

# ***Ordinance #83***

## **Subdivisions**

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## **Subdivisions**

The City of Lowry Ordains:

1. **TITLE.** This Ordinance shall be known and may be cited as: The Lowry Subdivision Ordinance.

### **2. AUTHORITY AND PURPOSE**

2.1 **Authority.** This Ordinance is adopted pursuant to the authority delegated to the City of Lowry under Minnesota Statute 462.358.

2.2 **Purpose.** The purpose of this ordinance is to protect the public health, safety, and general welfare. Specifically, the ordinance:

1. Encourages well-planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction.
2. Provides for the health and safety of residents by requiring the necessary services, such as properly designed streets and adequate water and drainage service.
3. Places the cost of improvements against those benefiting from the improvements.
4. Safeguards the interests of the public, property owners, the subdivide, and the City of Lowry.
5. Protects environmentally-sensitive areas.

### **3. DEFINITIONS**

**3.1 Adequate Public Facilities.** Facilities determined to be capable of supporting and servicing the physical area and designated intensity of the proposed subdivision as determined by the Governing Body.

**3.2 Applicant.** A developer submitting an application for development.

**3.3 Area of Benefit.** An area of land which is designated by the Planning Commission as receiving benefits from, or creating the need for the construction, acquisition, or improvement of a Public Facilities Project.

**3.4 Arterial Road.** A road which serves, or is designed to serve heavy flows of traffic and is primarily a route between communities.

**3.5 Block.** A tract of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

**3.6 Board of Adjustment.** The zoning board of adjustment established pursuant to the Lowry City Zoning Ordinance.

**3.7 Boulevard.** The area that is between the improved surface of a street and the street's right-of-way.

**3.8 Bond.** Any form of a surety bond in an amount and from satisfactory to the Governing Body.

**3.9 Building.** Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

**3.10 Capital Improvement.** A public facility with a life expectancy of three or more years, to be owned and operated by, or on behalf of, the Local Government

**3.11 Certify.** Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the municipality by administrative rule may require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.

**3.12 Collector Road.** A road intended to move traffic from local roads to arterial roads. A collector road serves a neighborhood or large

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subdivision and should be designed so that no residential properties face unto it.

- 3.13 Contiguous.** Lots are contiguous when at least one boundary line of one lot touches a boundary line or lines of another lot.
- 3.14 Cul-du-sac.** A local street with only one outlet that terminates in a vehicular turnaround and has an appropriate terminal for the safe and convenient reversal of traffic movement.
- 3.15 Dedications.** The deeding of land by a developer or landowner to the public.
- 3.16 Developer.** The owner, of land proposed to be subdivided, or its representative, who is responsible for any undertaking that requires review and/or approval under these regulations.
- 3.17 Development Agreement.** Agreement between the Governing Body and developer through which the Governing Body agrees to vest development use of intensity or refrain from interfering with subsequent phases of development through new legislation in exchange for the provisions of public facilities or amenities by the developer in excess of those required under current community regulations.
- 3.18 Dwelling Unit.** A building designed and intended for human habitation.
- 3.19 Easement.** A right to use property owned by someone else, usually for a specific purpose, such as the placing of utilities.
- 3.20 Final Plat.** The map of a subdivision, to be recorded after approval by the City Council, and any accompanying materials as described in these regulations.
- 3.21 Frontage.** That part of a lot that touches a road, street, or watercourse.
- 3.22 Improvements.** Facilities which aid in land development. Improvements include items such as: streets, sewer and waterlines, curbs, sidewalks, streetlights, fire hydrants, and street signs.
- 3.23 Governing Body.** The body of the local government having the power to adopt ordinances.
- 3.24 Health Department and Health Officer.** The agency and person designated by the Governing Body to administer the health regulations of the Local Government.
- 3.25 Health, Safety, or General Welfare.** The purpose for which municipalities may adopt and enforce land use regulations for the prevention of harm or promotion of public benefit to the community; commonly referred to as police power.
- 3.26 Local Government.** The municipality of Lowry
- 3.27 Local Government Attorney.** The licensed attorney designated by the Governing Body to furnish legal assistance for the administration of these regulations.
- 3.28 Local Government Engineer.** The licensed engineer designated by the Governing Body to furnish engineering assistance for the administration of these regulations.
- 3.29 Local Road.** A road which functions to provide access to abutting properties and to other roads from individual properties, and to provide right-of-way beneath it for utilities, including sewer, water, and storm drainage pipes.
- 3.30 Local Road-Limited.** A road which functions to provide access to abutting properties and to other roads from individual properties,

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and to provide right-of-way beneath it for utilities, including sewer, water and storm drainage pipes. A local road-limited is designed wholly for traffic within a particular subdivision or neighborhood, provided that such street shall not serve, or be intended to serve more than 30 dwelling units.

**3.31 Lot.** A piece of land divided from a larger parcel.

**3.32 Lot Coverage.** The amount of a total lot covered by buildings.

**3.33 Lot Improvement.** Any building, structure, place, work of art, or other object situated on a lot.

**3.34 Master Plan.** A comprehensive plan for development of the local government prepared and adopted by the City Council, pursuant to State law, and including any part of such plan separately adopted and any amendment to such plan, or parts thereof.

**3.35 Metes and Bounds.** Conveyance by other than a plat may be allowed provided the requirements of the individual zoning district are followed and provided that the land division descriptions must be prepared by a Minnesota License Land Surveyor.

1. Only one division of land in area in which the tract is described

By other than plat shall be permitted, provided:

- a. The original tract must contain the appropriate acres for zoning district it is in.
- b. No new roads, water main or sanitary sewer are needed.
- c. The division of a lot for the purpose of attachment to Contiguous lots provided no residual part is left unattended.

**3.36 Minimum Lot Size.** The smallest lot or parcel that can be built on in a particular land use zone, or the smallest lot that can be created by dividing a larger parcel.

**3.37 Official Map.** The map established by the Governing showing the streets, highways, parks, and drainage systems, and adopted and established by law, and any amendments or additions adopted by the Governing Body resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of approved plats.

**3.38 Parcel.** A lot or group of lots under a single ownership or control.

**3.39 Planned Unit Development (PUD).** A zoning development management approach to physical growth, which may combine housing, commercial, light manufacturing, and/or open-space uses in the same zone, while maintaining an overall density comparable to conventional development.

**3.40 Planning Commission.** The local government's Planning Commission established in accordance with the law.

**3.41 Preliminary Plat.** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for approval.

**3.42 Public Facilities Project.** Any and all public improvements, the need for which is directly or indirectly generated by development.

**3.43 Public Hearing.** An adjudicatory proceeding held by the Planning Commission preceded by published notice and actual notice to certain persons, and at which certain persons, including the applicant, may call witnesses and introduce evidence for the purpose of demonstrating that plat approval should or should not be granted. The rules of civil

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procedure binding on the courts shall not, however, bind the Planning Commission or City Council.

- 3.44 Land Surveyor.** A land surveyor properly licensed in the State of Minnesota.
- 3.45 Right-of-Way.** A strip of land occupies, or intended to be occupied by a street, sidewalk, electric-transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for any other special use. The usage of the term “right-of-way” for land platting purposes shall mean that every right-of-way hereafter established and show on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way shall be dedicated to public use by the maker of the plat on which such right-of-way is established.
- 3.46 Sketch Plat.** A sketch preparatory to the preliminary plat which enables the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives of these regulations. It does not need to be completed by an engineer or any other professional. A sketch plat should include information which demonstrates the applicant has given consideration to the impact of the development on adjoining properties, traffic flow, utility services and topography.
- 3.47 Structure.** Anything constructed or erected.
- 3.48 Subdivision, Major.** Any subdivision other than a minor subdivision.
- 3.49 Subdivision, Minor.** A subdivision which does not involve any of the following: (1) the creation of more than a total of three lots,(2) the creation of any new public streets, or(3) the installation of drainage improvements through one or more lots to serve one or more other lots.
- 3.50 Subdivision Improvement Agreement.** A contract entered into by the applicant and the City Council on behalf of the municipality by which the applicant promises to complete the required public improvements within the subdivision within a specified time period following final Subdivision plat approval.
- 3.51 Zoning Administrator.** The person designated by the local government to enforce the Zoning Ordinance and this ordinance.

#### **4. APPLICATION PROCEDURE**

- 4.1 General Provision.** Before any land is subdivided, the owner of the land, or authorized agent, shall apply for and receive approval in accordance with the following procedure.
- 4.2 Classification.** Subdivisions shall be classified as follows and require the number of steps indicated.
1. Minor subdivision.
    - A. Preliminary Plat
    - B. Final Subdivision Plat
  2. Major Subdivision.
    - A. Sketch Plat
    - B. Preliminary Plat

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### C. Final Subdivision Plat

**4.3 Application Fee.** The fee for review of a subdivision plat shall be established by the City Council from time to time by ordinance. The fee shall be used by the City for expenses incurred in connection with processing the subdivision plat.

**4.4 Administrative Expense.** The applicant shall reimburse the city for all expenses reasonably incurred by the city in processing each application submitted under this ordinance. Administrative expenses shall include but are not limited to legal, engineering, and other professional review fees.

**4.5 Public Hearings.** A public hearing shall be held on all subdivision applications prior to preliminary plat approval, unless otherwise provided by law or charter. The hearing shall be held following publication of notice of the times and place thereof in the official newspaper at least ten days before the day of the hearing. At the hearing, all persons interested shall be given an opportunity to make presentations.

**4.6 Sketch Plat/Preliminary Plat Review.** The applicant shall ensure that all times from Appendix A of this ordinance, along with additional items requested by the zoning administrator, planning commission, or city council are clearly indicated on all preliminary and final plats, or other documents as appropriate, unless specifically waived in writing by the city council.

1. **Minor Subdivision.** The applicant shall meet with the Zoning Administrator and submit four (4) full size copies of the preliminary plat and nine (9) 11 x 17 inch reproducible copies at least 15 days prior to the Planning Commission meeting where the plat will be reviewed. The preliminary plat may be presented in simple form, but must show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that will serve it, to neighboring development, and to the natural resources and topography of the site. The Administrator shall distribute one copy of the preliminary plat to each Planning Commission member, Engineer, and other reviewers as appropriate. Within sixty (60) days of submission, the Planning Commission shall make its report to the City Council. Approval by the City Council indicates that the applicant may proceed with preparation of a final plat in accordance with the terms of approval and provisions of this subdivision regulation.
2. **Major Subdivision.** The applicant shall meet with the Zoning Administrator and submit the sketch plat. The sketch plat may be presented in simple form, but must show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that will serve it, to neighboring development, and to the natural resources and topography of the site. Within 15 days of receipt of the sketch plat, the Zoning Administrator shall review applicable laws

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governing the subdivision of land. If the sketch plat complies, the Zoning Administrator shall issue a Notice to Proceed. Within 120 days of receipt of the Notice to Proceed, the applicant shall submit four (4) full size copies of the preliminary plat and nine (9) 11 x 17 inch reproducible copies at least 15 days prior to the Planning Commission meeting where the plat will be reviewed. The Zoning Administrator shall distribute one copy of the preliminary plat to each Planning Commissioner, Engineer, and other reviewers as appropriate. Within sixty(60) days of submission, the Planning Commission shall make its report to the City Council. Approval by the City Council indicates that the applicant may proceed with preparation of a final plat in accordance with the terms of approval, and the provisions of this subdivision regulation.

#### **4.7 Final Plat Review.**

1. The final plat shall be prepared by a licensed land surveyor and submitted with one (1) year of preliminary plat approval or the preliminary plat shall be considered null and void. The applicant shall submit four (4) full size and nine (9) 11 x 17 inch reproducible copies at least 15 days prior to the Planning Commission meeting where the plat will be reviewed. The final plat shall incorporate all of the changes required by the Planning Commission and Governing Body.
2. The Zoning Administrator shall distribute a copy of the final plat to each member of the Planning Commission, Governing Body, and other professionals as required.
3. The Planning Commission shall study the final plat and submit its recommendations to the Governing Body within sixty (6). The Governing Body shall act upon the final plat within sixty (60) days, whereupon the Zoning Administrator shall notify the applicant of the Governing Body's findings.
4. Upon approval, the applicant shall record such final plat with the County Recorder within sixty(60) days of approval, otherwise the approval shall be null and void. Within thirty (30) days of recording, the applicant shall provide the Zoning Administrator with three (3) black-line prints and one(1) reproducible print of the final plat showing evidence of recording. The applicant shall also provide a digital copy of the plat to be downloaded to the city's map.

## **5.COMPLETION AND MAINTENANCE OF IMPROVEMENTS**

**5.1 Cost of Improvements.** All required the developer, at the Developer's expense, should make improvements without reimbursement by the local government. The city, at its discretion may choose to participate in the costs of improvements based upon the public benefit of a project, through a development agreement.

**5.2 Acceptance of Dedication Offers.** Acceptance of formal offers of Dedication of streets, public areas, easements, and parks shall be by

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**5.2 Acceptance of Dedication Offers.** Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by ordinance of the governing body. The approval of a subdivision plat by the City Council, whether sketch, preliminary, or final, shall not be deemed to constitute or imply the acceptance by the municipality of any street, easement, or park shown on the plat.

**5.3 Inspection of Improvements.** The City Council shall provide for inspection of required improvements during construction and ensure their satisfactory completion. The applicant shall pay to the municipality an inspection fee based on the estimated cost of inspection. These fees shall be due and payable upon demand of the municipality and no building permits or certificates of occupancy shall be issued until all fees are paid. If the Local Government Engineer finds, upon inspection, that any one or more of the required improvements have not been constructed in accordance with the municipality's construction standards and specifications, the applicant shall be responsible for properly completing the improvements.

**5.4 Maintenance of Improvements.** The Developer shall be required to maintain all required public improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required by the City Council, until acceptance of the improvements by the governing body. If there are any certificates of occupancy on a street not yet dedicated to the local government, the local government may on twelve(12) hours notice, plow the street or effect emergency repairs and charge those costs to the developer. Following the acceptance of the dedication of any public improvement by the local government, the government may in its sole discretion, require the subdivider to maintain the improvement for a period of one(1)year from the date of acceptance.

**5.5 Deferral of Required Improvements.** Whenever it is deemed necessary by the governing body to defer the construction of any improvement required under these regulations because of incompatible grades, future planning, inadequate or nonexistent connecting facilities, or for other reasons, the subdivider shall pay his share of the costs of the future improvements to the Local Government prior to the signing of the final subdivision plat by the Mayor, or the developer may execute a separate subdivision improvement agreement, secured by a letter of credit, guaranteeing completion of the deferred improvements upon demand of the local government.

#### **5.6 Issuance of Building Permits and Certificates of Occupancy.**

1. When a subdivision improvement agreement or security has been required for a subdivision, no certification of occupancy for any building in the subdivision shall be issued prior to the completion of the required public improvements and the acceptance of the dedication of those improvements by the local government.
2. The extent of street improvement shall be adequate for vehicular access by the prospective occupant(s) and by police and fire equipment prior to the issuance of an occupancy permit. The developer shall, at the time of the offer of dedication, submit monies in escrow to the local government in a sum determined by the Local Government Engineer for the necessary final, if any, improvement of the street.
3. No building permit shall be issued for the final 10 percent of lots in a subdivision, or if 10% be less than two (2), for the final two (2) lots of a subdivision, until all

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public improvements required by governing body for the subdivision have been fully completed and the local government has accepted the developer's offer to dedicate the improvements.

#### **5.7 Consumer Protection Legislation and Conflicts of Interest Statutes.**

1. No building permit or certificate of occupancy shall be granted or issued if a developer, or its authorized agent, has violated any federal state, or local law pertaining to (1) consumer protection; or (2) real estate land sales, promotion, or practices; or (3) any applicable conflicts-of-interest legislation with respect to the lot or parcel of land which is the subject of the permit or certificate until a court of competent jurisdiction so orders.
2. With respect to any lot or parcel of land described in the immediately preceding section, if a building permit or certificate of occupancy has been granted or issued, it may be revoked by the municipality until a court of competent jurisdiction orders otherwise, provided that in no event shall the rights of intervening innocent third parties in possession of a certificate of occupancy be prejudiced by any such revocation.
3. Any violation of a federal, state or local consumer protection law, including, but not limited to: the Postal Reorganization Act of 1970; The Federal Trade Commission Act of 1970; the Interstate Land Sales Full Disclosure Act' the Truth in Lending Act; the uniform Commercial Credit Code; state "Blue Sky" laws; state subdivision disclosure acts, or any conflicts of interest statute, law, or ordinance shall be deemed a violation of these regulations subject to all of the penalties and proceedings as set forth in Section 7.

#### **6.REQUIRMENTS FOR IMPROVEMENTS, RESERVATIONS, AND DESIGN.**

##### **6.1 Non-Residential Subdivisions.**

1. Nonresidential subdivisions shall be subject to all the requirements of this ordinance, as well as such additional standards required by the Planning Commission and City Council and shall conform to the proposed land use standards established in the Comprehensive Plan, Official Map, and Zoning Ordinance.
2. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Planning Commission and City Council that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
  - a. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
  - b. Every effort shall be made to protect adjacent residential areas from potential nuisances from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

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**6.2 Conformance to Applicable Rules and Regulations.** In addition to the requirements established in these regulations, all subdivision plats shall comply with the following laws, rules, and regulations:

1. All applicable statutory provisions.
2. The local government zoning ordinance, building and housing codes, and all other applicable laws of the appropriate jurisdiction.
3. The Official Master Plan, Official Map, Public Utilities Plan and Capital Improvements Program of the local government, including all streets, drainage systems, and parks shown on the Official Map or Master Plan as adopted.
4. The special requirements of these regulations and any rules of the Health Department and/or appropriate state or sub state agencies.
5. The rules of the State Highway Department if the subdivision, or any lot contained therein, abuts a state highway or connecting street.
6. The standards and regulations adopted by the Local Government Engineer and all boards, commissions, agencies, and officials of the Local Government.
7. All pertinent standards contained within the planning guides published by the applicable regional planning agencies.
8. Plat approval may be withhold if a subdivision is not in conformity with the above laws, regulations, guidelines, and policies as well as the purposes of these regulations established in section 2.2.

**6.3 Adequate Public Facilities.** No preliminary plat shall be approved unless the Planning Commission and City Council determine that public facilities will be adequate to support and service the area of the proposed subdivision. The applicant shall, at the request of the Planning Commission or City Council submit sufficient information and data on the proposed subdivision to demonstrate the expected impact on, and use of, public facilities by possible uses of said subdivision. Public facilities and services to be examined for adequacy may include, but are not limited to: roads, sewerage, water, schools, and police and fire services.

**6.4 Comprehensive Master Plan Consistency Required.** Proposed public improvements shall conform to and be properly related to the Local Government's comprehensive plan and all applicable capital improvement plans.

**6.5 Water Facilities.** All habitable buildings and buildable lots shall be connected to a public water system capable of providing water for health and emergency purposes, including adequate fire protection.

1. All lots must be serviced by the municipal water system.
2. When a public water main is not accessible, the developer shall take necessary action to extend or create a water-supply district for the purpose of supplying a water-supply system capable of providing for domestic water use and fire protection. Any structure within the subdivision not connected to the municipal water system must connect at the time water is extended past the property and any existing wells must be capped.
3. When a public water main is accessible, the developer shall install adequate water facilities, including fire hydrants, subject to the specifications of state or local authorities. All watermains shall be at least six(6) inches in diameter if

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intended to service residential development or eight(8) inches in diameter if intended to service commercial development.

4. Watermain extensions shall be approved by the Minnesota Department of Health.
5. The location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts, indicating all improvements proposed to be served, shall be shown on the preliminary plat. The developer shall bear the cost of installing these improvements and they shall be included in the subdivision improvement agreement.

**6.6 Sewerage Facilities.** All habitable buildings and build able lots shall be served by an approved means of wastewater collection and treatment.

1. All lots must be serviced by the municipal sanitary sewer system.
2. If an individual sewer treatment system is approved, all the provisions of Minnesota Rules Chapter 7080 must be followed.
3. Sanitary sewer extensions shall be approved by the Minnesota Pollution Control Agency.

**6.7 Storm water/ Drainage Management.**

1. **General Requirements.** The Planning Commission shall not recommend for approval any plat or subdivision that does not make adequate provision for storm and floodwater runoff channels or basins. The Local Government may require the use of control methods such as retention or detention, and /or the construction of off-site drainage improvements to mitigate the impacts of the proposed developments.
2. **Location.** The applicant may be required by the Planning Commission or City Council to carry away, by pipe or open ditch, any spring or surface water that may exist, either previously to, or as a result of, the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the construction standards and specifications.
3. **Upstream Drainage.** A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision.
4. **Downstream Drainage.** Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Commission or City Council may withhold approval of the subdivision until provision has been made for the expansion of the downstream drainage facility.

**6.8 Extension Policies.** All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and

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telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure. The Local Government may require the applicant of a subdivision to extend offsite improvements to reach the subdivision, or oversize required public facilities to serve anticipated future development as a condition of plat approval.

6.9 **Monuments.** The Applicant shall place permanent reference monuments in the subdivision as required in these regulations and as approved by a Licensed Land Surveyor.

1. **Monuments.** Monuments shall be located on street right-of-way lines, at street intersections, angle points of curve and block corners. They shall be spaced so as to be within sight of each other, the sight lines being contained wholly within the street limits. All monuments required by these regulations shall be set flush with the ground and planted in such a manner that they will not be removed by frost. All monuments shall be set in the ground and approved by a Licensed Land Surveyor prior to the time the Planning Commission recommends approval of the final plat.
2. **External Boundaries.** The external boundaries of a subdivision shall be monumented in the field by monuments of stone or concrete, not less than thirty (30) inches in length and not less than four (4) inches square or five (5) inches in diameter. The monument shall be marked on top with a cross, brass plug, iron rod, or other durable material securely embedded or by iron rods or pipes at least thirty (30) inches long and two (2) inches in diameter. These monuments shall be placed not more than 1,400 feet apart in any straight line and at all corners, at each end of all curves, at the point where a curve changes its radius, at all angle points in any line, and at all angle points along the meander line of any river or stream, except when such corners or points fall within a street, or proposed future street, the monuments shall be placed in the side line of the street.
3. **Internal Boundaries.** All internal boundaries, and those corners and points not referred to in the preceding paragraph, shall be monumental in the field by like monuments as described above. These monuments shall be placed at all block corners, at each end of all curves, and at all angle points in any line.

6.10 **Lot Improvements.**

1. **Lot Arrangement.** The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons, of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Ordinance and Health Regulations, and in providing direct driveway access to buildings on the lots from a public street.
2. **Lot Dimensions.** Lot dimensions shall comply with the minimum standards of the Zoning Ordinance. The Planning Commission or City Council may require lots, which are at least double the minimum required area for the zoning district be arranged so as to allow further subdivision and the opening of future

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streets where they would be necessary to serve potential lots, all in compliance with the Zoning Ordinance and these regulations. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for construction of buildings, observing the minimum front-yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of uses and development contemplated, as established in the Zoning Ordinance.

3. **Lot Orientation.** The lot line common to the street right-of-way shall be the front line and a similar line across the street. Whenever feasible, lots shall be arranged so that the rear line does not abut the sideline of an adjacent lot.
4. **Soil Preservation and Grading.** Lots shall be laid out so as to provide positive drainage away from all building and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm water drainage from each lot to adjacent lots.
5. **Debris and Waste.** No cut trees, timber, debris, junk, rubbish, or other waste materials of any kind shall be buried in any land, left, or deposited on any lot or street at the time of the issuance of a certificate of occupancy. Removal of those items and materials shall be required prior to issuance of any certificate of occupancy on a subdivision. No items and materials as described in the preceding sentence shall be left or deposited in any area of the subdivision at the time of expiration of any subdivision improvement agreement or dedication of public improvements, whichever is sooner.

#### **6.11 Roads.**

1. **Roads.** Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation, be properly related to the comprehensive plan, and shall be appropriate for the particular traffic characteristics of each proposed development.
2. **Frontage on Improved Roads.** No subdivision shall be approved unless the area to be subdivided shall have frontage on and access from an existing street on the Official Map.
3. **Grading and Improvement Plan.** Roads shall be graded and improved and conform to the local government construction standards and specifications and shall be approved as to design and specifications by the Local Government Engineer in accordance with the construction plans required to be submitted prior to final plat approval.
4. **Topography and Arrangements.** Roads shall be related appropriately to the topography. All streets shall be arranged so as to obtain as many building sites as possible at, or above, the grades of the streets, Grades of streets shall

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conform as closely as possible to the original topography. A combinations of steep grades and curves shall be avoided.

5. **Street Integration.** All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated rights-of-way established on the Official Map and/or Master Plan.
6. **Relationship to Development.** All thoroughfares shall be properly related to special traffic generators, such as industries, business districts, schools, and churches, to population densities, and to the pattern of existing and proposed land uses.
7. **Minor or Local Streets.** Minor or local streets shall be laid out to conform as much as possible to the topography to discourage uses by through traffic, to permit efficient drainage and utility systems, and to require the minimum number of streets necessary to provide convenient and safe access to property.
8. **Layout.** The rigid rectangular gridiron street pattern need not necessarily be adhered to. The use of curvilinear streets or U-shaped streets shall be encouraged where such use will result in a more desirable layout.
9. **Street Extension.** Proposed streets shall be extended to the boundary lines of tract to be subdivided, unless prevented by topography or other physical conditions, unless, in the opinion of the Planning Commission, such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development of adjacent tracts.
10. **Road Names.** The submitted plat shall not indicate any names for proposed streets. The governing body shall name all streets. Names shall be sufficiently different in sound and spelling from other road names in the city so as not to cause confusion. A road which is, or is planned to be, a continuation of an existing road shall bear the same name.
11. **Road Regulatory Signs.** The applicant shall install the appropriate road signs, as determined by the Local Government Engineer, or shall deposit with the Local Government an amount of money equal to the Local Government's cost of signs and installations at the time of final subdivision approval.
12. **Road Surfacing and Improvements.** After utilities have been installed by the developer, the developer shall construct roads to the widths prescribed in these regulations. All surfacing shall be of a character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of bituminous shall be as determined by the Local Government Engineer. Adequate provision shall be made for culverts, drains, and bridges. All road pavement shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to all construction standards and specifications adopted by the Planning Commission, Local Government Engineer, or Governing Body and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.
13. **Minimum Right-of-way and Road Widths.** See Table 1.

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Street Classification	Minimum Width Right of Way (ft)	Minimum Driving Width (ft.)	Maximum Grade %	Minimum Drainage Grade %
Arterial	100	60	5	0.5
Collector	80	44	5	0.5
Local	66	36	8	0.5
Local-Limited	66	36	8	0.5
Alley	20	16	8	0.5

#### 6.12 Blocks.

1. **Width.** Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depth. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets or other features, which make two tiers impractical.
2. **Length.** The lengths, widths, and shapes of blocks shall be such as are neither appropriate for the locality and the type of development contemplated but block lengths in residential areas shall not exceed 2,200 feet nor be less than 400 feet in length. Whenever practicable, blocks along major arterial and collector streets shall be at least 1,000 feet in length.
3. **Long Blocks.** Planning Commission may require the reservation of an easement Through the block to accommodate utilities, drainage facilities, or pedestrian traffic in long blocks.

6.13. **Street Lights.** Installation of street lights shall be required in accordance with the design and specification standards approved by the Local Government Engineer.

#### 6.14. Intersections.

1. Streets shall be laid out so as to intersect as nearly as possible at right angles. A proposed intersection of two(2)new streets at an angle of less than seventy-five (75) degrees is prohibited. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least 100 feet there from. Not more than two (2) streets shall intersect at any one point unless specifically approved by the Planning Commission.
2. Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs of less than 140 feet shall not be permitted. Intersection of major streets shall be at least 800 feet apart.
3. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a 2% rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersection street.
4. Where any street intersection will involve earth banks or existing vegetation

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inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetations in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.

5. The cross slopes on all streets, including intersections, shall be three (3)% or less.

6.15 **Sidewalks.** Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads in the proposed subdivision. A median strip of grassed or landscaped area at least two(2)feet wide shall separate all sidewalks from the edge of the roadway. The City Commission may, upon recommendation of the Planning Commission, modify this requirement if it is in the best interest of the public.

#### 6.16 **Utilities.**

1. **Location.** All utility facilities, including, but not limited to gas, electric power, telephone and CATV cables, shall be located underground throughout the subdivision. Whenever existing utility facilities are located a above ground, except when existing on public roads and rights-of-way, they shall be removed and placed underground. All utilities, existing and proposed throughtout the subdivision, shall be shown on the preliminary plat. Underground service connections to the street property line of each platted lot shall be installed at the sub divider's expense. At the discretion of the Planning Commission, the requirement for service connections to each lot may be waived in the case of adjoining lots to be retained in single ownership and intended to be developed for the same primary use.

#### 2. **Easements.**

- a. Easements centered on rear lot lines shall provide for utilities (private and municipal) and such easements shall be at least ten (10) feet wide. Proper coordination shall be established between the subdivider and the applicable utility companies for the establishments of utility easements established in adjoining properties.
- b. When topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least ten (10) feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines.

6.17 **Land Reservation and Public Use.** The Planning Commission shall require that land be reserved for parks and playgrounds or other recreation purposes in locations designated in the comprehensive plan or other places as deemed appropriate by the Planning Commission. Each reservation shall be of suitable size, dimension, topography, and general character and shall have adequate road access for the particular purposes envisioned by the Planning Commission. The area shall be shown and marked on the plat "Reserved for Park and/or Recreation Purposes". When such recreation areas are required, 5% of the total gross area of the subdivision shall be reserved. The Planning Commission may refer such proposed reservations to the Park Board for recommendation. The developer

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shall dedicate all such recreation areas to the local government as a condition of final subdivision plat approval.

However, when in the judgment of the Planning Commission, a subdivision is of insufficient size to include an area for park and playground, or the subdivision is not designated as an area for playground or park in the Comprehensive Plan, the owner or applicant shall pay the City a cash sum in lieu of land servations. Such payment shall be placed in a neighborhood park and recreation improvement fund. The deposit shall be used by the local government for improvement of a neighborhood park, playground, or recreation area, including the acquisition of property. The cash sum in lieu of land reservations shall be 5% of the estimated fair market value of the total gross area of the subdivision before improvement.

#### **6.18 Preservation of Natural Features and Amenities.**

**Existing Features.** Existing features that would add value to residential development or to the local government as a whole, such as trees, watercourses and falls, beaches, historic spots, and similar irreplaceable assets, shall be preserved in the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plat has been granted. All trees on the plat required to be retained shall be preserved and all trees where required shall be welled and protected against change of grade. The preliminary plat shall show the number and locations of existing trees and indicate all those marked for retention.

#### **6.19 Landscaping and Screening**

1. **Landscaping.** All exposed ground areas within the subdivision, including street right-of-ways, Which are not devoted to drives, sidewalks, patios, or other such uses, shall be landscaped, with the exception of undisturbed area containing existing viable natural vegetation. All landscaped areas shall be kept neat, clean and uncluttered. Landscaping shall include:
  - A. Tree planting at the rate of at least one tree per 5,000 square feet of the gross area of the subdivision. Existing trees retained during development of the land can be counted towards fulfilling this requirement; or
  - B. Combination of trees or shrub planting. Ten (10) shrubs count as one tree.  
A maximum of 25% of the landscaping requirement may be in the from of shrubs.
2. **Erosion Control.** All disturbed areas must be sodded or seeded. Appropriate ground cover is required in all disturbed areas to control erosion. The developer shall submit an erosion control plan for review by the city engineer as part of the preliminary plat review process. Developer shall acquire a general storm water permit as required by law.
3. **Landscaping Trees.** Required landscaping trees must be mixed between lots. All trees required for landscaping shall be at least 1.5 inch diameter at four feet above ground level; conifers shall be at least three (3) feet in height. Landscaping trees shall be indigenous to the area. All deciduous trees shall be

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long-lived hardwood species. It is the responsibility of the developer to ensure to the longevity and maintenance of all plantings. If any planting dies within a year of construction, the owners shall replace such plantings.

4. **Screening.** All commercial or industrial uses which are situated within seventy-five (75) feet of a residential district by a wall or fence of not less than 100% opacity and up to ten (10) feet in height. Such wall or fence shall be set back from the property line at least five (5) feet. In the setback area shall be planted a combination of coniferous and deciduous plants, in order to soften the appearance of the fence or wall for the affected residential area. Walls or fences of less height or planting screens may be permitted by the City Council if there is a finding that the nature or extent of the use being screened is such that a lesser degree of screening will adequately promote and protect the use and enjoyment of the residential properties.

5. **Escrow Deposits for Lot improvements.**

A. **Acceptance of Escrow Funds.** Whenever, because of the season of the year, any lot improvements required by the subdivision regulations cannot be performed, the City Building Inspector may issue a certificate of occupancy, provided there is no danger to health, safety, or general welfare upon accepting a cash escrow deposit in an amount to be determined by the Local Government Engineer for the cost of the lot improvements. The subdivision improvement agreement and security covering the lot improvements shall remain in full force and effect.

B. **Procedures on Escrow Funds.** All required improvements for which the subdivider shall install escrow monies have been accepted by the City Administrator at the time of issuance of a certificate of occupancy within nine (9) months from the date of deposit and issuance of the certificate of occupancy. If the improvements have not been properly installed at the end of the time period, the City Administrator shall give two(2)weeks written notice to the developer requiring it to install the improvements and, if they are not then installed properly, the City Administrator may request the governing body to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit. At the time of the issuance of the certificate of occupancy for which escrow monies are being deposited with the City Administrator, the developer shall obtain and file with the City Administrator, prior to obtaining the certificate

of occupancy, a notarized statement from the purchaser or purchasers of the premises authorizing the City Administrator to install the improvements at the end of the nine (9) month period if the improvements have not been duly installed by the subdivider.

## **7.ENFORCEMENT AND PENALTIES.**

7.1 **Enforcement.** This ordinance shall be administered and enforced by the City Administrator or other officers as approved by the City Council.

7.2 **Penalties.** Any person violating any provision of this ordinance shall, upon

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conviction, be punished by a fine not exceeding \$1,000, or by imprisonment for a period not exceeding 90 days, or both, plus the costs of prosecution. Each day in which a violation shall occur or continue to occur shall be deemed a separate and distinct offense. In addition to the criminal penalty above, the Developer shall defend and indemnify the City from all liability, loss, costs and obligations including reasonable attorney's fees, on account of or arising out of any violation of this Ordinance.

7.3 **General Exception.** The City may waive any restriction of the Ordinance if deemed by the City Council that requiring a developer to strictly adhere to The restriction or restrictions of the Ordinance would not be reasonable and that waiving the restriction or restrictions would not impair the public's health, safety, or general welfare. The City Council may require reasonable conditions in connection with any waiver. The applicant as part of the plat application process must apply for any request for waiver in writing. The exact nature of the waiver desired must be made on the record and the reasons for the deferral or waiver also shall be expressly made on the record. The Planning Commission shall review all requests for waivers and forward a recommendation to the City Council.

7.4 **Conflicts.** If this ordinance shall be found in conflict with any other ordinance, regulation, or law, the more restrictive shall apply.

8.**EFFECT.** This ordinance shall take effect and be in force from and after its passage and publication of its summary according to law, passed by the City Council of the City of Lowry this \_\_\_\_\_ day of \_\_\_\_\_ 2003.

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Brian Piekarski  
Mayor

ATTEST:

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Debbie Piekarski  
City Clerk

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**Subdivisions**

**Appendix A**

**SUBDIVISION REVIEW CHECKLIST**  
(To be completed and submitted by the applicant)

Pre Application

- |   |   |
|---|---|
| _____ Location Map  | _____ Location of section lines   |
| _____ Sketch plan of street and lot layout on topographic map   | _____ Names and addresses of owners subdivider                            |
| _____ Conformity with comprehensive plan  | _____ Names and addresses of engineer and surveyor                        |
| _____ Conformity with zoning ordinance  | _____ Names of adjoining subdivisions                                     |
| _____ Preliminary Plat Review   | _____ Date plat prepared  |
| _____ Site map including land within 300 feet of boundary   | _____ North Arrow   |
| _____ Existing and proposed streets   | _____ Scale   |
| _____ Existing and proposed utilities including water, sanitary sewer, storm sewer, fire hydrants, etc. | _____ Block and lot numbers   |
| _____ Names of adjacent property owners   | _____ Names, locations, and widths of existing streets                    |
| _____ 2 foot contour intervals  | _____ Locations and widths of proposed streets                            |
| _____ Location of significant natural features  | _____ Location & width of alleys, cross-walks or pedestrian ways          |
| _____ Wet lands & areas subject to flooding   | _____ Lot layout with dimensions & building setback lines                 |
| _____ Existing buildings  | _____ Sidewalks   |
| _____ Existing easements  | _____ Street trees  |
| _____ Locations of existing & proposed parks & other public areas                                       | _____ Street lighting and signs   |
| _____ Existing & proposed zoning of of properties within 300 feet                                       | _____ Restrictive covenants (if any)                                      |
| _____ Name of subdivision   | _____ Landscaping Plan  |
|   | _____ Storm water Management Plan   |
|   | _____ Grading plan including initial & proposed with 2 foot contour lines |