

## CHAPTER 12: SUBDIVISION REGULATIONS

### ARTICLE 1: SUBDIVISION REGULATIONS

#### **12-1.1. PURPOSE**

The purpose of these regulations is to provide for the orderly development of Clearwater and its environs; to proscribe standards for the laying out of subdivisions in harmony with the comprehensive plan; for the coordination of streets and utilities within subdivisions with other existing or planned streets and utilities; for coordination of subdivisions with other features of the comprehensive plan to provide for adequate open space for traffic, recreation, light and air; and for the distribution of population and traffic in such a manner so as to create conditions favorable to health, safety, convenience or prosperity, all in accordance with applicable state statutes.

The purpose of these regulations is to provide standards and specifications with respect to provisions for the proper location and width of streets, building lines, open spaces, safety, recreation; and, for the manner in which streets will be graded and improved; and, the extent to which water, sewer and other utility services shall be provided; and, to provide for the approval of preliminary plats and final plats and endorsement thereof by the Clearwater, Nebraska Planning Commission and by the Chairperson and Village Board. No final plat of a subdivision shall be approved and accepted by the Clearwater Village Board unless it conforms to the provisions of these regulations.

#### **12-1.2. APPLICABILITY**

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

- A. Each separate principal use/building within the jurisdiction of this Ordinance shall be situated on a separate and single subdivided lot of record unless otherwise provided in Ordinance.
- B. No subdivision of land shall be permitted within the jurisdiction of this Ordinance unless a plat is approved in accordance with the provisions of this ordinance. Further, no lot in a subdivision may be sold, transferred or negotiated to sell, no permit to erect, alter, or repair any building upon land in a subdivision may be issued, and no building may be erected in a subdivision unless a final plat has been approved by the Clearwater Village Board and recorded with the Antelope County Register of Deeds.
- C. These regulations shall not apply to the following:
  1. To a subdivision of land whereby the smallest parcel created or remaining is more than ten (10) acres.
  2. The subdivision of burial lots in cemeteries.
  3. A change in the boundary between adjoining lands which does not create an additional lot or does not result in a nonconformity of an existing lot.

#### **12-1.3. PROCEDURES**

- A. Pre-Application Meeting. Prior to the subdivision of any land, the subdivider or subdivider's agent shall prepare a sketch plan and shall discuss informally with the Zoning Administrator the property proposed for subdivision, with reference to these subdivision regulations and procedures, zoning regulations and controls, and the Village's comprehensive and major street plans.

- B. Plat Submission Requirements. The subdivider shall submit to the Village Clerk five (5) copies of the preliminary plat and supplemental material specified, with written application for conditional approval, at least ten (10) days prior to the regular meeting of the Clearwater Planning Commission at which the request will be heard.
- C. Fees. Fees structures are determined by the Village.
- D. Scale and Preliminary Plat Contents. Preliminary plats shall be a scale of one (1") inch to one hundred (100') feet, and shall be prepared with the following information:
1. Name, location, acreage, owner and designer of subdivision with legal description as shown by land records.
  2. Present and proposed zoning.
  3. Date, north point and graphic scale.
  4. Location of property lines, roads, existing utilities with size of lines, and other underground installations and easement.
  5. Names of adjoining properties or subdivisions.
  6. Proposed utility system, including water, sewer and paving.
  7. Dimensions and lot lines.
  8. Location of proposed drainage.
  9. Contours at two (2) feet minimum intervals at 1" = 100' scale.
  10. Proposed improvements and grading concepts.
  11. Location of existing buildings.
  12. Proposed easements, dedications and reservations of land required.
- E. Notification of Improvement Schedule. Subdivider shall indicate by a letter when improvements as required will be provided.
- F. Notification of County Planning Commission. The Village shall notify the Antelope County Planning Commission of any proposed subdivision plat and provide the Commission with all available materials on the proposed plat, when such proposed plat lies partially or totally within the extraterritorial subdivision jurisdiction being exercised by that Municipality in such County. The Commission shall be given four (4) weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. The review period shall run concurrently with subdivision review activities of the Village after the Commission receives all available material for a proposed subdivision plat.
- G. Notification of School Board. At least ten (10) days prior to the Clearwater Planning Commission meeting at which the preliminary plat is to be considered for approval, the Planning Commission shall submit a copy of the proposal to the School Board of each School District which the proposed development affects, and shall notify the School Board of the meeting date. Copies of the plat may be submitted to any other agency which may be affected.
- H. Approval or Rejection. After review of the preliminary plat and negotiations with the subdivider, the Clearwater Planning Commission shall reject or conditionally approve the preliminary plat, within thirty (30) days after the official meeting at which the plat was considered.
- I. Approval is Conditional. Approval of a preliminary plat shall not constitute approval of the final plat; it shall be deemed an expression of approval or conditional approval of the submitted plat, as a guide for the preparation of the final plat, which will be subject to further consideration by the Clearwater Planning Commission and the Clearwater Village Board. Any conditional approval of the preliminary plat shall be effective for a period of one (1) year unless an extension is granted by the Planning Commission.

- J. Public Works Plan. Upon approval of the Preliminary Plat by the Clearwater Planning Commission and Clearwater Village Board, the approved Preliminary Plat will be forwarded to Village Engineer for preparation of a Public Works Plan. Said Public Works Plan will outline the improvement needs, in conjunction with the Village's present utility, drainage and street system and tentative costs.
- K. Final Plat Submission Requirements. Final plats, showing entire concept, shall be submitted to the Village Clerk within one (1) year of approval of the preliminary plat, unless an extension is granted by the Planning Commission. The final plat shall conform to the preliminary plat as approved and to the requirements of all applicable ordinances and State statutes; and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time; provided, however, that such portion conforms to all requirements of these regulations.
- L. Scale and Final Plat Contents. One (1) original mylar and five (5) copies of the final plat and other exhibits required for approval shall be submitted. The final plat shall be drawn in ink on mylar and shall be at a scale of one (1') inch to one hundred (100') feet or larger. The final plat shall show the following:
1. Date, title, name and location of subdivision.
  2. Streets and street names, lots, setback lines, lot numbers, etc.
  3. Graphic scale and north arrow.
  4. Monuments (ferrous) 1/2" diameter, minimum 24" minimum length
  5. Dimensions, angles and bearings, and complete legal description of the property.
  6. Sufficient survey data to reproduce any line on the ground.
  7. Names of adjoining subdivisions.
  8. Location and dimensions of any easements.
  9. Purpose for which sites are dedicated or reserved, and the transfer of ownership of the same.
  10. Certification by surveyor as to accuracy of survey and plat.
  11. Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted.
  12. Certification recording the approval by the Planning Commission.
  13. Certification recording the approval by the Village Board and the acceptance of any dedications.
- M. Supplementary Data Required. The final plat shall be accompanied by a Public Works Plan of all required public improvements, approved by an Engineer.
- N. Professional Assistance. The Village Board or the Planning Commission may request such professional assistance as it deems necessary to properly evaluate the plats submitted.
- O. Planning Commission Recommendations. The Planning Commission shall reject or approve the final plat and have prepared a recommendation to the Village Board recommending rejection or approval. All reasons for recommending rejection shall be clearly stated. Notification of approval or rejection by the Planning Commission or Village Board shall be given the subdivider within sixty (60) days after submission of the final plat to the Planning Commission.

- P. Administrative Subdivision. In the event that a proposed subdivision does not involve the platting and dedication of streets, extension of utility systems, change in subdivision class and type, change in zoning district, change in surface drainage, and will not result in the creation of more than three (3) lots of record, the subdivider may apply for administrative subdivision under the provisions of this section. The utilization of the administrative subdivision does not relieve the subdivider of its obligation to comply with the regulations relating to the Streets, Alleys, Sidewalks and Driveways and Utility and Drainage Facilities sections of these Zoning Regulations. The procedure for such application will be as follows:
1. Application will be made to the Village Board and the Village Board may act or may at their option refer the application to the Planning Commission. In the event it is referred to the Planning Commission, the procedures outlined under the final plat provisions shall be followed.
  2. The subdivider shall submit an original and five (5) copies of the plat. The original shall be drawn in ink on tracing cloth, mylar, or similar material, and shall be at a scale of 1 'to 100 or larger. The plat shall contain the following:
    - a. Date, title, name, and location of the subdivision.
    - b. Names and locations of abutting streets and lots identifying street names and lot and block numbers.
    - c. Identification of the new lot and block numbers and set back lines.
    - d. Graphic scale and true north point.
    - e. Monuments.
    - f. Dimensions, angles and bearings and complete legal description of the property.
    - g. Sufficient surveying data to reproduce any line on the ground.
    - h. Location, dimensions, and purposes of any existing easements.
    - i. Certification by surveyor certifying to the accuracy of the survey and plat.
    - j. Certification signed and acknowledged by all parties holding title or having any title interest in the land subdivided and consenting to the preparation and recording of the plat as submitted.
  3. The plat shall be accompanied by:
    - a. Protective covenants in form for recording if such are desired by the subdivider.
    - b. For subdivisions adjoining or touching the boundaries of Clearwater's Corporate Limits; a tract or area for which annexation proceedings have been commenced; an approved subdivision which touches or adjoins Clearwater's Corporate Limits, a petition signed by the owner or owners requesting annexation to the Village.
    - c. Utility easements signed by the owner or owners to permit all lots created access to all utilities available in the Village, including but not limited to, sanitary sewer, storm sewer, water, electrical, telephone, and cable television.

#### **12-1.4. SUBDIVISION IMPROVEMENT PROCEDURE**

- A. Subdivision Improvements Guarantees. The subdivider shall pay for all improvements required for the subdivision.

In lieu of requiring the payment of all improvements, the Village Board may enter into an agreement with the subdivider whereby the subdivider shall guarantee to complete all improvements required by this Ordinance in a manner satisfactory to the Village Board. To secure this agreement, the subdivider shall provide, fifty (50%) percent of actual bid cost of project within seven (7) days of the Village bid letting.

- B. Inspection and Certification. The Village or other authorized person shall regularly inspect construction of required improvements for defects. Upon completion of the improvements, the Village or other authorized person shall file with the Village Board a statement either certifying that the improvements have been completed in the specified manner or listing defects in those improvements which do not meet the requirements of the approved improvement plans and specifications.

#### **12-1.5. DEDICATION OF PUBLIC LAND**

- A. At the time of final plat approval by the Village Board, the owners shall be required to dedicate to the public use all streets, alleys, easements, and buffer strips as required by the Village Board and these Regulations. Acceptance of dedicated land shall be recorded in the minutes of the Village Board.
- B. Subdividers of 'Commercial' type subdivisions may be required to dedicate land for off- street parking as determined necessary by the Village Board.

#### **12-1.6. SUBDIVISION ANNEXATION**

- A. Subdivision Annexation of Adjoining or Contiguous Properties. All subdivisions or additions laid out adjoining or contiguous to the corporate limits may be annexed with approval, by Ordinance, following appropriate Nebraska State Statute regulations by the Village Board.
- B. Subdivision Annexation of Dedicated Land or Land Served by Public Utilities. Any subdivision in which there are lands dedicated to the Village or any subdivision serviced by public utilities may be annexed to the Village. Before approval for the final plat is given, the Municipal Body shall receive a Petition for annexation from the owners of the subdivided properties.
- C. Public Services Plan. The Village Board desiring to annex land shall adopt a plan for extending/providing Village services to the land. The plan shall be adopted at the time of annexation or within one (1) year after the date of annexation. The plan adopted by the Village Board shall contain sufficient detail to provide reasonable persons with a full and complete understanding of the intentions of the Village for extending/providing Village services to the land proposed for annexation. The plan shall:
  - 1. State the estimated cost impact of providing the services to such land.
  - 2. State the method by which the Village plans to finance the extension of services (police, fire, snow removal, and water service) to the land and how any services already provided to the land will be maintained.
  - 3. Include a timetable for extending service to the land proposed for annexation or recently annexed land.
  - 4. Include a map, drawn to scale, clearly delineating the land proposed for annexation or recently annexed land, the boundaries of the Village before the annexation, and the boundaries of the Village after annexation and the general land-use pattern in the land proposed for annexation.
- D. Procedures for Annexation. Any land being annexed shall follow the procedures and requirements as outlined in the Nebraska State Statutes. These requirements include, but are not limited to:
  - 1. Written notification to property owners a minimum of 10 days prior to the public hearing at Planning Commission and Village Board.
  - 2. Publication within the Village newspaper a minimum of 10 days prior to the public hearing at Planning Commission and Village Board.
  - 3. Planning Commission public hearing to provide the Village Board with a recommendation.
  - 4. Public hearing at the Village Board.
  - 5. Adoption by Ordinance following three (3) readings of said Ordinance.

### **12-1.7. VARIANCES**

- A. Granting of Variances; Conditions. The Clearwater Board of Adjustment may grant variances from the provisions herein, but only after determining that:
  - 1. There are unique circumstances or conditions affecting the property,
  - 2. The variance is necessary for the reasonable and acceptable development of the property in question,
  - 3. The granting of the variance will not be detrimental to the public welfare or injurious to the adjacent property.
- B. Recording of Plat. In no case shall the requirement of filing and recording a plat for subdivision be waived.
- C. Planned Development. The Clearwater Board of Adjustment may also grant reasonable variances, if the subdivider concurrently submits an application for, and obtains approval of, a planned development. The subdivider shall indicate where the plans vary from the requirements of this Article and shall present sufficient evidence to support the request, indicating why the request will not be detrimental to the public health, safety and welfare.

### **12-1.8. PUBLIC SITES AND OPEN SPACES**

- A. Recreation Standards. The Clearwater Planning Commission may require that land be dedicated for parks and playgrounds or other recreation purposes. Such areas shall be shown and marked on both the preliminary and final plat, as "Dedicated for Park and/or Recreation Purpose" The developer shall dedicate all such recreation areas to the Village of Clearwater as a condition of final subdivision plat approval. The Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than one (1) acre be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area.
- B. Recreation Sites. Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield, or for other recreation purposes; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the performance bond, A recreation site shall have a total frontage on one (1) or more streets of at least one hundred feet (100'), and no other dimension of the site shall be less than one hundred feet (100') unless it is for a designated linear park. The Planning Commission may refer any subdivision with a proposed park to a specific organization for a recommendation. All land to be reserved for dedication to the Village of Clearwater for park purposes shall have prior approval of the Village Board and shall be shown marked on the plat "Dedicated for Park."

### **12-1.9. VACATIONS**

- A. Application. All requests for vacation shall be submitted to the Village, for review and recommendation, to the Planning Commission and Village Board. After approval of the vacation request by the Village Board, the Village will file the vacation ordinance with the appropriate office at Antelope County.
- B. Vacation of Portions of Street Rights-of-Way. Requests may be made for vacating portions of street rights-of-way. Standard vacations will be of equal amounts on both sides of a street for a minimum of a block length corresponding to the petitioner's request and subject to the following standards:
  - 1. Rights-of-way in excess of one hundred (100) feet shall be vacated to no less than one hundred (100) feet.
  - 2. One hundred (100) foot rights-of-way shall be vacated to no less than eighty (80) feet.
  - 3. Eighty (80) foot rights-of-way shall be vacated to no less than sixty-six (66) feet.
  - 4. Rights-of-way of sixty-six (66) feet or less shall not be vacated to a narrower width.

- C. Petition Content. The applicant's petition shall contain a written request giving the legal description of property abutting the portion of right-of-way for which the petition is filed. Such application shall contain a statement of ownership with mailing address for abutting property. The request shall also include a plat or survey showing the width of the street, the portion of the street to be vacated and abutting property with legal description.
- D. Vacation Action. Should the Village and the Planning Commission decide the request is in the best public interest and recommend approval, the following policy shall apply:
  - 1. The Planning Commission will recommend to the Village Board that the petition be approved and that the vacated right-of-way revert to abutting property owners on both sides of street for entire length of block in accordance with the Nebraska Revised State Statutes.
- E. Purpose.
  - 1. Assure even vacation on both sides of the street for the entire block, keeping the paved portion of the street (generally) in the center of the right-of-way.
  - 2. Assure that the vacated street right-of-way reverts to abutting property owners.
- F. Vacation of Street (Not Vacated as a Portion of a Plat Vacation). Applicant shall submit a petition and a survey showing all portions of the street requested for vacation and abutting property with legal descriptions. Such application shall contain a statement of ownership with mailing address of all lands abutting those portions of street.
  - 1. A street may be vacated and remain the property of the Village only if the Village owns both sides of the street.
  - 2. The Village may require that an easement be granted or maintained as a part of the vacation ordinance.
- G. Alley Vacation. An alley may be vacated with ownership reverting to the owners of the adjacent real estate, one-half (1/2) of the alley to owner on each side. However, when an alley is taken wholly from one (1) or more lots, its vacation shall revert the ownership to the abutting property and become part of that property. When a portion of an alley is vacated only one (1) side of its center, the title to the property shall vest in the owner of the abutting property and become part of that property.
- H. Vacation of Subdivision Plats or Portions of Subdivision Plats. An existing plat or portion of an existing plat must be vacated by ordinance prior to replatting, after hearings by the Planning Commission and Village Board upon petition by the owners of such lands.
  - 1. The ordinance granting the vacation shall specify if any public highways, streets, alleys, or other public grounds are to be retained by the Village. If the Village does not retain any such lands, ownership shall revert to abutting lot owners.
  - 2. Any vacation approved shall, at the owner's expense, be certified to the appropriate County Register of Deeds and be so recorded. The Register of Deeds shall then note such vacation on the plat by writing in plain, legible letters. Such notation shall also contain a reference to the volume and page in which the ordinance of vacation is recorded. The owners of the lands vacated shall cause the same to be replatted in accordance with the requirements of these regulations.
  - 3. Where a plat or portion of a plat is vacated where water, sewer, and paving are already installed, it shall be the responsibility of the petitioner to provide water and sewer to any newly created lots in the manner prescribed by the Village.

#### **12-1.10. AMENDMENTS**

Any provision herein from time to time may be amended, supplemented, changed, modified, or repealed by the Governing Body according to law; Provided, however, that such amendments, supplements, changes, modifications or repealed provisions shall not become effective until after study and report and recommendations of the Planning Commission.

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