

ORDINANCE NO. 4 , 2023

**AN ORDINANCE AMENDING CHAPTER 156.02 OF THE LAND USAGE CODE,  
SUBDIVISION REGULATIONS: REQUIREMENTS FOR SUBDIVISION APPROVAL**

**WHEREAS**, the Community Development Department has completed a comprehensive review of Chapter 156.02 of the Code of Ordinances which establishes subdivision regulations for subdivision approval; and

**WHEREAS**, after such review, the Community Development Department has recommended that the attached Schedule A modifications to Chapter 156.02 be adopted which will modernize the regulations for subdivision approval consistent with the Office of the Engineer of Hamilton County, Ohio.

**NOW THEREFORE, BE IT ORDAINED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** The attached update to Chapter 156.02, *Subdivision Regulations: Requirements for Subdivision Approval*, are hereby adopted in their entirety as if fully rewritten herein.

**SECTION 2.** All Ordinances or parts of Ordinances inconsistent with these modifications are hereby repealed.

**SECTION 3.** All sections, subsections, parts and provisions of this Ordinance are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any section, subsection, part or provision to be unconstitutional, void or ineffective for any reason shall not affect or render invalid any other section, subsection, part or provision of this Ordinance.

**SECTION 4.** This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: June 7 2023

ATTEST: Connie M. Gaylor  
Connie M. Gaylor, Clerk of Council

Craig D. Margolis  
Craig D. Margolis, Mayor

APPROVED AS TO FORM:  
Terrence M. Donnellon  
Terrence M. Donnellon, Law Director

CHAPTER 156.02: SUBDIVISION REGULATIONS: REQUIREMENTS FOR SUBDIVISION APPROVAL

Section

- 156.0201 Definitions
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§ 156.0201 DEFINITIONS.

For the purpose of these Regulations, certain terms and words used herein shall be used, interpreted and defined as follows:

**ALLEY or SERVICE DRIVE.** A passage or way affording generally a secondary means of vehicular access to abutting properties and not intended for general traffic circulation.

**APPLICANT.** The owner of the land to be subdivided.

**BOND.** A form of security agreement in an amount and form, as provided for herein. All bonds shall be approved by the Development Director on behalf of the Planning Commission and approved as to form by the Director of Law.

**CITY.** The City of Montgomery, Ohio.

**CITY'S ENGINEER.** The Engineer of the city or his agent designated to perform certain duties on his behalf.

**CONSTRUCTION PLANS or DRAWINGS.** The maps or drawings accompanying a final subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with these Regulations and with the requirements of the Planning Commission as a condition of the approval of the plat.

**COMPREHENSIVE PLAN.** The official Comprehensive Plan of the city and including any part of such plan separately adopted and any amendment to such plan or parts thereof.

COUNTY ENGINEER. The County Engineer of Hamilton County, Ohio.

CUL-DE-SAC. A local street with only one outlet and having an appropriate terminus for the safe and convenient reversal of traffic movement.

DESIGN, CONSTRUCTION AND MATERIAL SPECIFICATION HANDBOOK. As referenced herein, the official standards for the city governing the design, construction and materials used in all proposed improvements.

DEVELOPER. The owner of land proposed to be subdivided.

DEVELOPMENT DIRECTOR. The Community Development Director as approved by the City Manager or his agent designated to perform certain duties on his or her behalf.

DRAINAGE PLAN. A plan for the control of storm water runoff in accordance with the requirements of these Regulations.

EASEMENT. A right of a person or entity to use the property of another, or part thereof, for a specific purpose or purposes.

FINAL PLAT. The plan or record of a subdivision intended to be recorded with the Hamilton County Recorder's office and any accompanying material, as prescribed in these Regulations.

FRONTAGE. The side of a lot abutting on a public street and as defined in the Zoning Ordinance.

FRONTAGE ACCESS or SERVICE ROAD. A minor street or road generally running parallel with a main street or thoroughfare and connected therewith at infrequent intervals or placed at the rear of lots abutting a main street or thoroughfare and which is designed to limit curb cuts on the main street and segregate local traffic from higher speed through traffic.

HEALTH OFFICER. The Hamilton County Board of Health or other official of the city or county or other individual appointed or officially designated to perform the functions and duties of a health officer or sanitarian for the city.

LOCAL STREET or COLLECTOR STREET. A street intended to serve and to provide access to neighborhoods or subneighborhoods.

LOT. A piece or parcel of land occupied or intended to be occupied by a principal building or group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as required by the Zoning Ordinance of the City and having its principal frontage on a public street.

LOT, CORNER. A lot abutting upon two or more streets at their intersection or upon two parts of the same street. The point of intersection of the street lines is the "corner".

LOT, INTERIOR. A lot other than a corner lot.



**MAINTENANCE BOND.** An agreement by the developer with the city to maintain and keep in good repair all improvements of the subdivision for a period of one year after approval by the Development Director of the construction of such improvements and in an amount determined by the Development Director to be sufficient to secure such maintenance and not less than ten percent (10%) of the performance bond amount and which agreement shall be secured by sufficient sureties or assets.

**MAJOR SUBDIVISION.** Any subdivision not classified as a minor subdivision.

**MINOR STREET.** Any street not a highway, primary or secondary thoroughfare, or local or collector street, and intended to serve and to provide access exclusively to the properties abutting thereon.

**MINOR SUBDIVISION.** A division of a parcel of land in accordance with R.C. § 711.131 and with § 156.0205 of these Regulations; also known as lot splits.

**PERFORMANCE BOND.** An agreement by the developer with the city guaranteeing the completion of physical improvements according to approved plans and specifications and in an amount determined by the City's Engineer to be sufficient to secure the completion of such improvements and secured by sufficient sureties or assets.

**PERMANENT MARKER.** A one-half inch diameter steel rod thirty inches in length.

**PLANNED UNIT DEVELOPMENT.** The type of land development defined in the Zoning Ordinance, wherein standards and procedures are established for such land use, including reference to these Regulations.

**PLANNING COMMISSION.** The Planning Commission of the city.

**PRELIMINARY PLAT.** The preliminary drawing described in these Regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.

**PUBLIC WAY.** An alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk or other ways which the general public or a public entity have a right to use, or which are dedicated to public use, whether improved or not.

**REGISTERED ENGINEER.** An engineer properly licensed and registered in the State of Ohio.

**REGISTERED LAND SURVEYOR.** A land surveyor properly licensed and registered in the State of Ohio.

**RESUBDIVISION.** A change in the plat or drawing of a recorded major or minor subdivision if such change affects any street layout, lot line or public way.

**RIGHT-OF-WAY.** Any parcel of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and

drainage facilities and may include special features such as separation, landscaped areas, viaducts and bridges.

**SEDIMENTATION PLAN.** A plan for the control of sedimentation in accordance with the provisions of this Code.

**SIDEWALK BOND.** An agreement by the developer with the city guaranteeing the construction of required sidewalks in a subject subdivision or development.

**SUBDIVISION.**

(1) The division of any parcel of land shown as a unit or as continuous units on the last preceding tax roll, into two or more parcels, sites or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership; provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or

(2) The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, extension of any street or streets, except private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.

**THOROUGHFARE.** A major trafficway designated in the Thoroughfare Plan as a regional thoroughfare, primary thoroughfare, secondary thoroughfare or collector street.

**THOROUGHFARE PLAN.** The official plan of proposed regional highways, primary and secondary thoroughfares, and collector streets of the city.

**TREE PLAN.** A plan for the planting of desirable shade trees in public areas in accordance with the provisions of this Code.

Other pertinent terms shall be as defined in any current Zoning Ordinance or other ordinance of the city or as their use and ordinary meaning indicate.

#### § 156.0202 PLATTING PROCEDURE.

(A) General provisions.

(1) No person, firm or corporation proposing to make or have made a subdivision within the territorial limits of these Regulations shall enter into any contract for the sale of or offer to sell such subdivision or any part thereof, or proceed with any construction work on the proposed subdivision, including grading, until he has obtained the approval of the preliminary plat of the proposed subdivision by the Planning Commission and the approval of construction drawings, sedimentation plans and drainage plans by the Planning

Commission, Public Works Director, and the City Engineer. The Planning Commission may delegate final approval of construction drawings to the Development Director.

(2) The approval of the final plat by the Planning Commission shall not constitute or effect an acceptance by the public of the responsibility for construction or maintenance of any street, other proposed public way, space shown on such plat, or any other improvements.

(3) Approval of the final plat by the Planning Commission shall not authorize a waiver of any officially adopted design and construction requirements which may have been inadvertently omitted during the technical review of the final plat.

(B) Procedure. In planning and developing a subdivision, the subdivider and his agent shall comply with the general principles of design and minimum requirements for the layout of subdivisions set forth herein and in the Rules and Regulations of the Office of the County Engineer and in every case shall pursue the following procedures.

Deleted: "Design, Construction and Material Specification Handbook" ...

(1) Before preparing the preliminary plat of a subdivision and while the plat is still in sketch form, the subdivider, his engineer, surveyor, or other agent shall confer with the Development Director to ascertain the location of existing and proposed highways, thoroughfares, parks, playgrounds and other proposed public facilities, which may affect and need to be taken into account in designing the layout and developing the subdivision, and to inform himself of the requirements in these Regulations and others applying to the design and development of his subdivision.

(2) The subdivider shall prepare and file a preliminary plat of the proposed subdivision which shall conform with the requirements set forth in § 156.0203 and shall file with the Planning Commission an application in writing for the approval of the plat.

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It is requested that this information be submitted at least 30 days prior to the consideration of the Planning Commission.

(3) The preliminary plat shall be checked by the Development Director on behalf of the Planning Commission for compliance with other applicable sections of the official Comprehensive Plan and the principles, standards and requirements hereinafter set forth. The Development Director shall submit technical checks after conferring with appropriate departments concerning matters within their respective jurisdiction.

(4) Concerning matters covered in subsection (B)(3) hereof, the Planning Commission shall approve or disapprove the preliminary plat, or approve it with modification, as agreed to by the subdivider, noting any such changes that shall be required. One copy shall be returned to the subdivider with the date of the approval or disapproval endorsed thereon.

(5) The approval of the preliminary plat by the Planning Commission is to be considered only as an approval of the layout with the understanding that the Development Director, or other officials having jurisdiction, may modify any engineering or construction details proposed by the subdivider, whenever required for the protection of the public interest. The approval or disapproval of the preliminary plat will be made within thirty days of the official submission of the plat, which shall be the date on which the Planning

Commission first considers the plat at a meeting. The approval shall be effective for one year. If the developer submits a final plat or plats for part of the subdivision within one year after the preliminary plat approval, the approval of the preliminary plat shall be extended for one year from the date of the last such plat submission. The Planning Commission in its discretion may extend its approval of a preliminary plat, which has expired.

(6) Following the approval of the preliminary plat, the developer may submit for approval any portion of the subdivision for final plat approval in accordance with §156.0204. It is suggested that the final plat be submitted to the Development Director at least two weeks prior to the meeting of the Planning Commission at which consideration of the plat is desired. The Development Director is not an agent of the Planning Commission but provides a service to the subdivider in submitting plats to the Planning Commission. The official submission of the plat to the Planning Commission is the date on which the Planning Commission first considers the plat at a meeting.

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(7) After a copy of the final plat and any technical reports from the City's Engineer have been received by the Planning Commission and provided that the final plat is found to conform with the preliminary plat as approved, the Commission shall approve or disapprove the final plat within thirty days after official submission to the Commission, which is the date on which the Planning Commission first considers the plat at a regular meeting. If the Planning Commission fails to act within such time, the applicant, at its option, may deem the plat to have been rejected and proceed to appeal the decision of the Planning Commission to the Hamilton County Court of Common Pleas. The Commission shall enter such approval or disapproval of any plat submitted, by the signature of the Chairman on the plat. The minutes of the Planning Commission shall include a citation or reference to the rules or regulations violated by the plat, if the plat is disapproved.

(8) The City's Engineer shall establish the amount of the performance bond at the time of the approval of the final plat. This performance bond must be submitted and approved before the plat can be recorded.

(9) After approval of the final plat by the Planning Commission and after receipt and acceptance by the city of the performance bond in accordance with § 156.0207, the plat shall be submitted by the Development Director to the County Recorder.

(C) Public notice and hearing. Any procedure to approve a subdivision plat shall be subject to the same administrative procedure requirements for development plan review as outlined in Chapter 150.14.

#### § 156.0203 PRELIMINARY PLAT.

(A) General submission requirements. The preliminary plat shall be prepared in accordance with the provisions stated herein. An application for preliminary plat approval must be submitted with the preliminary plat. A filing fee is to be submitted with the application.



(1) Twelve black line prints along with a reproducible copy prepared by a registered professional surveyor of the preliminary plat of the proposed subdivision shall accompany an application in writing to the Planning Commission for tentative approval of the subdivision.

(2) Construction drawings, sedimentation plans and drainage plans shall be approved by the City's Engineer, Development Director, Public Works Director, and Planning Commission before any construction begins.

(3) The preliminary plat shall show all existing subdivisions and the street and tract lines or acreage parcels of land, together with the names of record owners of such parcels immediately adjoining the proposed subdivisions and between it and the nearest existing highways or thoroughfares. It shall also show the streets and alleys in neighboring subdivisions or unplatted property to produce the most advantageous development of the entire neighborhood.

(4) The horizontal scale of the preliminary plat shall be 100 feet or less to the inch.

(B) Specific information required. The preliminary plat shall clearly show the following features and information:

(1) A vicinity map at a scale of 200 feet or greater detail to the inch shall be included on the plat showing all existing subdivisions, roads, and tract lines and the nearest existing thoroughfares. It shall also show the most advantageous connections between roads in the proposed subdivision and those in the neighboring areas.

(2) The proposed name of the subdivision which shall not duplicate or closely approximate the name of any other subdivision in the county.

(3) The tract designation according to real estate records of the County Records.

(4) The names and addresses of the owner of record, the subdivider and the surveyor who prepared the plat. In the case where the owner of record is a corporation, the principal officers shall be listed.

(5) The names of adjacent subdivisions and the names of recorded owners of adjacent parcels of unplatted land.

(6) The boundary lines, accurate in scale, of the tract to be subdivided and the approximate acreage of the tract.

(7) The location, widths and names of all existing or platted streets or other public ways within or immediately adjacent to the tracts, and other important features, such as railroad and utility rights of way, public open spaces, existing permanent buildings and structures, large trees, watercourses, section and corporation lines, etc. The boundary of any floodway and/or floodway fringe area must be shown.

(8) The following information concerning utilities and drainage shall be included on the preliminary plat:

(a) Existing sewers, water lines, culverts, and other underground structures and power transmission poles and lines within and adjacent to the tract with sizes shown.

(b) Approximate location of proposed water and sanitary sewer lines, showing their connection with the existing system.

(c) Approximate location of storm sewer pipes, catch basins and retention/detention area.

(d) Calculation of retention/ detention volume as required in the "Rules and Regulations of the Office of the County Engineer".

**Deleted:** Design, Construction and Material Specification Handbook

(9) Existing contours at an interval of not greater than two feet.

(10) The layout, proposed names and widths of proposed streets, alleys, and easements. The layout, numbers and approximate dimensions of proposed lots. Proposed street names shall not duplicate or closely approximate any existing street names in the county, except for extensions of existing streets.

(11) Existing zoning of the tract and adjacent areas, including zoning boundary lines, if any; proposed uses of property and proposed front yard setback lines.

(12) All parcels of land intended to be dedicated or temporarily reserved for public use, or to be reserved in the deeds for public use, or to be reserved in the deed for the common use of property owners in the subdivision, with the purpose, conditions or limitations of such reservation indicated.

(13) North-point, scale and date.

(14) Proposed deed restrictions and Homeowners Association Rules and Restrictions shall be submitted with the preliminary plat.

#### § 156.0204 FINAL OR RECORD PLAT.

(A) General submission requirements. The final plat shall be submitted within one year from the date of the approval of the preliminary plat unless the Planning Commission extends the period of approval. All information contained on the approved preliminary plat must also appear on such submitted final plat.

(1) A filing fee is to be submitted along with the application.

(2) The final plat shall be clearly and legibly drawn in black ink upon mylar at an appropriate scale from an accurate survey for final plat approval. If more than two (2) sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision on one sheet and the component areas on the other sheet or sheets. Two(2) print or copies of the Final Plat shall be submitted. Additional prints may be required by the City or other reviewing agencies.

**Deleted:** The final plat, legibly drawn in waterproof ink and in standard 18" x 24" size of cloth, mylar or similar durable reproducible material and twelve black line or blue line prints shall accompany the application for final plat approval. The final plat shall be at a scale of 100 feet or less to the inch.

(3) All plats shall conform to the minimum standards for plats and surveys passed by the State Board of Registration for Professional Engineers and Surveyors. If the regulations herein conflict with such standards, the more restrictive provision shall apply.

(B) Specific information required.

(1) A vicinity sketch at a scale of 200 feet or greater detail to the inch.

(2) All plat boundary lines with lengths of courses to hundredths of a foot and bearings to half minutes; these boundaries to be determined by an accurate survey in the field which shall be balanced and closed with an error of closures not to exceed 1 to 10,000. A copy of the closure calculations shall be submitted with the final plat.

(3) The exact location and width along the property line of all existing recorded streets intersecting or paralleling the boundaries of the tract.

(4) Bearings and distances to nearest established street bounds, established survey lines, or other official monuments, which monuments shall be located or accurately described on the plat. Any established survey or corporation lines shall be accurately monument-marked and located on the plat, and their names shall be located on them.

(5) The accurate location and material of all permanent reference monuments.

(6) The exact layout of the following:

(a) Street alley lines; their names, bearings and widths, including widths along the line of any obliquely intersecting street.

(b) The lengths of all arcs-radii, points of curvature and tangent bearings.

(c) All easements, existing or proposed, both public and private, delineated with limitation of the easements rights definitely stated on the plat.

(d) All lot lines with dimensions in feet and hundredths and with bearings to half minutes if other than right angles to the street and alley lines.

(7) Lots and blocks in numerical order.

(8) Municipal, township, county or section lines if located within or adjacent to the tract to be subdivided, accurately tied to the lines of the subdivision by distances and bearings.

(9) The accurate outlines with dimensions and legal description, when necessary, of all property which is offered for dedication for public use, and of all property that may be reserved by covenant in the deeds for the common use of the property owners in the subdivision, with the purpose indicated thereon.

(10) In case the subdivision is traversed by a watercourse, channel, stream or creek, show the prior or present location of such watercourse, channel, stream or creek. The boundary of flood way and/or floodway fringe area shall be shown, if applicable.

(11) Setback building lines as fixed by the applicable Zoning Ordinance and any other setback lines or street lines established by public authority, and those stipulated in the deed restriction.

(12) Private restrictions, if any:

(a) Boundaries of each type of use restrictions.

(b) Other private restrictions for each definitely restricted section of the subdivision.

(13) Name of the subdivision and name or number of the largest subdivision or tract of which the tract now subdivided forms a part.

(14) Names and locations of adjoining subdivisions and location and ownership of adjoining unsubdivided property.

(15) Names and addresses of the owner of record, the subdivider, and of the engineer or surveyor. In the case the owner is a corporation, the principal officers shall be listed.

(16) North-point, numerical scale and date.

(17) The following statements shall be affixed as applicable to the subdivision plat in addition to any additional notes pertinent to the particular subdivision. The numbering of paragraphs, as below, is not necessary.

(a) The undersigned, being owners of \_\_\_ acres of land in Section \_\_\_\_, Town \_\_\_\_, Range \_\_\_\_, City of Montgomery, Hamilton County, Ohio and also being known as part lot(s) #- , in said City, do hereby dedicate to the public forever, in accordance with the laws in such cases made and provided, the streets and roadways as shown on said plat, certifying the same to be free and unencumbered.

(b) Utility easements are provided on this plat and designated as such. No improvement or impediment of any kind shall be made on said utility easement which will interfere with access to the said utility. The City of Montgomery, and/or the Utility Company shall not be responsible to any present or future owner(s) of said lot for any damages done on said easement to sod, shrubbery, or other improvements natural or artificial by reason of entry for purposes of constructing, maintaining, replacing or repairing the utility. The erection or placement of any structure and planting or placement of any trees on said utility easement shall also be prohibited.

Private drainage easements are provided on this plat and designated as such. The City of Montgomery does not accept private drainage easements shown on this plat and the City of Montgomery is not obligated to maintain or repair any channels or installations in said easement. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may obstruct, retard or change the direction of the flow of the water through the drainage channel in the easement.

(c) The lots are numbered from \_\_\_\_ to \_\_\_\_ inclusive.



Note: If the protective covenants are to be filed with the plat, the above statement shall further state: "and shall be subject to the protective covenants and restrictive provisions as set forth in deed book \_\_\_\_, page \_\_\_\_ of the Hamilton County, Ohio records."

(d) All public improvements included as part of this subdivision shall be constructed and designed in accordance with the current requirements of the "Rules and Regulations of the Office of the County Engineer" and all other applicable ordinances adopted by the City of Montgomery.

Deleted: Design, Construction and Material Specification Handbook for Montgomery, Ohio

(18) The plat shall also include the signature of the owners or their authorized agent and a notarization of their signatures with the following suggested format:

"In witness thereof we have hereunto set our hand this \_\_\_\_ day of \_\_\_\_, 20\_\_.

WITNESS

\_\_\_\_\_  
Signed \_\_\_\_\_

STATE OF OHIO, COUNTY OF HAMILTON, SS:

Be it known, that on this \_\_\_\_ day of \_\_\_\_, 20\_\_, before me a Notary Public in and for the State aforesaid, personally came \_\_\_\_\_, who then and here did acknowledge the signing of the foregoing instrument to be his voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on the day and year aforesaid."

\_\_\_\_\_  
My Commission expires \_\_\_\_\_ Notary Public

State of Ohio

(a) A statement by a registered land surveyor:

I hereby certify that the accompanying plat is the correct return of a survey made by me for \_\_\_\_\_ subdivision, that all monuments have been set, and Subdivision Regulations of the City of Montgomery, Ohio has been complied with to the best of my knowledge.

\_\_\_\_\_  
Signature

Reg. Surveyor No. \_\_\_\_ in Ohio

(b) The acceptance of the plat will be provided for by including the following statement:

"Approved by the Planning Commission, City of Montgomery, Ohio, this \_\_\_\_ day of\_\_\_\_, 20\_\_.

(c) Provisions for acknowledging the transfer and recording the plat shall be provided for by the following:

"Entered for transfer \_\_\_\_\_, 20\_\_

Transferred \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Auditor, Hamilton County, Ohio

by \_\_\_\_\_ Deputy

Filed for record

\_\_\_\_\_ at \_\_\_\_\_

Recorded \_\_\_\_\_ 20\_\_

Plat Book \_\_\_\_\_

Page \_\_\_\_\_

\_\_\_\_\_  
Recorder, Hamilton County, Ohio

by \_\_\_\_\_ Deputy

File \_\_\_\_\_ Fee \_\_\_\_\_

(19) A certificate of title for the platted property from an attorney licensed to practice in the state showing ownership and any encumbrances on the platted property.

(20) A plat of land of the dedicators in conformance with R.C. § 711.02.

(21) Any mortgagee holding a mortgage on the property shall sign the plat signifying his or its consent to the plat and any dedication of lands to public use in the plat.

(C) Procedure for approved final plat. Upon receiving approval and having the final plat signed by the chairman of the Planning Commission, the applicant shall furnish the Development Director three reproducible copies of the approved plat and twelve black line or blue line prints of the approved final plat. These copies shall then be utilized by the Development Director for recording the plat with the County Recorder.

§ 156.0205 MODIFICATIONS AND EXCEPTIONS.

(A) Minor subdivisions: lot splits. A proposed division of a parcel of land along existing public street, not involving the opening, widening or extension of any street or road, and involving no more than five lots after the original tract has been completely subdivided, may be submitted to the Planning Commission, for approval without plat. The Planning Commission, acting through the Development Director, shall approve or disapprove such proposed division within seven working days after submission. The Development Director may also refer the application to the Planning Commission for consideration at its next regular meeting. If the application is not approved or referred to Planning Commission within seven days the application shall be deemed denied. If satisfied that such proposed division is not contrary to applicable platting, subdividing or zoning regulations, the application shall be stamped "Approved by City Planning Commission, Montgomery, Ohio, no plat required", and signed by the Development Director and the Chair of the Planning Commission or in the absence of the Development Director, the Public Works Director and in the absence of the Chair of the Planning Commission, the Vice-Chair of the Planning Commission. Upon approval, three copies of the plat of the proposed division and other pertinent information shall be filed with the Planning Commission for record keeping purposes.

(B) Preliminary plat exceptions. In the case of a minor subdivision situated in a locality where conditions are well defined, the Planning Commission may exempt the subdivider from complying with some or all of the requirements stipulated in §§ 156.0203 and 156.0204 pertaining to the preparation of the preliminary and final plats.

(C) Large development exceptions. The general principles of design and the minimum requirements for the laying out of subdivision may be varied by the Planning Commission in the case of a Planned Unit Development authorized under provisions of the Zoning Ordinance of the City, to be developed in accordance with a comprehensive plan safeguarded by appropriate restrictions, which, in the judgment of the Commission make adequate provisions for all essential community facilities; provided, however, that no modification shall be granted by the Commission which would conflict with the proposals of the Thoroughfare Plan, or with other features of the Comprehensive Plan, or with the intent and purpose of the general principles of design and minimum requirements.

(D) Modifications due to developmental hardships. In any particular case where the subdivider may show that, by reason of exceptional topographic or other physical conditions, strict compliance with any requirement of these Regulations are practically difficult, the Planning Commission may vary such requirements to the extent deemed just and proper after reviewing the recommendation of the Development Director, so as to relieve such difficulty; provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of these Regulations or the desirable general development of the neighborhood and the community in accordance with the Comprehensive Plan and the Zoning Ordinance. Any modification thus granted shall be entered in the minutes of the Planning Commission setting forth the reasons, which, in the opinion of the Planning Commission, justified the modification.

[Factors to be considered - See Variances, § 150.2010, Zoning Code]

§ 156.0206 CONSTRUCTION AND INSPECTION.

Construction of all improvements contained in the final plat, and the inspection of such construction shall be done in accordance with the requirements of the "Rules and Regulations of the Office of the County Engineer" and all other applicable ordinances.

Deleted: Design, Construction and Material Specification Handbook

§ 156.0207 SUBDIVISION BONDS.

(A) Performance bonds.

(1) After approval of the final plat by the Planning Commission, the developer may secure from the proper authorities the necessary permits to proceed with the construction and begin work on the improvements. Work must commence within six (6) months of approval, unless otherwise extended by the Planning Commission.

(a) Before commencing construction of any improvement, the developer shall post a performance bond. This performance bond shall be sufficient to cover the full cost of all improvements shown on the approved construction drawings. This bond amount shall be set by the Development Director based on the construction plans and cost estimates and shall insure the satisfactory performance of all improvements during a fixed time set by the City and in accordance with other of its requirements. Once the bond has been posted, the final plat may be signed and recorded.

(b) The performance bond shall be reviewed and approved by the Director of Law.

(2) After all construction work is completed, it shall be inspected by the city to insure that the work has been correctly performed. Any deficiencies shall be recorded and a list forwarded to the developer for correction. Once the deficiencies have been corrected and checked by the city, a maintenance bond shall be posted and the performance bond released.

(B) Maintenance bonds.

(1) After all construction is completed and approved by the Public Works Director, the developer must maintain and keep in good repair all improvements for a period of one year.

(2) The developer shall post with the city a maintenance bond to secure the required maintenance of the improvements.

(3) The Development Director and the Public Works Director are authorized to permit the subdivider, or his successors and assigns, to transfer from the performance bond period to the maintenance bond period, upon certification by the Public Works Director that the subdivision has been completed in accordance with all of the conditions of the performance bond, and applicable State statutes. In no case shall a subdivision be accepted for maintenance without all improvements as shown on the construction drawings.

(4) In determining the amount of the maintenance bond to be required by the Development Director, such amount shall be not less than ten percent (10%) of the performance bond. The bond shall be reviewed and approved by the Director of Law.

(5) At the termination of the one-year maintenance period, the subdivision shall, again, be inspected by the city and all necessary corrections recorded and forwarded to the developer. It shall be the responsibility of the developer to request such inspection. Unless and until the developer requests the inspection in writing, the maintenance period shall not expire and the developer shall be responsible for all defects found upon inspection of the subdivision whether or not the one-year period has expired. Once these corrections are completed, a request shall be submitted to Council for the acceptance of the subdivision. Any outside inspections or testing which is required by the Public Works Director to assure the city that the proposed improvements have been constructed and maintained to the standards for acceptance shall be at developer's cost.

(C) Sidewalk bond.

(1) In the event that sidewalks are not completed at the time that the subdivision should be put on the maintenance bond, then the uncompleted sidewalks are to be placed on separate performance bonds, the amount of which is to be determined by the City Engineer. In such event, after the complete installation of sidewalks, there shall be established a sidewalk maintenance bond, which shall not be less than ten percent (10%) of the sidewalk performance bond, such bond to be for a period of one year from the date of the complete installation of sidewalks.

(2) It shall be the responsibility of the City's Engineer to delineate and determine the location of all such sidewalks not installed, for the future purpose of releasing the sidewalk performance bond. All such delineation is to be done on a copy of the subdivision plat or map, and such is to be maintained in the office of the Public Works Director for future reference.

§ 156.0208 FINAL INSPECTION.

(A) Upon completion of all improvements except sidewalks, the developer shall submit a written request for final construction inspection. The results of this inspection shall be forwarded to the developer in a letter format. Immediately prior to the termination of the one-year maintenance period, the developer shall submit a written request for the final maintenance inspection and acceptance of the subdivision by the city. All sidewalks must be complete prior to the final maintenance inspection or secured by a sidewalk performance bond.

(B) The final release of all maintenance bonds shall be by approval of Council after receiving a report and recommendation by the Development Director and Public Works Director.

§ 156.0209 ENFORCEMENT.

It shall be the duty of the Public Works Director and Development Director to enforce these Subdivision Regulations. Pursuant to that duty, the Public Works Director and Development Director shall have, in addition to all other authority granted to them by these Subdivision Regulations, the authority to issue stop work orders for any work being performed in violation of these Subdivision Regulations or any other applicable ordinance of the city.