

SUBDIVISION ORDINANCE OF HARTINGTON, NEBRASKA

Introduction

Subdividing affects the value of land, the return to the land investor and mortgage holder, the cost to the local government, and the future well-being of the home owner and community. The street pattern, size of lots, and utilities installed become permanent features of the community. If mistakes are made in subdividing, it may mean continual excessive maintenance to the city as well as a great financial loss to the developer.

The Planning Commission reviews each plat before submission to the City Council. Each member should carefully observe each proposed plat to be sure that adequate provision is made for areas of public concern. Reference should always be given to the Comprehensive Plan so members will be alert to preserve those natural features which will enhance the community's appearance.

This Subdivision Ordinance provides for: 1) the procedure to be followed by the Planning Commission and City Council when approving plats, 2) requirements for data and information to be submitted with the plat, 3) design standards, and 4) improvements to be constructed and installed prior to final approval of the plat.

SECTION 1. SHORT TITLE

This ordinance shall be known and cited as the Subdivision Ordinance of Hartington, Nebraska.

SECTION 2. PURPOSE AND INTENT

It is the intent and purpose of this ordinance to regulate the development of land to ensure functional street layouts; to provide lots which are in conformity with the highest and best use of land; to provide for adequate open spaces for traffic, schools, recreation and air; to ensure the installation of adequate utilities and streets, and to provide for other features of the Comprehensive Plan – all to the end that the development of land may proceed in an orderly manner, and that good liveable neighborhoods may be created and excessive City maintenance expense avoided.

SECTION 3. APPLICATION AND JURISDICTION

Every owner of any lot, tract or parcel of land within the corporate limits of Hartington or within one (1) mile thereof as shown on the official map in the office of the City Clerk, who may hereafter subdivide the same into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of transfer of ownership or building development, shall submit a plat in accordance with the requirements of this ordinance.

SECTION 4. DEFINITIONS

For the purpose of this ordinance, certain terms used herein are defined as follows:

Alley: A public right-of-way which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

Block: A tract or parcel of land bounded by public streets or lands, streams, railroads, unplatted lands or combination thereof.

Building Line: A line established on a plat as a restrictive covenant beyond which no building may be placed. The building lines need not correspond to the front, side, or rear yard requirement established in the Zoning Ordinance, and where they do not, the most restrictive requirement shall control.

City Council: City Council of Hartington, Nebraska.

Comprehensive Plan: A general plan for the improvement and development of Hartington, Nebraska as adopted by the City Council.

Cul-de-sac: A street having one end connecting with a public right-of-way and being terminated at its other end by a vehicular turn-around.

Easement: A right to use a parcel of land, granted to the general public, utility or corporation by the property owner.

Final Plat. Any plat of any lot, tract or parcel of land which meets the requirements of this ordinance and is in form to be recorded by the County Clerk and Register of Deeds.

Frontage Street: Minor streets which are parallel to and adjacent to major streets or highways and provide access to the abutting properties and protection from through traffic.

Lot: A portion of a subdivision or other parcel of platted land, intended as a unit for transfer of ownership or for development.

Lot of Record: A tract of land described as an integral portion of a subdivision plat which is properly recorded.

Planning Commission: The Planning Commission of Hartington, Nebraska.

Preliminary Plat: A tentative plan of a proposed subdivision of land for review and study.

Street: A right-of-way, dedicated to public use, which affords a primary means of access. Major highways, collector streets, and residential streets are streets so designated by the Transportation Plan in Hartington's Comprehensive Plan.

Street Pavement: The wearing or exposed surface of the street right-of-way used by vehicular traffic. The pavement width is measured from the back of the curb on one side to the back of the curb on the other side.

Street Right-of-way: The area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.

Subdivider: A natural person, firm, partnership, association, or any other group who submits a proposed subdivision for approval.

Subdivision: The division of a lot, tract or parcel of land into two or more lots, sites or other divisions of land for the purpose, whether immediate or future, for transfer of ownership or building development.

Water Course: A natural or man-made depression in which a current of surface run-off water flows following precipitation.

SECTION 5. SUBMISSION AND APPROVAL PROCEDURE

- 1) Whenever any subdivision of land is proposed to be made, the owner of such subdivision shall apply for approval of the proposed subdivision in accordance with the following procedures.
- 2) Optional Preliminary Plat.

- a) The owner shall submit ten (10) copies of the preliminary plat containing the information specified herein to the City Clerk no later than ten (10) days prior to a meeting of the Planning Commission. The preliminary plat procedure is optional and shall not be required of any proposed plat.
 - b) The City Clerk shall immediately transmit nine (9) copies of the preliminary plat to the Planning Commission. If professional planning or engineering assistance is used, one copy shall immediately be transmitted for his/her evaluation and recommendation to the Commission.
 - c) The Planning Commission shall examine the plat as to its compliance with this ordinance and the Comprehensive Plan of the City and shall have thirty (30) days in which to submit a recommendation to the Mayor and City Council for their consideration. In case of modification or disapproval, the Planning Commission shall give its reasons.
 - d) The Mayor and City Council, upon receiving the Commission's recommendation, shall approve, conditionally approve or disapprove the preliminary plat. Approval or conditional approval of the preliminary plat by the City Council shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.
- 3) Final Plat.
- a) Final plat approval is a two-step mandatory procedure required for all plats:
 - The final plat must be reviewed and a recommendation obtained by the Planning Commission; and
 - The final plat must be approved or disapproved by the City Council.
 - b) The owner shall submit ten (10) copies of the final plat prepared by a registered Nebraska engineer and/or surveyor containing to the information specified herein to the City Clerk no later than ten (10) days prior to a meeting of the Planning Commission. One (1) copy shall be the original drawn on permanent reproducible material such as mylar or tracing cloth. The Planning Commission shall review the plat a public hearing and make a recommendation to the City Council.
 - c) The Mayor and City Council shall receive the recommendation of the Planning Commission at a public hearing and shall approve the final plat by resolution or, if disapproved, set forth its reasons upon the minutes of the meeting.
 - d) Notice of said public hearings shall be published at least once in the official newspaper of the city at least ten days before the public hearings. Said notice shall contain the location of the land, the name of the proposed subdivision and the date of the public hearing.
 - e) Upon approval of the final plat, a resolution of approval signed by the Mayor and attested by the City Clerk shall be fixed to the original of the final plat and the owner shall cause the plat to be to be recorded with the County Clerk and Register of Deeds, along with any certifications and instruments as may be required by law and file satisfactory evidence of such recording with the City Clerk.

4) Submission to the School Board.

At least 10 days prior to any review of the preliminary or final plats by the Planning Commission, a copy of each preliminary or final plat shall be submitted to the School Board of each district in which the real estate is located for their consideration and recommendations. The board shall recommend in writing to the Planning Commission that such plat be approved or disapproved in whole or in part or with such changes as may be desirable. This recommendation shall be advisory, and failure of the board to make written recommendation shall be construed as an approval of the proposal submitted.

5) Professional Assistance.

The City Council or the Planning Commission may request such professional assistance as it deems necessary to properly evaluate the plats submitted.

SECTION 6. PRELIMINARY PLAT REQUIREMENTS

Preliminary plats shall contain the following information:

- A) A small scale key or vicinity map adequately covering the area within a half mile radius of the subdivision, showing the relation of the plat to major streets, parks, schools, and surrounding major commercial, industrial developments and the boundary of the drainage area affecting the plat.
- B) A preliminary plat of the subdivision drawn to the scale of one hundred feet (100') to one inch (1"), said preliminary plat to show:
 - a) Legal description, acreage and proposed name of subdivision.
 - b) Name and address of the owner.
 - c) Name and address of the engineer who prepared the plat, and date thereof.
 - d) North point and graphic scale.
 - e) Location of existing structures.
 - f) Location of existing or platted streets within the proposed subdivision and adjacent thereto.
 - g) Layout of proposed blocks (if used) and lots including the approximate dimension of each, and the lot and block number in numerical order.
 - h) Location, width and other dimensions of the proposed streets, alleys, roads, utility and other easements, parks, and other open spaces or reserved areas.
 - i) Proposed names for all streets.
 - j) Proposed building lines, if different than the requirements of the Zoning Ordinance.

SECTION 7. FINAL PLAT REQUIREMENTS

- A) The plat shall be drawn to the scale of one hundred feet (100') to one inch (in).
- B) The final plat shall contain the following:

- a) Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one foot (1') in three thousand (3000') feet.
- b) Accurate references to known or permanent monuments.
- c) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.
- d) Accurate legal description of the boundary.
- e) Street names.
- f) Complete curve notes for all curves included in the plat.
- g) Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley and lot lines.
- h) Lot numbers and exact dimensions.
- i) Block numbers.
- j) Building lines if different than the requirements of the Zoning Ordinance.
- k) Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.
- l) Location, type, material and size of all markers.
- m) Name of the subdivision.
- n) North point, scale and date.
- o) Certificate signed by a registered engineer or land surveyor, which contains the legal description of the land included in the plat and all necessary explanations of dimensions and references to monuments to supplement the figures on the plat itself. Said certificate shall state that a ground survey has been made and that monuments have been placed as shown on the plat.
- p) Notarized certificate signed and acknowledged by all parties having any titled interest in or lien upon the land subdivided, consenting to the plat including dedication to the public for public use of all street, alley and public ways and dedication of parks or other public grounds or as is thereon dedicated to charitable, religious, or educational purposes, if any, and granting easements.
- q) Resolution for the approval of the City Council to be signed by the Mayor and attested by the City Clerk.
- r) One copy of any private restrictions or covenants affecting the subdivision or any part thereof.

SECTION 8. DESIGN STANDARDS

1) General.

Land within the proposed subdivision which the City Council finds to be unsuitable for subdividing due to flooding or bad drainage or other topographic features likely to be harmful to the safety, welfare or general health of the future residents of the proposed subdivision, shall not be subdivided until the objectionable features have been eliminated or until adequate safeguards against such hazards are provided.

2) Streets.

- a) The arrangement of major streets shall conform as nearly as possible to the Comprehensive Plan with provisions for the extension of major and collector streets. Streets in the subdivision normally shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provision shall be made for future connections to adjoining unsubdivided tracts.
- b) Minor residential streets shall be so planned as to discourage through traffic. Cul-de-sacs shall normally not be longer than six hundred (600) feet and shall terminate with a turnaround having a street pavement diameter of not less than one (100) feet.
- c) Where a proposed subdivision is adjacent to or contains an existing or proposed major or controlled access thoroughfare, provision shall be made for a frontage street approximately parallel and adjacent to the boundary of such right-of-way, or lots shall back up to the major street and have access only to the minor street.
- d) Half streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations or where it is found to be practical to require the dedication of the other half when adjoining property is subdivided.
- e) Under normal conditions streets shall be laid out so as to intersect as nearly as possible at right angles. More than four (4) approaches to any intersection shall be prohibited.
- f) Street jogs at intersections with centerline offsets of less than one hundred and fifty (150) feet shall be prohibited.
- g) There shall be no private streets platted in any subdivision. Every subdivided lot shall be served from a publicly dedicated street.
- h) Alleys shall be provided in commercial and industrial districts except where other definite and assured provisions are made for service access.
- i) When a subdivision fronts on a State or Federal highway or a major or primary thoroughfare, intersections onto that highway or thoroughfare shall be not less than 1200 feet apart.
- j) Curb cuts shall be prohibited within fifty (50) feet of intersecting street curb lines.
- k) The minimum right-of-way widths, pavement widths (back to back of curb) and grades for interior streets and alleys included in any subdivision shall not be less than the minimum dimensions or more than the maximum grades for each classification as follows:

Type	Minimum R.O.W. (ft)	Minimum Pavement Width (ft)	Maximum Grade	Minimum Sight Distance on Vertical Curves (ft)	Minimum Horizontal Radii on Curves (ft)	Minimum Pavement thickness (inches)
Thoroughfare (5)	80-100 (1)	53 (2)	6%	(4)	(4)	9
Marginal Access Street	30	22	8%	300		7

Collector Street	70 (1)	41 (2)	10%	300	300	8
Residential Street	60	31	10%	300	100	7
Alleys	20	12 Res.				
		20 Com.		None		
Cul-de-sac Street	50	25	10%	200		7
Sidewalks		4 (3)				

- (1) Streets in these classifications shall be designed and graded to the full right-of-way widths stated.
- (2) The developer shall not be responsible for providing pavement wider than 31 feet.
- (3) If the sidewalk is to be a designated trail pavement shall be extended to 8 feet.
- (4) Per NDOR Standards or as directed by the City Engineer.
- (5) All section line roads will be designated as Thoroughfares.

3) Easements.

- a) Easements across lots or centered on rear or side lot lines, shall be provided for utilities, where necessary, and shall be at least twelve (12') feet wide.
- b) Where the subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way of such widths as will be adequate for both water flow and maintenance operations.

4) Blocks.

- a) Except in unusual circumstances, the length of blocks shall be not less than 300 feet and not greater than 1320 feet.
- b) Pedestrian crosswalks, not less than 10 feet wide, shall be required where deemed essential to provide circulation for or access to schools, playgrounds, shopping centers, and other community facilities.

5) Lots.

- a) Lot dimensions and lot area shall conform to the requirements of the Zoning Ordinance. However, in no case shall the width be less than 60 feet, nor less than 100 feet in depth, nor less than 6000 square feet in area when served by a public sewer.
- b) Corner lots for residential use shall have adequate width to permit appropriate building setback from and orientation to both streets.
- c) Each lot shall have satisfactory access to a public street.
- d) Double frontage lots shall be avoided except where they back up to a major street.
- e) Depth and width of properties reserved or laid out for commercial or industrial purposes shall be adequate to provide for off-street service and parking facilities required by the type of use and development contemplated.

- f) Side lot lines shall be substantially at right angles or radial to street lines.
 - g) Setback or building lines may be shown on all lots but shall not be less than the setback required by the Zoning Ordinance.
- 6) Public Sites and Open Spaces.
- a) Where a proposed park, playground, school, or other public use, as shown on the plan, is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation for purchase for public use of such area within the subdivision in those cases which the Commission deems such requirements to be reasonable. The cost per acre of the reserved area shall be based upon the appraised raw land value, unless an agreed price per acre has been reached with the Planning Commission at the time the plat is accepted.
 - b) No land under two and one-half (2 ½) acres shall be accepted for public recreational use unless abutting an existing park.

SECTION 9. IMPROVEMENTS

The subdivider shall construct and install the improvements described in this section in accordance with plans, specifications, and data approved by the City Council, and to its satisfaction.

1) Monuments.

The following described monuments shall be installed before the City Council shall approve the plat.

- a) The external boundaries and corners of block shall be monumented by iron rods or pipes not less than two (2) inches in diameter and extending at least thirty (30) inches below grade.
- b) Lot corners, all points of curvature, points of tangency and other points not required to be marked by the preceding paragraph a, shall be monumented by iron rods or pipes not less than one inch in diameter and extending at least twenty-four (24) inches below grade.

2) Sewer and Water.

It shall be required that the owner or developer of the tract to be subdivided install, at his own expense, satisfactory sewer and water lines which are necessary to serve such subdivision. Installation of the above shall be in accordance with the specifications of the City and under the direction and supervision of the City Council.

The cost of providing this engineering service will be the responsibility of the owner and developer of the tract to be subdivided. Sewer and water lines shall have flow elevations as directed by the City.

3) Drainage.

An adequate system for the drainage of all surface water within the area being subdivided, including ditches, pipes, culverts, intersectional drains, drop inlets, bridges, and other structures, shall be constructed by the developer. Such drains shall comply as to size with such requirements, conformable to good engineering practice, as the City Council shall prescribe; provided, that such drains in no event shall be less than twelve (12) inches in diameter. Cross-drains shall be constructed to accommodate all natural water flow, be built on a straight line and grade, be laid on a firm base but not on rock, and be of sufficient length to permit construction of streets and alley to their required width and grades. Surface drainage pipes shall be laid with the spigot end pointed in the direction of the flow, and all ends shall be fitted and matched to provide tight joints and a smooth uniform invert. Such pipes shall be placed at a depth below the road bed that is sufficient to avoid dangerous pressure from impact, and the top, in no event, shall be less than one foot (1') below the surface of the road bed.

The developer must also show what impact the new development will have on the existing drainage system and what they are willing to do to mitigate any potential problems.

4) Sidewalks.

Sidewalks four feet (4') wide shall be provided adjacent to each lot frontage in accordance with City specifications.

5) Grading.

All full width streets located entirely within the boundary of the subdivision, except primary and secondary thoroughfares, and collector streets as noted in Section 8 hereof, shall be graded to a minimum width of nine (9) feet back of both curb lines to within six (6) inches of the grade established by the City of Hartington.

6) Curb and Gutter.

Curb and gutter shall be installed on all roadways in the plat being dedicated for public use and shall be constructed of portland cement concrete in accordance with designs and specifications approved by the City.

7) Surfacing.

All roadways being dedicated for public use shall be surfaced from curb to curb. Surfacing shall be portland cement concrete and shall be constructed in accordance with designs and specifications approved by the City of Hartington.

8) Specifications.

The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the City Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

9) Other Improvements.

The City Council, upon recommendation of the Planning Commission, may require the installation of street lights, street signs, and street trees.

It is further provided, however, that after the City Council has approved the final plat for a portion of the area comprised in the tentative plat, the developer may submit for final platting the next portion only if required improvements have been installed or have been contracted for as above provided in the portion comprised in the final plat theretofore approved.

Subsequent applications for final platting shall be processed in the same manner.

SECTION 10. VARIANCES

1) Hardship.

Whenever the tract of land proposed to be subdivided is: 1) less than three (3) acres and does not involve any dedication for street purposes; or 2) if it is of such unusual shape or topography; or 3) is affected by surrounding developments or unusual conditions such that the strict application of the requirements contained in these regulations would result in substantial hardships or inequities, the City Council upon recommendation of the Planning Commission may vary or modify such requirements so that the subdivider is allowed to develop his property in a reasonable manner, but so at the same time, the public welfare and interest of the city and surrounding area are protected and the general intent and spirit of this ordinance is preserved.

2) Conditions.

In granting variances, the City Council, upon recommendation of the Planning Commission, may require such conditions as will secure substantially the objective of the standards or requirements so varied.

SECTION 11. ENFORCEMENT

- 1) No plat of any subdivision within the application of these regulations shall be entitled to be filed recorded in the office of the County Clerk and Register of Deeds or have any validity until such plat has been prepared, approved, and acknowledged in the manner prescribed by these regulations.
- 2) It shall be unlawful to sell, trade or otherwise convey any lot or parcel of land as a part of or in conformity with any plan, plat or replat of any subdivision with the application of these regulations unless said plan, plat or replat shall have first been approved as prescribed by these regulations and filed and recorded in the office of the County Clerk and Register of Deeds.
- 3) No permit shall be issued for any structure on a site or tract of land which is not a lot of record at the time of the effective date of this ordinance or which has not been approved or recorded in accordance with the provisions of this ordinance.

SECTION 12. AMENDMENTS

The City Council may amend these regulations from time to time, provided however, that such amendments shall not become effective until a public hearing and a recommendation from the Planning Commission is received and a public hearing by the City Council has been held as required by law.

SECTION 13. VALIDITY

If any section, subsection, sentence, clause, or phrase of this ordinance be declared unconstitutional or void, such decision shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared invalid.

SECTION 14. PENALTY

Any person, firm, co-partnership, association, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine not to exceed one hundred dollars (\$100) or by imprisonment not to exceed six months, or both, at the discretion of the court. The sale of each and every lot sold in violation of this chapter shall be considered a separate violation.

SECTION 15. CONFLICTING ORDINANCES REPEALED

All regulations or ordinances or parts of regulations or ordinances in conflict herewith are hereby repealed, except any regulations or ordinances that impose more restrictive regulations than are imposed herein.

SECTION 16. EFFECTIVE DATE

This ordinance shall be in effect from and after its adoption and publication as required by law.