision would not allow a duplex or multifamily development on land previously platted for single-family development.
 - (7) The subdivision primarily involves a change in interior lot boundaries.
- C. Small subdivision application for administrative approval. An application for small subdivision administrative approval shall be submitted to the Planning Department. A separate site plan prepared under the supervision of, and certified by, a registered State of Nebraska Land Surveyor may be required for plats with existing structures to determine their location in relation to proposed lot lines, easements or street rights-of-way. The following shall be submitted with the application.
- (1) Application fee.
 - (2) Four reproducible Mylar copies of the plat, one of which shall be 15 inches by 26 inches for the Register of Deeds filing.
 - (3) One reduced copy of the plat which is 8 1/2 inches by 11 inches.
 - (4) Five blue-line copies of the plat.
 - (5) Information as required under § 170-12C of this chapter.

- D. Administrative review. Upon filing, the Planning Department shall forward the application, copies of the plat and supplemental information with a request for comments in seven working days from the following:
- (1) Public Works Director.
 - (2) City Engineer.
- E. Administrative action. The Planning Director or designee shall approve or disapprove the plat within 10 working days of the filing date. In the event of disapproval, the subdivider shall be provided with a written statement of reasons for the disapproval.
- F. Administrative certificate of approval. In lieu of § 170-12C(11) and (12) of this chapter, plats eligible for administrative approval shall include certificates of approval to be signed by the Planning Director, City Engineer and City Administrator. Upon receiving administrative approval, the plat shall be filed and recorded with the Register of Deeds as specified in Subsection H of this chapter.
- G. Appeal of administrative disapproval. The subdivider has the privilege of requesting Planning Commission and City Council review in accordance with § 170-12 of this chapter if the plat was administratively disapproved.
- H. Planning Commission and City Council review and action. If the plat does not qualify for administrative approval or has been administratively disapproved, an application for a final plat may be submitted in accordance with § 170-12 of this chapter.
- I. Approved small subdivision plat filing. Upon approval of a small subdivision, the subdivider shall file four reproducible Mylars and five blueline copies of the plat as follows:
- (1) Four reproducible Mylars (one of which shall be 15 inches by 26 inches) to be stamped by the Register of Deeds and routed as follows:
 - (a) One to the Papillion Planning Department;
 - (b) Two to the Sarpy County Register of Deeds (one for their file and one to be routed to the County Surveyor); and
 - (c) One to remain with the applicant.
 - (2) Five blueline copies to be filed with the Register of Deeds for their distribution to the County Assessor, Aquila, Omaha Public Power District, the Telephone Company and the local Fire District.