

ORDINANCE NO. F-0663

**AN ORDINANCE AMENDING CHAPTER 2, ARTICLE V, DIVISION 6 AND 8,
CHAPTER 18 AND CHAPTER 62 OF THE WHEATON CITY CODE:
PLAN COMMISSION**

WHEREAS, the City of Wheaton, Illinois ("City"), is an Illinois home rule municipality having the powers provided by State Law; and

WHEREAS, the subject matter of this Ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, the City desires to streamline its review of development applications while maintaining its customary thorough review.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: That the Wheaton City Code text is amended by deleting Chapter 2, Article V, Division 6 and 8 "Board of Zoning Appeals" and "Plan Commission" in their entirety and replacing it as follows:

"DIVISION 6. PLANNING AND ZONING BOARD

Sec. 2-336. Composition; appointment of members.

The planning and zoning board, shall consist of seven members appointed by the mayor with the approval of the city council.

Sec. 2-337. Powers and duties.

Planning and zoning board shall have the powers and responsibilities conferred upon such board by law, this Code, the city zoning ordinance, or as may be assigned to it by the council.

DIVISION 8. RESERVED"

Section 2: The Wheaton City Code text is amended by deleting Chapter 18 "Annexations" in its entirety and replacing it as follows:

"Sec. 18-1. General terms.

The city is a home rule municipality pursuant to the Illinois Constitution of 1970, and the provisions contained in this chapter pertain to the government and affairs of the city and are an exercise of its home rule powers. The city may annex property pursuant to the provisions

of section 7-1-1 et seq. of the Illinois Municipal Code (65 ILCS 5/7-1-1 et seq.), and the provisions contained in this chapter. The city may enter into any annexation agreement pursuant to this chapter for a period not to exceed 20 years from the date of execution of the annexation agreement.

Sec. 18-2. Initiation of proceedings.

Any record owner of territory (petitioner) which may be annexed to the city may initiate annexation proceedings by filing with the city clerk an annexation petition.

Sec. 18-3. Processing of proposed annexation.

The city council shall conduct a public hearing upon the proposed petition for annexation and the annexation agreement. If any zoning amendment, special use, planned unit development, or variation is required by the proposed annexation agreement, the public hearing required by law shall be conducted by the city council, concurrently with a hearing upon the proposed annexation agreement. At all times during the proceedings, a copy of the annexation petition and the proposed annexation agreement shall be kept on file with the city clerk. A transcribed record of the public hearing proceedings shall be filed with the office of the city clerk.

Sec. 18-4. Content and scope of agreements.

Any annexation agreement may provide for the content and scope described in the following as it relates to the land which is the subject of the agreement:

- (1) The annexation of territory to the city, subject to the current provisions of state law and as excepted in this chapter;
- (2) The continuation in effect of any ordinance or amendment thereto relating to subdivision controls, zoning, official plan, and building, housing, and related restrictions; provided, however, that all ordinance amendments provided in such agreement shall be enacted according to law and ordinance;
- (3) A limitation upon increases in permit fees required by the city;
- (4) Any matter of environmental quality or control;
- (5) The granting of utility franchises for such land;
- (6) Contributions of either land or monies, or both, to the city and to other municipal corporations having jurisdiction over all or part of such land, or any other exercise of intergovernmental cooperation authorized by the Illinois Constitution of 1970;
- (7) Any other power or function pertaining to the government and affairs of the city to which it may contract as a home rule unit under the Illinois Constitution of 1970;

- (8) Any other matter not inconsistent with the provisions of this Code, nor forbidden by law;
- (9) Any action taken by the corporate authorities during the period such agreement is in effect, which, if it applied to the land which is the subject of the agreement, would be a breach of such agreement, shall not apply to such land without an amendment of such agreement.

Sec. 18-5. Fees, costs.

Any petition for an annexation agreement or amendment thereto shall be accompanied by an initial fee of \$350.00. Any further extraordinary costs shall be borne by the petitioner.

Sec. 18-6. Execution of agreement.

The execution of any annexation agreement shall be authorized by an ordinance passed by a vote of two-thirds of the members of the city council then holding office.

Sec. 18-7. Annexation to park district.

Any real estate owner or developer who annexes territory to the city pursuant to an annexation agreement as defined and referred to in this chapter shall, within 28 days from the date of such annexation, file a petition with the city park district for the annexation of the subject territory to such park district.

Sec. 18-8. Amendment of agreements.

As a home rule unit, the city does hereby declare that the method of amendment of annexation agreements found in section 11-15.1-3 of the Illinois Municipal Code (65 ILCS 5/11-15.1-3) is of no force and effect as it may or purports to apply to the city. Annexation agreements may be amended by the city council upon petition therefor by one of the two following procedures:

- (1) *Substantial amendment.* If a substantial change to the annexation agreement is desired, a public hearing shall be held by the city council in the same manner as the processing of a new annexation agreement as described in subsection 18-3) (c). A substantial amendment includes:
 - a. Zoning of any portion of the property;
 - b. Intensity of use including number of dwelling units per acre;
 - c. Reduction of improvements to be installed on the site;
 - d. Reduction of open space or green areas;

- e. Removal of any building or fixture closer to the boundary lines of the property than originally agreed to;
- f. Ordinance amendments;
- g. Length of the agreement; or
- h. Means of security as to cost and/or installation of public improvements.

Any other amendment shall be a minor amendment.

(2) *Minor amendment.* If a nonsubstantial change to the annexation agreement is desired, the city council may act to amend without a public hearing. To effect such an amendment, however, the proposed amendment must be placed on the city council agenda at the petitioner's request, so that notice of the proposed amendment will be made public with the rest of the agenda items. Upon considering the proposed amendments, the council may:

- a. Approve the amendment as requested or as then modified by concurrence of the parties, by ordinance;
- b. Refer to the administration for further study and report; or
- c. Determine that the proposed amendment represents a substantial change and direct the petitioner to call for a public hearing.

All amendments shall be by ordinance passed by two-thirds of the council then holding office."

Section 3: The Wheaton City Code text is amended by deleting Chapter 62 "Subdivisions" in its entirety and replacing it as follows:

"CHAPTER 62 SUBDIVISIONS

ARTICLE I. IN GENERAL

- Sec. 62-1. Title.
- Sec. 62-2. Interpretation.
- Sec. 62-3. Definitions and rules of construction.
- Sec. 62-4. Compliance with chapter.
- Sec. 62-5. Purpose.
- Sec. 62-6. Enforcing officer.
- Sec. 62-7. Amendments to chapter.
- Sec. 62-8. Variations generally.
- Sec. 62-9. Variance in standards of design or required improvements--When permitted.

- Sec. 62-10. Same--To be in writing.
- Sec. 62-11. Annexation.
- Sec. 62-12. Acceptance of streets and public improvements.
- Sec. 62-13. Permanent connections not to be made until director of engineering's certificate filed.
- Sec. 62-14. Sales and leases in violation of chapter.
- Sec. 62-15. Approval of combined preliminary and final plats of small tracts.
- Sec. 62-16. Penalty for violation of chapter.
- Secs. 62-17- 62-50. Reserved.

ARTICLE II. PLAT APPROVAL PROCEDURE

DIVISION 1. GENERALLY

- Sec. 62-51. Preliminary and final plats required.
- Sec. 62-52. Approval of plats by city council.
- Sec. 62-53. Plat approval not to constitute acceptance of streets.
- Sec. 62-54. Letter of credit or cash deposit--Required.
- Sec. 62-55. Same--Amount.
- Secs. 62-56 - 62-75. Reserved.

DIVISION 2. PRELIMINARY PLAT

- Sec. 62-76. Preliminary consultation recommended.
- Sec. 62-77. Details required.
- Sec. 62-78. Submission.
- Sec. 62-79. Review.
- Sec. 62-80. Time within which planning and zoning board to conduct review.
- Sec. 62-81. Notice to adjacent owners; applicant to furnish list.
- Sec. 62-82. Posting of sign on subject property.
- Sec. 62-83. Granting of approval subject to conditions.
- Sec. 62-84. Distribution of plat to council.
- Sec. 62-85. Time within which council to act.
- Sec. 62-86. Procedure upon approval by council.
- Sec. 62-87. Qualifications covering plat approval.
- Sec. 62-88. Period of validity.
- Sec. 62-89. Procedure upon disapproval.
- Secs. 62-90 - 62-110. Reserved.

DIVISION 3. FINAL PLAT

- Sec. 62-111. Details required.
- Sec. 62-112. Submission.
- Sec. 62-113. Notification of requirements not met.
- Sec. 62-114. Checklist required.
- Sec. 62-115. Procedure where final plat not in agreement with preliminary plat.

- Sec. 62-116. Transmission to city council.
- Sec. 62-117. Approval by council.
- Sec. 62-118. Disposition of plats, prints and supporting documents subsequent to council approval.
- Sec. 62-119. Delivery of plat to subdivider.
- Sec. 62-120. Recording of plat--Time limit set.
- Sec. 62-121. Same--Consequences of failure to record within time set.
- Secs. 62-122 - 62-150. Reserved.

ARTICLE III. DESIGN STANDARDS

DIVISION 1. GENERALLY

- Sec. 62-151. Preservation of natural features.
- Sec. 62-152. Subdivision bordering on railroad right-of-way or highways.
- Secs. 62-153 - 62-175. Reserved.

DIVISION 2. STREETS, ALLEYS AND PEDESTRIAN WAYS

- Sec. 62-176. Street plan.
- Sec. 62-177. Right-of-way widths.
- Sec. 62-178. Pavement widths between curb facing.
- Sec. 62-179. Culs-de-sac.
- Sec. 62-180. Deflections in horizontal centerline; curve to be inserted.
- Sec. 62-181. Differing gradients; vertical curves to connect.
- Sec. 62-182. Street jogs.
- Sec. 62-183. Alignment of minor streets.
- Sec. 62-184. Intersections.
- Sec. 62-185. Half streets--Prohibited; exceptions.
- Sec. 62-186. Same--Platting.
- Sec. 62-187. Same--Grading.
- Sec. 62-188. Vehicular, pedestrian access.
- Sec. 62-189. Gradients.
- Sec. 62-190. Alleys--Prohibited in residential areas; exception.
- Sec. 62-191. Same--Width.
- Sec. 62-192. Width of pedestrian rights-of-way.
- Secs. 62-193 - 62-210. Reserved.

DIVISION 3. LOTS AND BLOCKS

- Sec. 62-211. Lot shape.
- Sec. 62-212. Minimum residential lot area and frontage--Generally.
- Sec. 62-213. Same--Corner lots.
- Sec. 62-214. Minimum residential lot depth.
- Sec. 62-215. Width, area, depth in manufacturing or business subdivision.
- Sec. 62-216. Lots to abut upon public street; setback lines to be shown.

- Sec. 62-217. Double frontage lots.
- Sec. 62-218. Lots abutting upon drainage way.
- Sec. 62-219. Block length.
- Sec. 62-220. Block length and width in commercial, business, industrial subdivisions.
- Sec. 62-221. Block shape.
- Sec. 62-222. Flag lots.

DIVISION 4. EASEMENTS

- Sec. 62-251. Duty to provide.
- Sec. 62-252. Width and establishment.
- Sec. 62-253. Additional easements for pole-line anchors.
- Sec. 62-254. Drainage easement.
- Sec. 62-255. Right to ingress, egress.

ARTICLE IV. REQUIRED IMPROVEMENTS

- Sec. 62-276. Duty to provide.
- Sec. 62-277. Monuments--Placement.
- Sec. 62-278. Same--Certificate required upon completion of installation.
- Sec. 62-279. Telephones, electricity and gas.
- Sec. 62-280. House services.
- Sec. 62-281. Sanitary sewers.
- Sec. 62-282. Storm drainage.
- Sec. 62-283. Water supply.
- Sec. 62-284. Individual or community sewerage and water systems.
- Sec. 62-285. Fire hydrants.
- Sec. 62-286. Street lighting.
- Sec. 62-287. Street signs.
- Sec. 62-288. Street pavements; filing of plans and specifications.
- Sec. 62-289. Underground work on improvements to be completed prior to paving.
- Sec. 62-290. Pavement edging.
- Sec. 62-291. Sidewalks required; exceptions.
- Sec. 62-292. Paving of alleys.
- Sec. 62-293. Pedestrian ways leading to common destinations.
- Sec. 62-294. Trees and shrubbery in parkways.
- Sec. 62-295. Time limit within which improvements must be installed.
- Sec. 62-296. Construction observations--Generally.
- Sec. 62-297. Same--Costs.
- Sec. 62-298. Final approval of improvements.
- Sec. 62-299. Altered vacant lot grading and vegetation.

ARTICLE V. SCHOOL AND PARK SITE DEDICATIONS

- Sec. 62-326. Dedication of park lands and school sites, or contribution of fees in lieu thereof required.

- Sec. 62-327. Requirements for park land dedications.
- Sec. 62-328. Requirements for school site dedication.
- Sec. 62-329. Criteria for requiring a cash contribution in lieu of park and school site dedications.
- Sec. 62-330. Calculation of estimated population.
- Sec. 62-331. Reservation of additional land.
- Sec. 62-332. Combining sites with adjoining developments.
- Sec. 62-333. Condition of park sites to be dedicated.
- Sec. 62-334. Condition of school sites to be dedicated.
- Sec. 62-335. Real estate donation requirements.
- Sec. 62-336. Applicability.
- Sec. 62-337. Additional dedications or contributions.

Sec. 62-1. Title.

This chapter shall be known as the subdivision control ordinance of the city.

Sec. 62-2. Interpretation.

The language set forth in the text of this chapter shall be interpreted in accordance with the rules of construction and definitions set out in section 62-3.

Sec. 62-3. Definitions and rules of construction.

Whenever a word or term defined in this section appears in the text of this chapter, its meaning shall be construed as set forth in the definition thereof; and any word appearing in parentheses directly after a word defined in this section shall be construed in the same sense as that word.

The following words and terms wherever they occur in this chapter shall be construed as defined in this section.

Alley means a right-of-way which affords secondary means of access to properties abutting upon a street.

Bedroom means any room within a residential living unit, including but not limited to a den or study with a closet space, other than the rooms designed for the general living space for the entire household, such as living room, family room, kitchen, dining room, bathroom, lavatory, and garage.

Block means a tract of land bounded by streets or by a combination of one or more streets and parks, cemeteries, shorelines of waterways, other permanent open spaces, corporate limit lines, or other barriers which preclude the passage of vehicular traffic.

Building setback line means a line within a lot or other parcel of land so designated on the plat, between which line and the adjacent street the erection of an enclosed structure is prohibited.

Director of engineering means the director of engineering of the city or his duly authorized representative.

Collector street means a street with a high degree of continuity which carries traffic from minor streets and serves as a principal traffic way between the various districts of the city.

Cull-de-sac means a minor street with only one outlet.

Final plat means the final map or plan of a subdivision presented to the city for approval, and which, if approved, will be recorded in the office of the county recorder of deeds.

Flag lot means a residential lot having less than the required street frontage, the bailable part of which is located behind an adjacent lot fronting the same street, with access to the bailable portion being provided by the strip of land having a width of less than the required frontage.

Half street means a street bordering one or more property lines of a tract of land in which the subdivider has allocated but part of the ultimate right-of-way width.

House services means the portions of piping running from a utility service main to serve individual parcels of property, and for the purpose of this chapter shall include sanitary sewer and water services.

Lot means a designated parcel of land in a subdivision intended for transfer of ownership or for building development as a complete and individual unit.

Lot, butt means a lot at the end of a block and located between two corner lots.

Lot, double frontage means a lot which has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot.

Marginal access street means a minor street which is parallel to and adjacent to a thoroughfare, and which provides access to abutting properties and protection from through traffic.

Master plan means the official comprehensive plan of the city and all amendments thereto.

Minor street means a street of limited continuity used primarily for access to abutting properties and local needs of a neighborhood.

Owner means any person or other legal entity having legal title to the land sought to be subdivided under this chapter.

Parkway means an unpaved strip of land situated within the street right-of-way.

Pedestrian way means a right-of-way across or within a block for use by pedestrian traffic, whether designated as a pedestrian way, crosswalk, or however otherwise designated.

Preliminary plat means the tentative map or plan of a proposed subdivision indicating proposed layout to be submitted to the city for its consideration.

Public improvement means any sanitary sewer, storm sewer, drainage ditch, water main, roadway, parkway, sidewalk, pedestrian way, planting strip, off-street parking area, or other facility which will become the property of the city.

Roadway means the improved portion of the street available for vehicular traffic.

Street width means the shortest distance between the property lines delineating a street.

Subdivider means any owner commencing proceedings under this chapter.

Subdivision means a described tract of land which is to be or has been divided into two or more lots or parcels, or a described undivided tract of land on which a planned unit development is to be or has been developed. The term includes resubdivision and, where appropriate to the context, relates to the process of subdividing or to the land subdivided.

Subdivision design standards means the basic land-planning requirements established by this chapter for the preparation of plats.

Thoroughfare means a street with a high degree of continuity and serving as a principal traffic way between the city and its environs.

Sec. 62-4. Compliance with chapter.

Because each new subdivision accepted by the city becomes a permanent unit in the basic physical structure of the future community, and to which the future community will, of necessity, be forced to adhere, all subdivisions planned within the incorporated limits of the city and within the unincorporated area lying 1/2 miles beyond but under the jurisdiction of the city as provided by statute shall, in all respects, be in full compliance with the regulations contained in this chapter and in conformity with the comprehensive plan of the city. Notwithstanding the provisions of an act to revise the law in relation to plats (765 ILES 205/0.01 et seq.), all subdivisions of real estate within the city shall be in conformance with the provisions of this chapter. Provided, however, that where a proposed subdivision or consolidation involves the sale or exchange of parcels of land, or consolidation thereof, between owners of adjoining and contiguous land, the subdivision or consolidations shall be subject to the following requirements at the expense of the owners:

- (1) Full compliance with the provisions of the city zoning ordinance and this chapter;
- (2) Submission of plats of survey illustrating the newly divided lots;
- (3) Review of all deeds and plats by the director of engineering and their approval by the city council; and
- (4) Recording the deeds and plats in the office of the county recorder of deeds.

Sec. 62-5. Purpose.

The regulations contained in this chapter are adopted for the following purposes:

- (1) To provide for the orderly and harmonious development of the city;
- (2) To provide for the coordination of streets within new subdivisions with other existing or planned streets; and
- (3) To secure a uniform system of utilities and services.

Sec. 62-6. Enforcing officer.

The city manager shall be the enforcing officer of this chapter and he may call upon any department or official of the city for such information and assistance as he may deem necessary for the observance or enforcement of this chapter, and it shall be the duty of such department or officer to furnish such information and assistance whenever required.

Sec. 62-7. Amendments to chapter.

Amendments to this chapter may be proposed by the city council, the planning and zoning board, city staff, or by any owner of real estate in the City of Wheaton. Such changes or additions shall become effective after the city council passes an amendment to this chapter.

Sec. 62-8. Variations generally.

The city council may approve variations from the requirements of this chapter in specific cases which do not alter the general plan or the spirit of the chapter. Furthermore, the city council may utilize the following standards in considering the merits of granting variations from the provisions of the chapter:

- (1) The proposal conforms with the comprehensive plan policies for small and/or large subdivisions.
- (2) The proposal promotes the objectives and policies of the comprehensive plan.

- (3) The proposal provides a public benefit in addition to any public benefit derived from potential increased tax revenue to the city.
- (4) The proposal promotes proper storm water management and does not negatively impact storm water management in the area immediately surrounding the subdivision.
- (5) The proposal does not increase the density per acre to a number greater than the average density per acre of lots within a 500-foot radius surrounding the subdivision.
- (6) In the case of consolidations of parcels allowed in this chapter, the proposal does not exceed the maximum dwelling unit density permitted by the zoning district in which the property is located.

Sec. 62-9. Variance in standards of design or required improvements--When permitted.

Where the subdivider can show that a provision of the standards of design or required improvements as set forth in articles III and IV of this chapter would cause unnecessary hardship if strictly adhered to, and where because of topographical or other conditions peculiar to the site or surrounding conditions and in the opinion of the director of engineering and city council a departure may be made without destroying the intent of such provisions, the city council may approve the variance.

Sec. 62-10. Same--To be in writing.

Any approved variance in standards of design or required improvements under this chapter shall be stated in writing in the minutes of the city council and the reasoning set forth upon which the variance was considered justified.

Sec. 62-11. Annexation.

Where a proposed subdivision is contiguous to the corporate limits of the city, the extension or connection of the city water mains to the proposed subdivision, or the extension or connection of sanitary sewers or storm drains to city sewers or storm drains shall not be permitted unless the proposed subdivision shall first have been annexed to the city. If a petition for annexation for the subdivision has been denied by the city, permission may be granted by the city council for connection to the city water system.

Sec. 62-12. Acceptance of streets and public improvements.

Acceptance of streets or thoroughfares and of the public improvements constructed or installed thereon or therein shall be made by the adoption of a resolution by the city council after there has been filed with the city clerk a certificate by the director of engineering certifying that all improvements, including surveying and monumentation, required to be constructed or installed in or upon such streets or thoroughfares in connection with the approved plat of subdivision by the city council have been fully completed and the

construction and installation thereof approved by the director of engineering . Upon the request of the developer, the director of engineering may file separate certificates for:

- (1) The underground improvements, except for adjustments to metal frames and castings;
- (2) The street lighting improvements; and
- (3) The aboveground improvements including adjustments to metal frame and castings.

Sec. 62-13. Permanent connections not to be made until director of engineering's certificate filed.

No permanent connection shall be made or maintained to the sanitary sewer system, storm sewer system or water distribution system of the city to serve the property within the subdivision until the certificate of the director of engineering as provided in section 62-12 has been filed; and not until any monies due the city for permit fees for the connections with such systems have been paid.

Sec. 62-14. Sales and leases in violation of chapter.

No person shall sell or offer for sale, or lease for any time exceeding five years, any lot or block in the city, or any additions hereto, or in any area where the plat of a subdivision is, by law, subject to approval of the city council, or any resubdivision or any lot or block therein, whether such sale or leasing shall be by lot and block number or by metes and bounds, before all of the requirements of this chapter have been met.

Sec. 62-15. Approval of combined preliminary and final plats of small tracts.

When there is presented to the city council for approval a plat for the subdivision or resubdivision of a tract of land of less than two acres containing two lots or less, in a recorded subdivision, and not involving any new streets or easements, and where all improvements required in this chapter are in, the city council after consideration thereof and recommendation thereon by the director of engineering as to completeness of the plat, is of the opinion that the intent and purpose of this chapter is met, it may approve such plat without requiring further procedure. The city council may utilize this procedure for subdivisions greater than two acres if the small size and commonplace nature warrant such consideration, and that the intent and purpose of this chapter is met.

Sec. 62-16. Penalty for violation of chapter.

Any person who shall violate any of the provisions of this chapter shall be subject to punishment as provided in section 1-8 of this Code. Each day that such violation continues after such penalty has been assessed shall constitute a separate offense.

Secs. 62-17 - 62.50. Reserved.

Sec. 62-51. Preliminary and final plats required.

Any owner of land within the corporate limits of the city, or within 1/2 miles beyond the city limits, wishing to subdivide such land, and/or wishing to dedicate streets and other lands for public use, shall first submit a preliminary plat and then a final plat to be acted upon by the city in accordance with the requirements set forth in this article, except as provided for in section 62-15.

Sec. 62-52. Approval of plats by city council.

No plat of subdivision shall be valid or entitled to be recorded unless and until it has been approved by the city council. If the planning and zoning board does not recommend approval of any plat of subdivision, such plat of subdivision shall not be valid or entitled to be recorded unless and until it has been approved by two-thirds of the members of the city council then holding office.

Sec. 62-53. Plat approval not to constitute acceptance of streets.

If any plat of a subdivision within the corporate limits of the city contains public streets or thoroughfares which are therein dedicated as such, the approval of the plat thereof by the city council shall not constitute an acceptance by the city of such streets or thoroughfares, nor of the improvements constructed or installed thereon or therein, irrespective of any act or acts by any officer, agent or employee of the city with respect to such streets or improvements.

Sec. 62-54. Letter of credit or cash deposit--Required.

(a) To ensure compliance with the requirements of this chapter, the applicant shall, prior to recording of the final plat, deposit with the city an irrevocable letter of credit in an amount sufficient to cover the cost of the required public improvements and all required engineering and survey work, including final staking and monumentation, as estimated by the director of engineering. In lieu of a letter of credit, the applicant may deposit, in escrow, cash in an amount sufficient to cover the aforesaid costs.

(b) The irrevocable letter of credit and the form of the cash escrow agreement required by this section shall be subject to the approval of the city attorney. The escrow institution shall be subject to the approval of the city manager.

Sec. 62-55. Same--Amount.

The amount of the irrevocable letter of credit or cash escrow deposit required by section 62-54 shall be in the amount of 125 percent of the costs of the public improvements, as estimated by the director of engineering. Provided, however, that if the applicant/subdivider furnishes the city with contracts for the construction and installation of all public improvements, signed by responsible contractors, the amount of the irrevocable letter of credit or cash escrow may be in the sum of 100 percent of the total cost of construction as recited in the contracts.

Secs. 62-56 - 62-75. Reserved

Sec. 62-76. Preliminary consultation recommended.

It is recommended that before submitting a preliminary plat for official approval the subdivider consult with the director of engineering and director of planning for advice and assistance. This step does not require formal action on the part of the subdivider and does not obligate the subdivider or the city.

Sec. 62-77. Details required.

The preliminary plat shall be drawn to scale in such a manner that clear and legible prints can be made. It shall show the following:

(1) *Identification and description.*

- a. Proposed name of subdivision.
- b. Location by township, section, town and range and by other legal description.
- c. Names and addresses of the owners, the developer, and the surveyor who made the plat.
- d. Scale of plat, not smaller than one inch equals 100 feet.
- e. Date of preparation.
- b. North point (true north).

(2) *Delineation of existing conditions.*

- a. Boundary line of proposed subdivision, indicated by a solid heavy line, and a notation of the approximate total acreage encompassed thereby.
- b. Location, widths and names of all existing streets or other public ways, showing type of improvement, if any, railroad and utility rights-of-way, parks and other public spaces, permanent buildings and structures, easements, and section, township and corporation lines within and adjacent to the tract for a distance of not less than 200 feet.
- c. Location and size of existing sewers, water mains, culverts, or other underground facilities within the tract and to a distance of 200 feet beyond the tract, also indicating grades, invert elevations and locations of catch basins, manholes and hydrants.

- d. Boundary lines of adjacent properties for a distance of not less than 200 feet from the proposed subdivision. Ownership of these properties shall be shown where possible.
 - e. Existing zoning districts of proposed subdivision and adjacent tracts.
 - f. Topographic data including existing contours at vertical intervals of not more than two feet. Topographic data shall refer to the city datum, and include the location of watercourses, marshes, and other significant features. Soil boring data and seepage tests may be required at locations and depths as determined by the director of engineering .
 - g. Locations of or reference to locations of existing monuments or survey markers used in preparation of survey and grade elevation of each monument and marker.
3. *Delineation of proposed conditions.* The preliminary plat shall be in substantial accord with the approved master plan, as amended from time to time.
- a. Layout of streets, including right-of-way widths and street names (street names shall not duplicate existing street names, irrespective of the use of suffix such as street, avenue, drive, etc., unless they are in line with or are a continuation of existing streets already named in which case the existing name shall be used). All streets shall be required to be public streets.
 - b. Location and width of alleys, pedestrian ways, and easements.
 - c. Layout, numbers and typical dimensions of blocks and lots to the nearest foot.
 - d. Building setback lines, indicating dimensions.
 - e. Proposed zoning for subdivision to be annexed into the city prior to filing final plat.
 - f. Areas, other than those listed in subsections (3)a, (3)b or (3)c of this section, intended to be dedicated for public use, indicating in each the appropriate acreage and proposed use.
 - g. Source of domestic water supply, sanitary sewerage outlet and method of stormwater runoff.
 - h. Any outline of protective covenants shall accompany the preliminary plat.
 - i. A preliminary site development engineering report in accordance with the storm water runoff control and erosion control regulations, as set out in chapter 34 of this Code.

j. A tree preservation plan prepared in accordance with the City of Wheaton tree preservation ordinance.

- (4) *Key map.* A print of a key map at a scale not smaller than one inch equals 1,200 feet with the boundaries of the proposed subdivision indicated thereon shall accompany each copy of the preliminary plat. If the proposed subdivision is outside the corporate limits of the city, the map shall include the area within one-half mile of the subdivision boundaries.

Sec. 62-78. Submission.

Preliminary plats, in 15 copies, each accompanied by a key map and copies of supporting documents, shall be furnished to the director of engineering not less than 30 calendar days prior to the next regular meeting of the planning and zoning board.

Sec. 62-79. Review.

The director of engineering shall, upon receipt of a preliminary plat, distribute a copy of the preliminary plat and supporting documents to the director of planning and other administrative personnel for their review and comment. The director of engineering and director of planning shall furnish the planning and zoning board with a written report on their findings, such report to be presented at the city council's next regular meeting. Copies of the plat, supporting documents, and the administrative reports shall be forwarded to the planning and zoning board.

Sec. 62-80. Time within which planning and zoning board to conduct review.

The planning and zoning board shall review any preliminary plat submitted as provided in this division not later than its second meeting following delivery of such plat to the director of engineering. If delivery of the preliminary plat is not made in sufficient time prior to the planning and zoning board meeting for distribution as required, the preliminary plat will not be reviewed until the second meeting of the planning and zoning board following delivery to the director of engineering.

Sec. 62-81. Notice to adjacent owners; applicant to furnish list.

At the time of the filing of an application for a preliminary plat of subdivision, the applicant shall furnish to the city a complete typewritten list containing names and addresses of those persons to whom were sent the tax bills for the general taxes for the last preceding year on all property within 250 feet of the subject property; provided, the number of feet occupied by all public streets, alleys and other public ways shall be excluded in computing the 250-foot requirement. The applicant shall file a sworn affidavit with the list of taxpayers, certifying that the list is complete and accurate. It shall be the responsibility of the city to utilize the list in notifying the adjacent owners.

Sec. 62-82. Posting of sign on subject property.

At least 15 days prior to the planning and zoning board review of the subject subdivision, the city shall cause a sign or signs to be erected on the subject property, so as to be clearly legible to the public view on all adjacent public rights-of-way. This sign shall contain the city seal and a statement to the effect that the property will be the subject of an upcoming subdivision review meeting. A telephone number for contacting the director of planning for information about the review meeting shall be given. The applicant shall reimburse the city for expenses incurred for the sign or signs and its erection prior to the final disposition of the subdivision review.

Sec. 62-83. Granting of approval subject to conditions.

When the planning and zoning board deems that amendment of the preliminary plat is necessary, approval may be granted subject to the required changes.

Sec. 62-84. Distribution of plat to planning and zoning board.

After review and recommendation of approval or denial of the preliminary plat by the planning and zoning board, the preliminary plat and the recommendations of the planning and zoning board shall be directed to the city council.

Sec. 62-85. Time within which council to act.

Within 60 days after the planning and zoning board recommendation with respect to the preliminary plat, the city council shall either approve or disapprove the preliminary plat.

Sec. 62-86. Procedure upon approval by council.

Upon approval of the preliminary plat by the city council, the director of engineering shall forward a certified copy of the resolution of approval to the subdivider.

Sec. 62-87. Qualifications covering plat approval.

Approval of a preliminary plat shall only constitute approval of the land subdivision layout as submitted.

- (1) The planning and zoning board shall review the preliminary plat to assure that the proposed street layout and grades and proposed lot sizes conform to this chapter.

Grades and layout shall meet good planning standards and shall be in keeping with the orderly development of the city. No land will be approved for subdivision which is subject to periodic flooding or which contains inadequate drainage facilities unless such areas become unified parts of contiguous lots or parcels not subject to flooding.

However, if the subdivider agrees to make improvements which will, in the opinion of the director of engineering, make such land safe for residential or commercial occupancy, subdivision of such land may be approved.

- (2) Approval of a preliminary plat shall not constitute a waiver of any improvement requirements set up by ordinance of the city subsequent to this approval but prior to submission of the final plat.

Sec. 62-88. Period of validity.

Approval of a preliminary plat shall be valid for not more than one year following the date of approval.

Sec. 62-89. Procedure upon disapproval.

If the planning and zoning board recommends that the preliminary plat not be approved, a written statement of reasons for such disapproval shall be directed to the subdivider. If the city council does not approve the preliminary plat, the proposed preliminary plat shall be returned to the subdivider.

Secs. 62-89 - 62-110. Reserved.

Sec. 62-111. Details required.

The final plat shall be drawn with nonpaying black ink on linen tracing cloth or transparent plastic, not larger than 30 inches wide by 36 inches long, and it shall show the following:

(1) *Identification and description.*

- a. Proposed name of subdivision.
- b. A full and detailed description of the land embraced in the plat, showing the township and range in which such land is situated and the sections and parts of sections platted, and in the case of reflatting or resubdividing, a description of the part of, and the name of, the original plat which is reflatting or resubdivided, containing the name of the town, city, village or addition platted, the name of the proprietor required to sign the plat and the surveyor making it. If there is any excepted parcel within the plat boundary it must be accurately described by metes, bounds and courses.
- c. Scale of plat, not smaller than one inch equals 100 feet.
- d. North point, indicating true north.
- e. Date of preparation.

(2) *Delineation of final plat.*

- a. Boundary of the plat based on an accurate traverse, with all angular and linear dimensions shown.
- b. All blocks, lots, streets, alleys, crosswalks, easements and setback lines within or adjacent to the plat, all of which shall have all angular and linear dimensions given and all radii, internal angles, points of curvature, tangents, bearings and lengths of all curves so that no dimensions or data are missing which are required for the future relocation of any of the corners or boundaries of blocks, lots, streets, etc., as listed in this subsection. All dimensions shall be given to the nearest hundredth of a foot.
- c. True angles and distances to the nearest established official monuments, not less than three of which shall be accurately described on the plat.
- d. Municipal, township, or section lines accurately tied to the lines of the subdivision by distances and angles.
- e. Block and lot numbers of all blocks and lots. Names of all existing streets and all streets in the subdivision.
- f. Designation of all areas being dedicated to public use, with the purposes indicated thereon.
- g. Location of all iron stakes and all permanent monuments required by this chapter.
- h. Any protective covenants.
- i. Statements covering easement provisions.
- j. All other information required by state statutes.

(3) *Certificates.* The following certificates shall accompany the final plat when submitted:

- a. Owner's certificate of plat and dedication.
- b. Notary's certificate of owners.
- c. Surveyor's certificate.
- d. County clerk's certificate on unpaid taxes.
- e. City clerk's certificate on unpaid special assessments.

201

- f. Wheaton sanitary district certificate on unpaid assessments.
 - g. Director of engineering's certificate on required improvements.
 - h. Certificate of approval by city council.
- (4) *Supporting documents.* The final plat shall be accompanied by the following supporting documents when submitted:
- a. Complete plans, specifications and cost estimates of the improvements to be installed, prepared by a registered professional engineer.
 - b. An agreement signed by the subdivider listing the public improvements he proposes to make at his expense in the subdivision, the time of completion of such improvements and the method of payment for the improvements. This agreement shall provide for the method of selection of the contractors engaged to construct the improvements and require them to submit evidence of insurance covering their employees and indemnifying the city against any loss or damage to persons or property during the course of the work.
 - c. Director of engineering's checklist to be attached by him, listing the improvements required by this chapter.
 - d. Written evidence from the proper governmental agencies, if other than the city, of their willingness and ability to accept and maintain all dedicated areas.
 - e. An application for a site development permit in accordance with the requirements of the stormwater runoff control and erosion control regulations, as set out in chapter 34 of this Code.
 - f. A storm drainage plan based upon a competent storm drainage study.
 - g. The topographical and profile studies submitted with the subdivision plat shall have on their face the certificate of a registered professional engineer, and the owner of the land or his duly authorized agent, to the effect that to the best of their knowledge and belief the drainage of surface waters will not be changed by the construction of such subdivision or any part thereof, or that if such surface water drainage will be changed, adequate provision has been made for the collection and diversion of surface waters into public areas, or into drains which the subdivider has a right to use, and that such surface waters will not be deposited on the property of an adjoining landowner in such concentrations as may cause damage to the adjoining property because of the construction of the subdivision.

Sec. 62-112. Submission.

Final plats, in 15 copies, each accompanied by a key map, and 12 copies of the final engineering plans, complete with four copies of any required supporting documents, shall be furnished to the director of engineering not less than 30 calendar days prior to the next regular meeting of the city council. The original drawing of the final plat shall also be transmitted to the director of engineering, who will examine the plat and supporting documents. In no case will the director of engineering forward the final plat to the city council until all requirements of this chapter have been met and until all required supporting documents have been submitted. Such documentation must be submitted within one year following approval of the preliminary plat.

Sec. 62-113. Notification of requirements not met.

The director of engineering will notify the subdivider when upon checking the final plat and supporting documents he finds that the requirements of this chapter have not been met so that the necessary changes can be made or missing documentation supplied.

Sec. 62-114. Checklist required.

The subdivider shall complete a checklist on a form provided by the director of engineering which shall show each requirement of this chapter and shall indicate whether each such requirement has been complied with. Such checklist will also indicate the exact nature of any variance that the subdivider is requesting consideration of.

Sec. 62-115. Procedure where final plat not in agreement with preliminary plat.

If the proposed final plat is not in basic agreement with the preliminary plat, the director of engineering shall notify the subdivider to furnish sufficient copies of the revised plat so that the procedure for preliminary plat approval may again be followed, and upon approval by the city council the certificate of approval for a preliminary plat shall be affixed and copies distributed as outlined in section 62-84. The director of engineering will then, if no changes are required in the plat submitted, check the supporting documents, obtain the necessary number of supporting documents from the subdivider and then follow the procedure set forth in section 62-116.

Sec. 62-116. Transmission to city council.

If all requirements of this division have been met, and the final plat is identical with the preliminary plat as approved by the city council, the director of engineering shall upon receipt of the final plat distribute a copy of the final plat and any supporting documents to the director of planning and other administrative personnel for their review and comments. The director of engineering and director of planning shall furnish the city council with a written report on their findings. Such report shall be presented at the next regular meeting of the city council.

Sec. 62- 117. Approval by council.

When the city council is satisfied with the final plat and the supporting documents submitted therewith, it shall by resolution approve such plat and authorize the mayor to sign the approval form provided. The city clerk shall attach a certified copy of such order or resolution of approval to the final plat.

Sec. 62- 118. Disposition of plats, prints and supporting documents subsequent to council approval.

Upon approval of the city council, the final plat shall be recorded by the director of engineering along with any supporting documentation. Upon receipt of the recorded documents from the recorder's office, one copy of the approved supporting documents and final plat shall be returned to the subdivider. The director of engineering shall retain the original reproduction on tracing cloth or transparent plastic to be filed as a part of the permanent records of the city.

Sec. 62- 119. Delivery of plat to subdivider.

The director of engineering shall deliver a signed copy of the final plat to the subdivider upon receipt of the cash escrow or irrevocable letter of credit provided for in section 62-54.

Sec. 62- 120. Recording of plat--Time limit set.

The final plat shall be recorded within 90 days after approval. Recording shall be by the director of engineering upon notification by the subdivider with the subdivider paying the fee.

Sec. 62- 121. Same--Consequences of failure to record within time set.

Any approval of the final plat by the city council shall be null and void if the plat is not recorded in the exact form approved within 90 days following approval.

ARTICLE III. DESIGN STANDARDS

DIVISION 1. GENERALLY

Sec. 62-151. Preservation of natural features.

In the subdividing of any land, due regard shall be shown to the preservation of all natural features such as tree growth, watercourses, historical and similar community assets which if preserved will add attractiveness and value to the property.

Sec. 62-152. Subdivision bordering on railroad right-of-way or highways.

Where a subdivision borders on or is traversed by a railroad right-of-way or federal or

state highway, the city council may require a street on one or both sides of such right-of-way or highway approximately parallel to and at a distance removed suitable for the appropriate use of the intervening land for:

- (1) Park purposes; or
- (2) Off-street parking, business, or other uses as permitted by the zoning ordinances; or in lieu of a street it may require deep residential lots with a visual barrier established in a nonaccess reservation strip along the rear property lines.

Secs. 62-153 - 62-175. Reserved.

DIVISION 2. STREETS, ALLEYS AND PEDESTRIAN WAYS

Sec. 62-176. Street plan.

The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to:

- (1) Existing and planned streets;
- (2) Reasonable circulation of traffic within the subdivision and adjoining lands;
- (3) Topographical conditions;
- (4) Runoff of stormwater;
- (5) Public convenience and safety; and
- (6) In their appropriate relations to the proposed uses of the area to be served.

Each lot shall abut upon a public street and thereby no private street shall be permitted.

Sec. 62-177. Right-of-way widths.

All right-of-way widths shall conform to the following minimum dimensions:

<i>Type of Street</i>	<i>Residential</i>	<i>Commercial, business, or industrial</i>
Thoroughfare	80 feet	100 feet
Collector	66 feet	80 feet
Minor	66 feet	66 feet
Half street	One-half of the total right-of-way of	

	the proposed street or as required by the city council with 40 feet minimum.	not permitted
Cul-de-sac	55 feet (when approved by city council)	70 feet

Sec. 62-178. Pavement widths between curb facing.

Pavement width between faces of curbs shall be as follows:

<i>Type of Street</i>	<i>Residential</i>	<i>Commercial, business, or industrial</i>
Collector	40 feet	62 feet
Minor	27 feet	40 feet
Cul-de-sac	27 feet	36 feet
Half street	One-half of the width of the proposed street but not less than 18 feet.	not permitted
Thoroughfare	In accordance with federal, state, county or city requirements	
Marginal access for thoroughfares	24 feet	36 feet

Sec. 62-179. Culls-de-sac.

(a) *Length.* Cul-de-sac streets in single-family residential districts shall not be more than 500 feet in length, measured along their centerline from the streets of origin to the ends of their rights-of-way. Culls-de-sac may be longer than 500 lineal feet provided that not more than 20 lots abut upon their right-of-way lines and provisions are made for looping proposed water mains. In multiple-family residential districts, such cull-de-sac type streets shall not exceed 300 feet in length.

(b) *Terminus.* Each cul-de-sac shall have a terminus of nearly circular shape with a minimum right-of-way diameter of 100 feet. The terminus shall be connected with each right-of-way line of the approach segment of the street by a reverse curvature having a radius of not less than 30 feet.

(c) *Right-of-way widths.* Culs-de-sac in excess of 500 lineal feet in single-family districts and in excess of 300 lineal feet in multiple-family districts shall have a right-of-way meeting the requirements of National Fire Protection Association standard 1141 and any other requirements of the director of engineering.

Sec. 62-180. Deflections in horizontal centerline; curve to be inserted.

Where there is a deflection in horizontal centerline within a given block at any given point in excess of ten degrees, a curve shall be inserted with a radius of not less than:

(1) Collector streets for thoroughfares: 300 feet.

(2) Minor streets for thoroughfares: 100 feet.

Sec. 62-181. Differing gradients; vertical curves to connect.

Different connecting street gradients shall be connected with vertical curves. Minimum length in feet of these curves shall provide a sight distance of not less than 300 feet measured from an eye level four feet high, with a clear view of obstacles not over two feet high.

Sec. 62-182. Street jogs.

Street jogs with centerline offsets of less than 125 feet shall not be permitted if the same can be reasonably avoided.

Sec. 62-183. Alignment of minor streets.

Minor streets should be so aligned that their use by through traffic will be discouraged.

Sec. 62-184. Intersections.

Street intersections and confluences shall be planned in a manner that will provide safe and efficient traffic flow. Streets shall intersect at or near right angles, and an intersection of more than two streets shall be avoided.

Sec. 62-185. Half streets--Prohibited; exceptions.

Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of the regulations set out in this chapter, or where the city council finds it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided.

Sec. 62-186. Same--Platting.

Wherever an existing or dedicated half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

Sec. 62-187. Same--Grading.

A half street, where included, shall be graded at one level, and the regrading or new construction of any half street shall conform to the grade and pavement of the adjacent half street.

Sec. 62-188. Vehicular, pedestrian access.

Provision shall be made for vehicular and pedestrian access to residential property

abutting thoroughfares either:

- (1) By providing marginal access streets; or
- (2) By backing lots to the thoroughfare and providing access by a collector, minor, or cull-de-sac street one lot depth removed and with a visual barrier established in a nonaccess reservation strip along the rear property line abutting the thoroughfare. These standards are established for the purpose of providing protection to residential properties and to separate through and local traffic.

Sec. 62-189. Gradients.

Gradients of streets shall be at least four-tenths of one percent and shall not exceed on:

- (1) Collector streets: Five percent.
- (2) Minor streets: Seven percent.

Sec. 62-190. Alleys--Prohibited in residential areas; exception.

Alleys are not permitted in residential areas unless deemed necessary by the city council.

Sec. 62-191. Same--Width.

Alleys shall be at least 20 feet wide where permitted in residential areas. Required alleys provided in commercial areas shall be at least 22 feet wide.

Sec. 62-192. Width of pedestrian rights-of-way.

Pedestrian rights-of-way shall be at least 12 feet wide, where permitted.

DIVISION 3. LOTS AND BLOCKS

Sec. 62-211. Lot shape.

In general, lots shall be as nearly rectangular in shape as practicable.

Sec. 62-212. Minimum residential lot area and frontage--Generally.

The minimum single-family residential lot area for subdivisions under the jurisdiction of this chapter shall be 10,000 square feet; the minimum single-family residential lot width at the building setback line, as regulated by the zoning ordinance, shall be 70 feet; and the minimum single-family residential lot frontage along the improved right-of-way shall be 45 feet.

Sec. 62-213. Same--Corner lots.

The minimum area of all corner single-family residential lots in a subdivision shall be 12,000 square feet, and the minimum frontage shall be 90 feet. In the case of corner lots the city council may make variations to encourage the proper development of intersection design and traffic safety.

Sec. 62-214. Minimum residential lot depth.

The minimum depth of single-family residential lots shall be 132 feet, except where continuations of existing streets extended do not permit compliance with this section.

Sec. 62-215. Width, area, depth in manufacturing or business subdivision.

Width, area and depth of lots in a manufacturing or business subdivision shall be as approved by the city council in accordance with the proposed function and location of each such subdivision.

Sec. 62-216. Lots to abut upon public street; setback lines to be shown.

All lots shall abut upon a public street; minimum building setback lines shall be shown along all public streets as established by either the applicable zoning ordinance district or the city council, based upon existing conditions within and surrounding the subdivision, to provide for conformity and continuity.

Sec. 62-217. Double frontage lots.

Double frontage lots are not permitted, except where lots back upon a thoroughfare, upon a body of water in separate or undivided ownership, or as specifically approved by the city council in manufacturing and business subdivisions.

Sec. 62-218. Lots abutting upon drainage way.

Lots abutting upon a drainage way shall have an additional depth or width as required by the city council in order to provide acceptable building sites.

Sec. 62-219. Block length.

Blocks shall not exceed 1,200 lineal feet, nor be less than 600 lineal feet in length, unless otherwise approved by the city council.

Sec. 62-220. Block length and width in commercial, business, industrial subdivisions.

In commercial, business and industrial subdivisions, block lengths and widths shall be as approved by the city council in accordance with the proposed function and location of each subdivision.

Sec. 62-221. Block shape.

The shape of blocks shall be dictated by topographical features, the traffic flow, lot depths and public open areas.

Sec. 62-222. Flag lots.

Flag lots are not permitted.

DIVISION 4. EASEMENTS

Sec. 62-251. Duty to provide.

Easements shall be provided for any overhead or underground utility service, including sewer and water mains, where necessary.

Sec. 62-252. Width and establishment.

Easements shall be at least ten feet wide and shall be established at the rear of each lot and along such other lot lines as to provide continuity of alignment from block to block.

Sec. 62-253. Additional easements for pole-line anchors.

At deflection points in easements, if overhead utility lines are contemplated, additional easements shall be established for pole-line anchors.

Sec. 62-254. Drainage easement.

Where a subdivision is traversed by a natural watercourse or drainage way, there shall be provided a drainage easement conforming substantially with the lines of such watercourse. Such easement shall include an additional area at least 15 feet wide adjoining both edges of the established area that has been affected by damaging floodgates, as certified by the subdivider or his engineer. No buildings or structures shall be erected on or over such easements. A drainage easement shall be provided in accordance with section 34-100 of this Code.

Sec. 62-255. Right to ingress, egress.

A statement in approved form, granting the right to ingress and egress for installation and maintenance of utilities, sewers, water mains or maintenance of watercourses, shall be shown on the plat.

ARTICLE IV. REQUIRED IMPROVEMENT

Sec. 62-276. Duty to provide.

The subdivider at his expense shall install, or arrange to have installed by others, the land improvements set forth in this article. All such improvements shall meet the requirements

and standards of the city and the approval of the director of engineering.

Sec. 62-277. Monuments--Placement.

(a) Permanent land bounding monuments consisting of metal pipes of not less than 1/2 inches in diameter and 18 inches long, encased in a concrete cylinder at least four inches in diameter, shall be located in the ground at opposite points within the development pursuant to 765 ILCS 205/0.01 et seq.

(b) Metal pipes at least one inch in diameter and 18 inches long shall be placed at all lot corners, points of curvature and tangent points of curves throughout the subdivision.

(c) All stakes and monuments must be set at the proper elevations so that they will be flush with the ground when the finished grading has been completed.

(d) The developer shall provide certification to the director of engineering that all monuments required by this chapter have been set prior to final acceptance of the development.

Sec. 62-278. Same--Certificate required upon completion of installation.

The surveyor shall furnish the director of engineering a certificate stating that all monuments are in place and properly located upon completion of installation of the required improvements.

Sec. 62-279. Telephones, electricity and gas.

(a) *Underground service required.* Any subdivision of two or more lots shall be serviced entirely by underground electrical and telephone service. The term "service" as used in this section shall include but not be limited to overhead transmission lines, feeder lines and necessary appurtenances for servicing the development or other areas surrounding the development.

(b) *Placement of lines.* All utility lines for telephone and electric service shall be placed in the rear lot line easements. Gas service lines, telephone and electric lines, when placed in a subdivision shall be placed within easements or dedicated public ways in a manner which will not conflict with other underground services.

(c) *Transformer boxes.* All transformer boxes shall be located in rear yard easement areas so as to not be unsightly or hazardous to the public.

(d) *Installations traversing on private property.* All underground and overload utility installations which traverse privately owned property shall be protected by easements and shall be approved by the city.

(e) *Procedure for variation from any underground service requirements.* Any person

desiring to locate electrical or telephone service overhead shall first submit a written request for consideration to the director of engineering's office. The director of engineering shall deliver his opinion to the planning and zoning board on the date the development is to be reviewed by the planning and zoning board. The planning and zoning board shall then transmit its decision in writing to the city council, which shall consider this request at its next regularly scheduled meeting. If the findings and recommendations of the planning and zoning board and the director of engineering differ, the matter will be determined solely by the city council at its next regularly scheduled session.

Sec. 62-280. House services.

(a) *Duty to provide.* House services shall be constructed to connect with the utility service mains within any street or thoroughfare, to serve each adjoining lot, tract, or building site.

(b) *Service stubs.* Service stubs shall be brought within seven feet of the property line. All such house service stubs shall be located at the approximate centerline of each lot, and no deviation shall be made from this requirement except upon prior approval by the director of engineering.

(c) *Maps to be furnished.* Upon completion of the construction of all house services and the connection of such services with utility mains, an accurate map or maps showing the exact location of all such mains, together with manholes, shutoff valves and other similar facilities, by distances in feet from street lines and side lot lines, shall be filed with the director of engineering.

Sec. 62-281. Sanitary sewers.

Sanitary sewer mains shall be constructed throughout the entire subdivision in such manner as to serve adequately all lots and tracts with connection to the city sewer system. All necessary house connections shall be so installed as to make future excavation in the paved portion of the street unnecessary.

Sec. 62-282. Storm drainage.

An adequate system of stormwater drainage, separate from the sanitary sewer system, shall be constructed and installed, consisting of pipes, tiles, manholes, inlets, and other necessary facilities, that will adequately drain the subdivision and protect roadway pavement and will be in compliance with the stormwater runoff control and erosion control regulations, as set out in chapter 34 of this Code.

Sec. 62-283. Water supply.

Water mains not less than six inches in diameter shall be constructed throughout the entire subdivision in such manner as to serve adequately all lots and tracts with connection to the city water system, together with shutoff valves and fire hydrants.

Sec. 62-284. Individual or community sewerage and water systems.

When a subdivision is located in the unincorporated areas 1/2 miles beyond the city limits, individual or community sewerage and water supply systems may be installed, provided installation conforms with county standards and when evidence is submitted that such systems are designed in a manner that each lot may in the future be served by the city, the city sanitary district, or countywide sewerage and water systems.

Sec. 62-285. Fire hydrants.

Fire hydrants shall be installed throughout the entire subdivision at intervals not exceeding 400 feet.

Sec. 62-286. Street lighting.

Street lighting shall be provided throughout the subdivision by the subdivider, and shall be installed in accordance with standards approved by the city.

Sec. 62-287. Street signs.

Appropriate street signs shall be erected at each street intersection within the subdivision. The type of sign shall conform to city standards and the number and location of such signs shall be as directed by the director of engineering.

Sec. 62-288. Street pavements; filing of plans and specifications.

All streets within the subdivision shall be improved with a durable hard surface roadway, and shall be designed, in the opinion of the director of engineering, to withstand the traffic that the roadways will presumably be required to accommodate. Before any paving work is commenced, all plans, profiles, and specifications shall be approved by the director of public works. Pavement shall conform to the current requirements of the city.

Sec. 62-289. Underground work on improvements to be completed prior to paving.

Before pavement is laid on any street, all of the underground work, such as sewer, water and gas mains, house service connections therewith, and any underground conduits for electric and telephone lines, shall be completely installed in place and approved, and the backfilling of all trenches dug for the installation of the aforementioned utility services shall have completely settled or shall have been compacted to the satisfaction of the director of engineering.

Sec. 62-290. Pavement edging.

A concrete curb and gutter shall be constructed along the outside lines of all street pavements. All curb corners at street intersections shall have a radius of not less than 15 feet. The type, size and specifications of curb and gutter shall be approved by the director of

engineering as being in accordance with the ordinances of the city. In the unincorporated areas within 1/2 miles of the city limits, curb or curb and gutter shall not be required in subdivisions where no lots are less than 40,000 square feet in area.

Sec. 62-291. Sidewalks required; exceptions.

Sidewalks shall be required on both sides of a street in all subdivisions, unless waived by the city council. In the unincorporated area within 1/2 miles of the city limits, sidewalks shall not be required in subdivisions where no lots are less than 40,000 square feet in area.

Sec. 62-292. Paving of alleys.

All alley roadways shall be paved and such pavements shall be equal to the requirements for streets and shall be sufficient in the opinion of the director of engineering to withstand the traffic that the roadways will presumably be required to accommodate.

Sec. 62-293. Pedestrian ways leading to common destinations.

Pedestrian ways leading to schools, parks or other common destinations may be required. Such ways shall be improved to a width of not less than five feet in accordance with city specifications. The open area bordering the walks shall be landscaped in accordance with plans approved by the director of engineering.

Sec. 62-294. Trees and shrubbery in parkways.

Street trees shall be planted in the parkways to meet the planting standards of the city, and are subject to the approval of the director of engineering. Trees shall not be planted on corner parkways nor less than 25 feet from the property line extended at the intersections. Shrubby shall not be planted on the parkway.

Sec. 62-295. Time limit within which improvements must be installed.

All public improvements must be installed within five years after recording of the final plat.

Sec. 62-296. Construction observations--Generally.

(a) All public improvements to be constructed pursuant to the provisions of this chapter shall be subject to the periodic observation of the director of engineering or his designated representative during the course of construction. The director of engineering or his designated representative shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the contractor as necessary in order to make his observations.

(b) The director of engineering or his designated representative is not required to make exhaustive or continuous on-site inspections to check the quality or quantity of the

improvements and their construction. The observations provided for in this section are not intended to supplement, modify, or eliminate the responsibility of the developer to use and provide, at his own expense, professional engineering and inspection services of a private consulting engineer or firm.

Sec. 62-297. Same--Costs.

The sum of two percent of the cost of the public improvements shall be paid by the subdivider or developer to the city for construction observations.

Sec. 62-298. Final approval of improvements.

Final approval of all improvements must be given by the director of engineering.

Sec. 62-299. Altered vacant lot grading and vegetation.

(a) An altered vacant lot shall mean any lot of record in a subdivision where any alteration, change or modification of the natural grade and/or vegetation has occurred.

(b) Any altered vacant lot shall be graded in conformance with the subdivision's master grading plan or an owner/developer interim grading plan submitted to and approved by the director of engineering. Interim grading plans shall take into consideration the condition of adjacent lots, drainage, dust, and erosion.

(c) Upon completion of grading described in subsection (b) all altered vacant lots shall be planted and maintained with vegetation cover in conformance with chapter 78, vegetation, article IV of the Wheaton City Code.

(d) Should any altered vacant lot not be graded or vegetated in conformance with subsections (b) and (c), or should any grading, planting or maintenance of vegetation on an altered vacant lot fail to protect adjacent properties and right-of-way from improper drainage, excessive dust, erosion or other grading or vegetation related nuisances the owner shall correct such conditions upon receiving written notification from the director of engineering. Such written notification shall be served or cause to be served upon the owner of any altered vacant lot in violation of the provisions of this article, requiring the correction thereof within ten days. If upon diligent search, the identity or whereabouts of the owner of any altered vacant lot cannot be ascertained, or should the owner refuse service, the notice to correct provided for in this section shall be mailed to the person in whose name such altered vacant lot was last assessed.

- (1) If the owner so served or notified does not correct the altered vacant lot in accordance with this section, the city shall have the right, but not the obligation, to correct the altered vacant lot in any and all manners allowable by law, without limiting the generality thereof, by means of one or more of the following:

475

- a. Seeking to impose a monetary penalty in accordance with the general penalty provisions of this Code.
 - b. Seeking to enjoin the continuation of the altered vacant lot by the filing of a lawsuit in a court of competent jurisdiction.
 - c. Seeking an independent contractor to correct the altered vacant lot.
- (2) Costs incurred by the city shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the altered vacant lot.

In addition to all other remedies provided by law, all costs associated with correction of the altered vacant lot, including reasonable attorney's fees, shall constitute a lien upon the real estate affected provided that within 60 days after such cost and expense is incurred, the city, or the independent contractor performing the service by authority of the city, in its or his own name, files notice of lien in the office of the recorder of deeds of the county. The lien shall be superior to all other liens and encumbrances except tax liens or any mortgage, judgement creditor, or any other lienor whose rights in and to such real estate arise prior to the filing of such notice.

The notice of lien shall consist of a sworn statement setting out the following:

- a. A description of the real estate sufficient for identification;
- b. The amount of money representing the cost and expense incurred or payable for each service; and
- c. The date or dates when the expenses were incurred by the city.

The notice of lien must also state the substance of this section and be in conformance with applicable state statutes, and shall identify the altered vacant lot by common description. The cost of correcting the altered vacant lot shall not be a lien on the real estate affected unless a notice is personally served on, or sent by certified mail to the person to whom was sent the tax bill for the preceding year. The notice shall be delivered or sent after the altered vacant lot is corrected.

Upon payment of costs and expenses incurred by the city or independent contractor, by the owner of or persons interested in such real estate after notice of lien has been filed, the lien shall be released by the city or the independent contractor in whose name the lien has been filed.

- (3) The lien provided for in this section may, at the discretion of the city, be foreclosed, in the manner provided by law, in any court of competent jurisdiction. Reasonable attorney's fees and costs incurred by the city, with respect to the filing

and foreclosure of the lien, shall be taxed against the owner of or persons interested in the real estate.

(e) This section shall apply to all altered vacant lots existing within the city as of the effective date of this section.

(f) All altered vacant lots shall be within 90 days of the effective date of this section graded and vegetated in accordance with subdivision's master grading plan or an interim grading plan approved by the director of engineering.

ARTICLE V.

SCHOOL AND PARK SITE DEDICATIONS

Sec. 62-326. Dedication of park lands and school sites, or contribution of fees in lieu thereof required.

As a condition of approval of a final plat of subdivision or planned unit development, each subdivider or developer shall dedicate land for park purposes, and for school sites, or shall contribute cash in lieu of actual land dedications, or a combination of both, at the option of the city, to serve the immediate and future needs of the residents of the development, in accordance with the criteria and formulas contained in this article.

Sec. 62-327. Requirements for park land dedications.

(a) *Calculation of requirement.* The estimated ultimate population of a proposed development shall bear directly upon the amount of land required to be dedicated for park and recreational purposes. The minimum requirement shall be 5.5 acres of land per 1,000 of ultimate population in accordance with the standards set out in this section.

Type of recreation area	Recommended size range	Minimum acres per 1,000 people
School park neighborhood playground	Minimum park of 5 acres adjacent to school site	1.25
Neighborhood park	Minimum 3 1/2 acres	1.0
District wide park or play field	Minimum 4 acres up to 30 acres	1.25
Community wide recreation park	Minimum 12 acres up to 30 acres	2.0
Total		5.5 acres of land per 1,000 people

(b) *Park site size and location standards.* The park land to be dedicated shall be located in accordance with the city's comprehensive plan and with the requirements of the park district having jurisdiction over the proposed development. The size and general location of sites to be dedicated shall be subject to the approval of the park district having jurisdiction, prior to approval of the preliminary plat. The suitability of land to be dedicated for park sites shall be evaluated according to the following standards:

244

- (1) The site should be essentially regular in shape to facilitate maintenance and to provide the optimum opportunity for recreational use.
- (2) The site should not be located on a major road if such a location would present a traffic hazard to park users.
- (3) A maximum of 50 percent of the site may be utilized for storm water control facilities, if approved by the park district having jurisdiction. Park sites including retention or detention facilities shall be a minimum of five acres in size, unless otherwise approved by the park district.
- (4) The site should have soil and topographic conditions suitable to accommodate the facilities anticipated for the site, such as parking areas, play fields, tennis courts, playground equipment, or other recreational facilities.
- (5) The site should be located in the approximate center of the residential area to be served, adjacent to a school site where applicable.
- (6) The site should be located in conjunction with compatible land uses.

(c) *Credit for private open space and recreational facilities.* The provision of private open space and recreational facilities has the effect of reducing the demand for public parks and recreational facilities. Therefore, consideration may be given to reducing the required dedication or contribution for park and recreational land by the substitution of private open space and recreational facilities. The extent of this substitution shall be determined by the city council, based on the following standards:

- (1) Detailed plans of private open space and recreational facilities shall be submitted as part of the preliminary plat approval process, and shall be subject to approval by the city and park district.
- (2) Any private open space or recreational facilities which are substituted for required dedications shall be reasonably related to the needs of the projected residents.
- (3) The private facilities shall not be disruptive to the plan for public parks and recreational land in the area.
- (4) Private open space which is substituted for required dedications shall be improved by the developer or subdivider so as to provide recreational opportunities for the projected residents.
- (5) Permanent maintenance of private open space and recreational facilities shall be guaranteed by the execution of appropriate legal documents.

Sec. 62-328. Requirements for school site dedication.

(a) *Calculation of requirement.* The estimated ultimate student population for grades K through 12 of the proposed development shall bear directly on the amount of land required to be dedicated for school sites. The minimum requirement shall be 1.5 acres per 100 of estimated ultimate student population in accordance with the standards set out in this section.

(b) *School site size and location standards.* School sites shall be sized and located in accordance with the city's comprehensive plan and with the requirements of the school district having jurisdiction over the proposed development. The size and general location of sites to be dedicated shall be subject to the approval of the school district having jurisdiction prior to approval of the preliminary plat. The suitability of land to be dedicated for school sites shall be evaluated according to the following standards:

- (1) The site should be essentially regular in shape, to allow the proper design of the school building, playground, and parking areas.
- (2) The site should not be located on a major road if such a location would present a traffic hazard to school children.
- (3) The site should not be subject to frequent flooding.
- (4) The site should have suitable soil and topographic conditions.
- (5) The site should be located in the approximate center of the residential area to be served.
- (6) The site should be located in conjunction with compatible land uses.

Sec. 62-329. Criteria for requiring a cash contribution in lieu of park and school site dedications.

(a) *When cash contribution required.* Where the subdivision or development is small and the resulting site is too small to be practical, or when available land is inappropriate for park or school sites, or where park or school sites have already been provided, the city council, on the advice of the appropriate district, may require, by resolution, the payment of cash contributions in lieu of the required land dedications.

(b) *Disposition of contribution in lieu of park site.* Any cash contribution in lieu of park land dedication shall be paid directly to the city prior to the recording of the final plat. The cash contribution shall be held in a segregated account by the city solely for the acquisition of park land or the improvement of existing or purchased park land which will be available to serve the needs of the residents of that subdivision or development. In addition to the foregoing requirements, it is also required that the cash contribution be expended for the acquisition of park land or the improvement of existing or purchased park land within the corporate boundaries or planning area of the city.

(c) *Disposition of contribution in lieu of school site.* Any cash contribution in lieu of school site dedication shall be paid directly to the city prior to the recording of the final plat. The cash contribution shall be held in a segregated account by the city solely for the acquisition or improvement of a school building, the acquisition or improvement of a school site or the improvement of areas adjacent to a school which serves the needs of children from the subdivision or development. In addition to the foregoing requirements, it is required that the cash contribution be expended for the acquisition of school site land or for the construction or improvement of a school building within the corporate boundaries or planning area of the city.

(d) *Utilization of contribution if not expended.* If any portion of the cash contribution in lieu of park or school site dedication is not expended for the purposes set forth in this section within ten years from the date of receipt, it shall be returned on a proportionate basis to those parties who are then the successor title holders of record to the property, subdivision or development which generated the cash contribution.

(e) *Amount of cash contribution.* The cash contributions in lieu of land shall be based on the fair market value of the land within the development that otherwise would have been dedicated for park and school sites. The fair market value of vacant land in and near the city is hereby determined to be \$150,000.00 per acre, which shall be used in the calculation of the required cash contribution, except as follows:

- (1) If the city council determines that the specifics of the subdivision or development so warrant, it may require a formal appraisal.
- (2) If the subdivider files a written objection to the use of \$150,00.00 per acre value, the subdivider shall submit a formal appraisal.
- (3) When a home or number of existing homes are removed as part of a subdivision or development, the applicant shall be responsible for donations for any net increase in the number of homes and/or bedrooms within homes to be constructed on the subject property, from the number of homes and/or bedrooms previously existing on the property.

Such appraisals shall show the fair market value of the land in the area of the subdivision. Final determination of the fair market value per acre of land shall be made by the city council, based upon the appraisal or appraisals, and upon other information which may be submitted by park districts, school districts or others. The subdivider shall pay all appraisal fees. When any cash contribution is required prior to recording of the final plat, the contribution shall be based upon a four-bedroom detached single-family dwelling, a two-bedroom attached family dwelling, or a two-bedroom apartment dwelling, unless building plans have been previously submitted and are on file with the city indicating the exact number of bedrooms to be constructed within each specific dwelling unit. Adjustments to the initial cash contribution shall be made at the time of issuance of the building permit.

(f) *Criteria for requiring dedication and contribution.* There may be situations in subdivisions or planned unit developments when a combination of land dedication and a contribution in lieu of land are both necessary. The city council, on the advice of the affected district, may require a combination of dedication of land and contribution of cash in the following situations:

- (1) When a previously designated park or school site lies partly within and partly outside of a proposed subdivision of PUD, and the size of that part of the designated park or school site within the subdivision or PUD is less than the required dedication, then the subdivider shall dedicate that portion of the park or school site lying within the proposed subdivision or PUD and contribute cash in lieu of the additional land needed to fulfill the dedication requirements.
- (2) When a part of a park or school site has already been acquired, and the land needed to complete it to be dedicated by the subdivider is less than the required dedication, then the subdivider shall dedicate the amount of land needed from the subdivision or PUD to complete the park or school site and contribute cash in lieu of the additional land needed to fulfill the dedication requirements.
- (3) When the subdivider will be dedicating land for certain park or school sites, and the balance of the required dedication would be too small or otherwise unsuitable for park or school sites, then the subdivider shall contribute cash in lieu of the additional land needed to fulfill the dedication requirements.

Sec. 62-330. Calculation of estimated population.

The table of estimated ultimate population per dwelling unit, attached to this article as exhibit A, shall be used to calculate the amount of required dedications and contributions. A written objection to exhibit A may be filed by the subdivider, or by the affected district. This objection shall consist of a demographic study showing the estimated ultimate population to be generated by the subdivision. Final determination of the estimated ultimate population shall be made by the city council, which may base its decision upon the objector's demographic study, and upon other studies which may be submitted by the park district, school district, or others. It is recognized that population density, age distribution, and local conditions change over time, and that, therefore, exhibit A is subject to periodic review and amendment as necessary. The number of bedrooms in a dwelling unit shall be determined in accordance with the definition of bedroom in section 62-3.

Sec. 62-331. Reservation of additional land.

Whenever the comprehensive plan, or the standards of the city, school district, or park district call for a larger school or park site in a particular subdivision or PUD than the subdivider is required to dedicate, the land needed beyond the developer's contribution shall be reserved for subsequent purchase by the city or other public body designated by the city on the final plat of subdivision prior to final approval by the city council. The city or such public body designated by the city shall acquire the land so designated by purchase or

commence proceedings to acquire such land by condemnation within one year from the date of approval of the final plat. If the city or other such public body does not acquire the land so designated within a period of one year, the land so designated may then be used by the owners thereof in any other manner consistent with this chapter and the zoning ordinance of the city.

Sec. 62-332. Combining sites with adjoining developments.

Where the subdivision or planned unit development is less than 40 acres, public open space or a school site which is to be dedicated should be combined with the dedications from adjoining or nearby developments in order to produce usable recreation areas or school sites without hardship on a particular subdivision.

Sec. 62-333. Condition of park sites to be dedicated.

The slope, topography, and soils of the dedicated park site and its surroundings must be suitable for recreational use, as determined by the city council on the advice of the appropriate district. Park sites shall be fine graded, provided with four inches to six inches of topsoil, and seeded, subject to the approval of the affected district, prior to written acceptance. Public improvements adjoining the park site shall be the responsibility of the subdivider. Road access, water service, sanitary sewers, and appropriate drainage facilities shall be provided to the site prior to acceptance.

Sec. 62-334. Condition of school sites to be dedicated.

The slope, topography, and soils of the dedicated school site and its surroundings must be suitable for construction of a school, parking facilities, and provision of recreational facilities, as determined by the city council on the advice of the appropriate district. School sites shall be fine graded, provided with four inches to six inches of topsoil, and seeded, subject to the approval of the appropriate district, prior to written acceptance. Public improvements adjacent to the school site shall be the responsibility of the subdivider. Road access, water service, sanitary sewers, and appropriate drainage facilities shall be provided to the site prior to acceptance.

Sec. 62-335. Real estate donation requirements.

All real estate conveyed to the city, school district, or park district pursuant to the provisions of this article shall be designated as public land. Public land is defined as real estate to be conveyed pursuant to this article and to be utilized by the city, school district, and/or park district for uses including, but not limited to, recreational sites, lakes, storm water retention and detention areas, public forest areas, municipal service areas, public works substations, storage areas and well sites, public natural resource areas, public golf course site areas and other uses, school building sites, and playgrounds.

- (1) *Time of conveyance.* The public land shall be conveyed to the appropriate grantee as designated by the city concurrent with the signing of the resolution approving the

final plat of subdivision and prior to recording of the final plat of subdivision. Conveyance shall not be deemed to constitute written acceptance for purposes of maintenance. The subdivider shall be responsible for maintaining the public land until such land is accepted for maintenance, in writing.

(2) *Standards of conveyance.* The developer shall furnish the city with a survey of the public land to be conveyed and a preliminary report of title from a title company licensed to do business in the state and acceptable to the city attorney, in the minimum amount such title reports are allowed to be issued by such title company, all without cost to the city. If, within 30 days of receipt of the report of title, the city objects in writing to defects in the title, the developer shall have 30 additional days from the date of delivery of such written objections to cure such defects. The developer shall have all deeds of conveyance pursuant to this article recorded, at its sole expense, in the office of the county recorder of deeds. All conveyances pursuant to this article shall be by warranty or trustee's deed subject only to the following:

- a. Customary and standard general exceptions included in standard state licensed title company policies of insurance;
- b. Acts done or suffered by, or judgments against, the grantee, its successors, and assigns;
- c. General taxes for the year of conveyance and subsequent years;
- d. Zoning and building laws and/or ordinances;
- e. Public and utility easements of record;
- f. Conditions and covenants of record as contained only in plats of subdivision and planned unit developments approved by the city;
- g. Rights-of-way for drainage ditches, feeders, laterals, and underground tile, pipe or other conduit;
- h. Rights of the public, people of the state and the city in and to any part of the public land used for road or highway purposes or drainage systems, including retention or detention areas;
- I. Any special taxes or assessments levied by the city for improvements not done or completed prior to the date of conveyance.

(3) *Restrictive covenant, sale of public land.*

- a. All conveyances of public land shall contain a restrictive covenant, in form approved by the city attorney, running with and binding the public land conveyed, providing for the sole and continued use of such real estate as public land, subject

to the provisions of this article, in perpetuity, unless the covenant is removed by the city. If either the school district or park district desires to sell any public land, it shall first direct written notice, by certified mail, return receipt requested, to the nonselling district and the city. The written notice shall contain a legal description of the public land and statement that the owner thereof desires to sell the public land described. Upon receipt of the written notice, the following options are provided and granted:

1. The nonselling district shall have the exclusive option to purchase the public land described, at no cost, for the 30-day period next following receipt of the notice;
 2. If the nonselling district fails to exercise its option within the 30-day period, the city shall have the exclusive option to purchase the public land described, at no cost, for the 30-day period next following expiration of the initial 30-day period.
- b. Within 30 days of receipt of the written notice advising of the intention to sell the described public land, the city shall conduct a public hearing on the issue of the sale. Notice of the public hearing shall be mailed to all owners of real estate, as illustrated on the real estate tax records of the county, within 250 feet of the described public land. In addition, the city may, at its option, publish notice of the public hearing in a newspaper with general circulation in the city. Notice of the public hearing shall be mailed and, if appropriate, published not less than ten days prior to the proposed public hearing.
- c. Any option shall be exercised by directing written notice to the owner of the public land by certified mail, return receipt requested. If both the nonselling districts and the city, whichever the case may be, fail to exercise their options, the owner of the public land may, for a one-year period thereafter, sell the public land described in the written notice to any third party, subject to the following conditions and restrictions: The purchase price must be the fair market value of the public land. If the public land is not sold within the one-year period, the owner must again comply with the procedural requirements contained in this article.
- d. If any public land is sold to a third party pursuant to the terms of this article, the restrictive covenant which binds the public land shall be released and removed by the city. Provided, however, the restrictive covenant shall not be released until the proposed use and zoning of the public land have been determined, in the manner provided by law. Prior to removal and release of the restrictive covenant, the owner of the public land and the city, and their successors and assigns, shall have the right to enforce such restrictive covenant.
- e. The cash received by the school district as a result of the sale of public land shall be held in a separate trust account, solely for the improvement of a school site or

for construction or improvement of a school building, to serve the immediate or future needs of children from that subdivision or development wherein the public land was located.

The cash received by the park district as a result of the sale of public land shall be held in a separate trust account solely for the improvement of existing local park land to serve the immediate or future needs of the residents of that subdivision or development wherein the public land was located.

- (4) *Payment of general real estate taxes and agricultural rollback taxes.* General real estate taxes and agricultural rollback taxes levied or which become due because of any conveyance against the public land which is conveyed shall be the responsibility and obligation of the grantor. The grantor shall furnish evidence of payment of these taxes or deposit the amount of these taxes in escrow with the title company furnishing the preliminary report of title, requiring payment of the taxes when they become due. After payment of the taxes, evidence of such payment shall be furnished to the city. The amount of any general real estate taxes and/or agricultural rollback taxes for the year of conveyance shall be prorated to the date of the delivery of deed to the city. The amount of the general real estate and agricultural rollback taxes shall be based on the assessor's latest known rate, value, and equalizer, if any, for the open space being conveyed.

Sec. 62-336. Applicability.

If any subdivision subject to the terms of this article is located outside of the city limits of the city, and if the county has an ordinance which is more restrictive, or which would require a greater dedication or contribution than this article, as determined by the city, the ordinance of the county shall prevail where inconsistent with the less restrictive provisions of this article.

Sec. 62-337. Additional dedications or contributions.

When a final plat of a subdivision or planned unit development is revised, contributions or dedications shall be made as required by this article, based on the estimated ultimate population of the area to be revised. If such area was subject to the terms of this article when recorded in its original form, the developer shall provide additional contributions or dedications based on the increase in estimated ultimate population, if any, attributable to the revision.

EXHIBIT A

TABLE OF ESTIMATED ULTIMATE POPULATION PER DWELLING UNIT

Type of unit	Children per unit					Adults (18 and over)	Total per unit
	Preschool 0--4 years 5--10 years	Elementary grades K--5 11--13 years	Junior high grades 6--8 years	Total grades K--8 5--13 14--17 years	High School grades 9--12 over)		

280

Detached single family:

Two-bedroom	.125	.120	.026	.146	.018	1.700	1.989
Three-bedroom	.308	.381	.174	.555	.146	1.978	2.987
Four-bedroom	.472	.513	.314	.827	.313	2.195	3.087
Five-bedroom	.402	.620	.420	1.040	.327	2.650	4.419

Attached single family:

One-bedroom	—	—	—	—	—	1.050	1.050
Two-bedroom	.051	.075	.011	.086	.021	1.741	1.899
Three-bedroom	.217	.212	.022	.234	.051	1.775	2.277
Four-bedroom	.333	.316	.166	.482	.180	2.333	3.328

Apartments:


Efficiency	—	—	—	—	—	1.000	1.000
One-bedroom	—	—	—	—	—	1.190	1.190
Two-bedroom	.038	.065	.021	.086	.035	1.500	1.659
Three-bedroom	.208	.157	.037	.194	.082	2.330	2.814

Note: There are only three significant categories provided in this chart. Because of the similarity of yields of all types of attached single-family, only one category is provided. The same is true with apartments, thus only one category. Because of the short history of some newer types of single units, both detached and attached individual evaluations may be necessary."

Section 4: All ordinances and parts of ordinances in conflict with or inconsistent with the provisions of this ordinance are hereby repealed to the extent of any such conflict or inconsistency.

Section 5: Any part or portion of this ordinance that is declared invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of this ordinance.

Section 6: This ordinance shall become effective after its passage, approval, and publication in pamphlet form in the manner prescribed by law.


Mayor

ATTEST:


City Clerk

Ayes:

Roll Call Vote
Councilman Eckhoff
Councilman Gresk
Councilman Johnson
Mayor Carr
Councilman Mork
Councilman Mouhelis

Nays: None

Absent: Councilwoman Johnson

Motion Carried Unanimously

Passed: November 19, 2001

Published: November 20, 2001