

THE BETHEL HEIGHTS SUBDIVISION ORDINANCE

BETHEL HEIGHTS, ARKANSAS

ORDINANCE NO. 77

AN ORDINANCE REGULATING THE SUBDIVISION OF LAND WITHIN THE CITY OF BETHEL HEIGHTS, ARKANSAS AND ITS AREA OF PLANNING JURISDICTION; REQUIRING AND REGULATING THE PREPARATION AND PRESENTATION OF PRELIMINARY AND FINAL PLATS FOR SUCH PURPOSES; ESTABLISHING MINIMUM SUBDIVISION DESIGN STANDARDS; PROVIDING MINIMUM IMPROVEMENTS TO BE MADE OR GUARANTEED TO BE MADE BY THE SUBDIVIDER; SETTING FORTH THE PROCEDURE TO BE FOLLOWED BY THE PLANNING COMMISSION IN APPLYING THESE RULES, REGULATIONS AND STANDARDS; AND PRESCRIBING PENALTIES FOR THE VIOLATION; AND FOR OTHER PURPOSES.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BETHEL HEIGHTS, ARKANSAS:

1. GENERAL PROVISIONS

A. Purpose

The purpose of this ordinance is to set forth the procedures, requirements, and minimum standards governing the development and subdivision of land under the jurisdiction of the Bethel Heights Planning Commission (herein after referred to as the "Planning Commission").

B. Authority

This ordinance is adopted in accordance with the authority granted by Act 186 of the 1957 General Assembly of the State of Arkansas, as amended.

C. Compliance

The rules and procedures hereinafter set forth must be complied with before any transfer of interest in property constituting a subdivision as defined in Article 1, Section E of this Ordinance or before the transfer of any interest in property resulting in the need for access or utilities. Any attempted transfer not in compliance with the rules and procedures of this Ordinance may not be legally filed on record in the office of the County Recorder.

D. Jurisdiction

This Ordinance shall apply to all land within the Planning Area of the City of Bethel Heights as filed in the office of the County Recorder.

E. Definitions

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

Alley: A minor public way dedicated to public use for utility easements and vehicular access to the back or the side of properties abutting a street.

Backing Lot: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot, to which the property owner is denied access to one of the streets.

Building: See Structure

Buffer: Any area of land or an open area used to provide a physical separation or screen between and enhance the compatibility of different types of land use, including but not limited to open spaces, landscaped areas, fences, walls, berm, or any combination thereof.

Building Line: A line or lines designating the area in which buildings may be erected. Said building line(s) are parallel to property lines and/or setback lines.

Comprehensive Plan: The Comprehensive or Land Use Plan of the City of Bethel Heights.

Contour Line or Topography: Lines on a map or plat identifying points of equal elevation.

Contour Intervals: Topography map lines connecting points of equal elevations.

County Planning Board: The Benton County Planning Board.

Cul-de-sac: A minor street having one end open to traffic and being terminated at the other end by a vehicular turnaround.

Dead End Street: A street having one end open to traffic and being permanently terminated at the opposite end.

Dedication: Land and improvements offered to the city, county or state and accepted by them for public use, control and maintenance.

Developer: Any person, firm or corporation engaged in the development of land, and/or in the dividing, subdividing, or re-subdividing of land into lots or parcels for the purpose of conveyance within the scope and application of these regulations.

Development of Land: Includes but is not limited to the provision of access to lots and parcels, the extension or provision of utilities except for agricultural purposes, the subdivision of land into lots and blocks, or the parceling of land (including lease or rent) resulting in the need for access and utilities.

Development Plan: A comprehensive drawing showing all proposed improvements to a piece of property such as streets, sidewalks, parking lots, buildings, drives, signs, utilities, drainage, grading, and by size and location.

Duplex: A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Easement: A grant of right of use or privilege for general or specific purposes to the public, a corporation or persons made by the owner of the property, and properly filed with the Circuit Clerk, Benton County.

Engineer: A registered professional engineer, registered in Arkansas and who is qualified to design streets, water and sanitation facilities, to supervise the construction of the same and perform general subdivision services.

Enforcing Officials: The administrative officer or officers designated by the City Council to make inspections and investigations.

Health Department: The Benton County Health Department and the State Health Department.

Improvements: Physical changes made to property to prepare it for development such as street grading, drainage structures, street surface, sidewalks, curbs, gutters, utility lines, bridges and similar items.

Land Surveyor: A person who is registered in the State of Arkansas to make land surveys.

Lot: A division of land intended as a unit for the transfer of ownership or for development.

Lot, Corner: A lot of which at least two (2) adjacent sides abut on intersecting streets.

Lot, Double Frontage: A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

Lot Split: A lot split is a re-division of one lot into no more than three new lots (including the parent lot as one of the lots). Lot splits are further defined as not needing to provide any street dedications or public improvements required by the subdivision regulations when fronting on a public street. However, appropriate rights-of-way dedication will be required.

When a parcel is to be transferred, which would create a land-locked parcel, the parcel to be transferred shall include access to a public street. The width of this private drive shall comply with the Bethel Heights Street Standards Ordinance No. 24, or as amended, with regards to rights-of-way dedication. No more than two private drives will be allowed to access land-locked parcels.

Lot Split, Agricultural: Lots of ten or more acres may be exempted from subdivision platting regulations when used exclusively for agricultural purposes as defined in the Bethel Heights Zoning Ordinance No. 169, or as amended. However, the following exception will be noted: Single family housing for tenants or farm helpers may be provided.

Lot Split, Commercial: On commercially zoned property, a lot may be split no more than one time, producing two (2) lots, with one lot being the parent lot. Appropriate rights-of-way will be required on public streets. If a land locked parcel is created, it must have access to a public street.

Lot Split, Correctional: A transfer of property or adjustment of a property line to correct a mistake in the legal description of a lot or parcel, providing that the correction meets the zoning ordinance, the master street plan, and state law requirements.

Property Line Adjustment: A transfer or adjustment of a property line between adjoining property owners which does not create a separate new lot and all lots at the conclusion of the lot split meet the zoning ordinance, master street plan, and state law requirements.

Lot, Tandem: A lot meeting minimum size standards but without access to a public street.

Master Street Plan: A plan adopted by the Planning Commission and accepted by the City Council classifying and locating certain streets within the planning area jurisdiction to be reserved, according to their future function and establishing minimum rights-of-way according to that function.

Open Space: Land, including parks, recreation areas, school sites, community public building sites, and other lands not intended for automobile use, which is dedicated or reserved for acquisitions for non-building use by public groups or private owners in common or by individuals.

Parcel: An area of land under one ownership.

Parking, Off-Street: An area, enclosed or unenclosed, permitting ingress or egress for vehicular storage.

Plat, Final: A complete and exact subdivision plat, prepared for official recording as required by statute, to define property boundaries and dedicated streets and other improvements and executed by the owner or owners of said real estate.

Plat, Preliminary: A preliminary plat for a subdivision shall be a formal plan showing outside lot dimensions, indicating prominent existing features of a tract and its surroundings, the general layout of the proposed subdivision and shall meet the requirements outlined herein.

Protective Covenants: Property restrictions established by the subdivider.

Right-Of-Way: The land opened, reserved, or dedicated for a street, walk, drainage, or other public purposes.

Roadway Width or Surface Width: That portion of any street designated for vehicular traffic and, where curbs are laid, that portion of the street between the curbs or shoulders.

Setback Line: A line or lines generally parallel to property line (s) intended to restrict the placement of structures whether established by a Zoning Ordinance or Setback Ordinance.

Service Road: A minor street auxiliary to and located on the side of major streets for service to abutting properties and adjacent areas and for control of access and including frontage roads and streets.

Street: A strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel, which may also be used to provide space for sewers, public utilities, trees, and sidewalks.

Street, Arterial: A street or road of considerable continuity which serves or is intended to serve as the principal traffic-way between separated areas or districts and which is the main means of access to the primary street system or expressways.

Street, Collector: A street which in addition to serving abutting properties, intercepts minor streets, connects with community facilities and carries neighborhood traffic to the major arterial street system.

Street, Frontage: A minor street which is generally parallel to and adjacent a major highway or railroad right-of-way and which provides access to abutting properties and protection from through traffic.

Street, Local: A street used primarily to provide access to abutting properties.

Structure: Anything inanimate, constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including roof overhangs, carports, garages, porches and other similar structures.

Subdivision: The division of an existing parcel of land into at least two smaller parcels so that either now or in the future the sub-divider can do any of the following with one or more of the divided parcels:

1. Transfer ownership
2. Construct buildings
3. Create new building sites for leasehold.

The sub-divider will be required to adhere to the Bethel Heights Subdivision Ordinance, or as amended, when engaging in the previous actions.

The actual location, shape and size of an existing parcel to be divided is determined by the official record of the last transfer of its ownership transacted before this subdivision ordinance was enacted.

Variances: In instances where strict enforcement of said requirements would cause undue hardship due to circumstances unique to the individual property under consideration, and the granting of such variance is demonstrated to be within the spirit and intent of the provisions.

Waivers: When the planning commission determines that certain improvements or requirements are not necessary for the public interest or are inappropriate because connecting facilities on nearby or adjacent property are inadequate or lacking, the commission may waive such improvements or requirements when to do so would be consistent with the spirit and intent.

Yard. The portion of a lot established by the building lines as minimum open space and intended to be unobstructed and unoccupied by any structure, however, such things as fences, poles, posts, fence walls and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to height and visibility limitations.

Yard, Front: That minimum required open space extending between side lot lines from the front lot line to the nearest point of any building.

Yard, Rear: That minimum required open space extending between side lot lines measured from the rear lot line to the nearest point of any building.

Yard, Side: That minimum required open space extending from the front yard line to the rear yard line on both sides of any lot, measured from the side lot line to the nearest point of building.

Zoning: The zoning ordinance or regulations of the governmental unit in whose jurisdiction a property is located.

2. PROCEDURES

A. Lot Split Procedures

1. Lot Split and Agricultural Lot Split Procedure. Applicant is required to meet Lot Split eligibility, as defined in Article 1. GENERAL PROVISIONS, Section E. Definitions, Lot Split and Lot Split, Agricultural.

Information Required For Lot Split: The following information, as well as any additional information that the Planning Commission may require, shall be provided on a form developed by the Planning Commission.

- a. The name and address of each owner of the land to be split,
- b. The name and address of the proposed transferee of the lot to be split off and the family relationship, if any, between the owner and the transferee,
- c. The legal description and street address of the full tract of land owned by the owner,
- d. The legal description of the lot to be split off,
- e. The acreage of the full tract of land owned by the owner,
- f. The acreage of the lot to be split off,
- g. The zoning of the full tract of land,
- h. The number of feet of frontage that the lot to be split off will have on a public street, and the name of that public street,
- i. The number of feet of frontage that the remaining lot will have on a public street, and the name of that public street,
- j. A statement of what utilities are currently available to the lot to be split off and to the remaining lot,
- k. A description of any structures on the lot to be split off and of any structures on the remaining lot.

Approval: Once the applicant has submitted all the necessary information, the Planning Commission shall approve or reject the lot split. Failure to take action on the lot split within ninety (90) days of the date of receipt of all necessary information shall be deemed approval of the lot split. If rejected, the reasons for rejection shall be stated in writing. After approval by the Planning Commission, the applicant will be required to return two (2) Circuit Clerk file-stamped copies to the Bethel Heights Planning Office within 30 calendar days to have the approval complete. If the file-stamped copies are not received, then the lot split procedure shall be denied and the applicant will be required to begin the lot split procedure anew.

2. Correctional Lot Split Procedure. Applicant is required to meet Lot Split eligibility, as defined in Article 1. GENERAL PROVISIONS, Section E. Definitions, Lot Split Correctional.

If a mistake has been made in the legal description of a lot or parcel, no new lots or parcels are created and all lots at the conclusion of the correctional lot split meet the zoning ordinance, master street plan, and state law, then the following process is provided:

- a. Complete and file a correctional lot split application including the appropriate fee with the enforcement official
- b. Submit a survey of all lots involved in the split
- c. Submit necessary easements; and
- e. Submit necessary right-of-way dedication.

The enforcement official shall check the correctional lot split and all documents submitted and when all requirements have been met the enforcement official shall stamp the survey, "Approved by the Bethel Heights Planning Commission, No Plat Required". The enforcement official shall have the survey signed by an officer of the Planning commission and may then release the correctional lot split.

If any of the requirements of a. through d. above are not complied with, the enforcement official shall submit the correctional lot split to the Planning Commission for their review and approval. If the Planning Commission denies the correctional lot split, the applicant may appeal the decision to the City Council by submitting a letter of appeal to the City Clerk within fifteen days of the date of the Planning Commission denial.

Following Planning Commission or City Council approval the same process of stamping and signing the survey shall be followed.

3. Property Line Adjustment Lot Split Procedure. 1. Applicant is required to meet Lot Split eligibility, as defined in Article 1. GENERAL PROVISIONS, Section E. Definitions, Lot Split, Property Line Adjustment.

If adjoining property owners wish to transfer or adjust a property line(s) between lots or parcels which does not create a separate, new lot or parcel and all lots or parcels at the conclusion of the lot split meet the zoning ordinance, master street plan, and state law requirement, then the following process is provided:

- a. Complete and file a property line adjustment application including the appropriate fee with the enforcement official
- b. Submit a survey of all lots involved in the property line adjustment
- c. Submit necessary easements; and
- d. Submit necessary right-of-way dedication.

The enforcement official shall check the property line adjustment and all documents submitted and when all requirements have been met the enforcement official shall stamp the survey, "Approved by the Bethel Heights Planning Commission, No Plat Required". The enforcement official shall have the survey signed by an officer of the Planning Commission and may then release the property line adjustment.

If any of the requirements of a. through d. above are not complied with, the enforcement official shall submit the lot split to the Planning Commission for their review and approval. If the Planning Commission denies the lot split, the applicant may appeal the decision to the City Council by submitting a letter of appeal to the City Clerk within fifteen days of the date of the Planning Commission denial.

Following Planning Commission or City Council approval the same process of stamping and signing the survey shall be followed.

B. Pre-Platting Procedures

Conference: Any person intending to develop land within the meaning of the Ordinance may, before preparation of a preliminary plat, request a conference with the Planning Commission for the purpose of ascertaining the applicable planning requirements. A sketch plan of the proposed subdivision shall be presented for review at this conference.

Sketch Plan: The sketch plan may be a free-hand drawing superimposed upon a print of a map or an aerial photograph, and shall generally locate the following:

- a. Street pattern proposed and existing street or right-of-way.
- b. Sidewalks on both sides of the street.
- c. Location of all bordering streets.
- d. General size and shape of lots.
- e. Topography.
- f. Legal description of property.
- g. Proposed land uses and identity of adjacent landowners.
- h. Location of existing utilities.
- i. Existing watercourses and flood plains.
- j. Existing and/or proposed tree cover.
- k. Existing adjacent developments.
- l. Any additional information the developer feels is pertinent.
- m. Name and address of owner(s) and developer(s).

C. Preliminary Plat Procedures

Submission of Preliminary Plat: For each proposed subdivision the developer shall prepare and submit to the Planning Commission twenty copies of the preliminary plat prepared by a registered professional engineer and/or land surveyor. The preliminary plat shall be filed with the City Clerk and/or Secretary of the Planning Commission at least 20 days prior to the date of the meeting of the Planning Commission at which action is desired.

Information Required on Preliminary Plat: The following information, as well as, any additional information the Planning Commission may require, shall be clearly shown on the preliminary plan:

- a. The name of the proposed subdivision, which shall not duplicate the name of any other existing subdivision within the territorial jurisdiction of the City of Bethel Heights.
- b. The boundary lines of the proposed subdivision as determined by an accurate field survey. Length and bearings of courses shall be shown.
- c. The responsible entity for the maintenance and operation of any building, parks, retention ponds, detention ponds, swales, and other areas held for the common use of the residents of the subdivision shall be designated and the method of securing financing for such maintenance and operation shall be indicated.
- d. The total acreage in the subdivision.
- e. Date of preparation, scale (1" = 200', 1" = 50') and north arrow.
- f. Dimensions of all streets, alleys, sidewalks, easements, blocks, lots and parcel lines.
- g. The location, name and kind of surface of each existing and/or platted streets and utility easements, and permanent buildings within the subdivision.
- h. Location of railroad right-of-way and any other property owned by utilities.
- i. Topography, referred to U.S.G.S. datum.
- j. All areas to be retained as permanent open space shall be designated as such.
- k. All areas subject to flooding as determined by engineering studies or which have a history of flooding.
- l. Location and type of all existing utilities within the plat.
- m. The zoning of such property, if any.
- n. Indicate lots on which uses other than residential are proposed.
- o. Building setback lines.

Additional Information to be Submitted attached to the Preliminary Plat:

- a. An area map showing all existing highways, streets, and corporation lines adjoining the proposed subdivision.
- b. Any proposed restrictive covenants for the lots to be sold.
- c. The responsible entity for the maintenance and operation of any building, parks, and other areas held for the common use of the residents of the subdivision shall be designated and the method of securing financing for such maintenance and operation shall be indicated.
- d. The types of soils found in the platted area according to the United States Department of Agriculture or other reliable source.
- e. Percolation test results for each lot platted.
- f. A note attached to the preliminary plat prohibiting private driveways on corner lots of less than three (3) acres from accessing principal and minor arterial streets, where a collector or local street is accessible. This is to ensure the safety and efficiency of bordering arterial routes.

Preliminary Plat Review:

- a. Upon receipt of the preliminary plat the City Clerk and/or Planning Commission secretary shall check the plat to determine whether all information required by this section is included on the plat. When he/she is satisfied that all such necessary information is included, the City Clerk and/or Planning Commission Secretary shall transmit copies of the plat to each member of the Planning Commission retaining a permanent copy for the City. Until such time as the establishment of a Technical Advisory Committee shall be deemed advisable, the developer shall transmit to each of the persons or agencies hereinafter listed one copy of the preliminary plat.
 1. The building inspector of the City of Bethel Heights.
 2. The appropriate representative of each of the following utility services: water, sewer, cable TV, gas, telephone, and electric.
 3. The Northwest Arkansas Regional Planning Commission.
 4. The Washington or Benton County Planning Board if outside the City Limits.
- b. Within 10 days after review by the Planning Commission the sub-divider shall be notified in writing whether the preliminary plat is approved. If the plat is not approved, the reason shall be given in writing. Failure of the Planning Commission to act on a preliminary plat within 60 days from the date of application shall be deemed approval of the preliminary plat and is authorization of improvements as specific hereinafter.

- c. If the sub-divider desires to immediately develop only a portion of the total area the Planning Commission shall require preliminary plat approval for the entire area and a final plat shall be required only for the portion of the total area intended for present development, with additional final plat approval for the other portions of the area if they are developed.
- d. The approval of the preliminary plat shall be effective for a period of one year and thereafter as long as work is actively progressing on the installation of required improvements. If the final plat has not been submitted for approval within this period a preliminary plat must again be submitted for approval.

D. Final Plat Procedures:

Submission of Final Plat: For each proposed subdivision the developer shall prepare and submit to the Planning Commission fifteen copies of a final plat prepared by a registered professional engineer and/or land surveyor. The final plat shall be filed with the City Clerk and/or Planning Commission secretary at least 20 days prior to the date of the meeting of the Planning Commission at which action is desired. (Note the maximum filing size at the Benton County Courthouse is 18" x 23".) Before approval of the final plat the developer shall complete 90 percent of the water and sewer improvements, 80 percent of the grading and street improvements, and 100 percent of the drainage improvements, as determined by the zoning official.

Information Required on Final Plat: The following information, as well as, any additional information the Planning Commission may require, shall be clearly shown on the final plat.

- a. The name of the proposed subdivision.
- b. The boundary lines of the proposed subdivision as determined by accurate field survey by a registered surveyor of the State of Arkansas. Length and bearings of courses shall be shown.
- c. The total acreage of the proposed subdivision.
- d. Date of preparation, scale (1" = 200', 1" = 50') and north arrow.
- e. Dimensions of all streets, alleys, sidewalks, easements, block, lot, parcel lines and building line and/or setback line.
- f. Location of monuments.
- g. Location of railroad right-of-way and any other property owned by utilities.
- h. Names of all streets.
- i. Dedication by owner of all streets, alleys and lands for public use.
- j. All easements and right-of-way granted by the owner.
- k. Street curvature characteristics.

- l. The responsible entity for the maintenance and operation of any building, parks, retention ponds, detention ponds, swales, and other areas held for the common use of the residents of the subdivision shall be designated and the method of securing financing for such maintenance and operation shall be indicated.
- m. The following supporting data:
 1. Certificate of ownership and dedication.
 2. Certificate of Accuracy -- Engineer and/or Surveyor.
 3. Certificate of Approval of Water and Sewer System by State Health Department and/or the Town Water Superintendent.
 4. Certificate of Approval of Streets and Utilities by City Official.
 5. Certificate of Approval of Building Setback Dimensions by City Building Inspector.
 6. Certificate of Approval for Recording by the Planning Commission.
 7. Certificate of Plat Acceptance by City Council and any other pertinent information or data.

Additional Information to be Submitted Attached to Final Plat:

- a. Any restrictive covenants applicable to the lots intended for sale.
- b. Where the land to be developed abuts on the right-of-way of any existing or proposed state highway, the approval of the Arkansas Highway and Transportation Department shall be obtained and submitted attached to the final plat.
- c. A note attached to the final plat prohibiting private driveways on corner lots of less than three (3) acres from accessing principal and minor arterial streets, where a collector or local street is accessible. This is to ensure the safety and efficiency of bordering arterial routes.
- d. Where the developer does not provide connections with water and municipal sewer systems, any and all water and sewer improvements must be approved by the Arkansas State Health Department. Such written approval shall be submitted attached to the final plat.
- e. Any plat lying outside the City Limits of Bethel Heights but within the planning area boundary shall be accompanied by a letter from the County Judge stating that the County has reviewed the plat and will accept the roads as part of the County system and the developer has agreed to comply with all county requirements.

Discrepancies: If boundary discrepancies are found the Planning Commission may require at the sub-divider's expense a re-survey of the proposed subdivision.

Final Plat Requirements:

a. Streets

1. All curb and gutter completed and backfilled.
2. Final layer of asphalt in place.
3. Street signs paid for.
4. Sidewalks constructed that adjoin adjacent streets.

b. Sewer

1. All sewer lines constructed to grade.
2. Mandrel and pressure tests complete.
3. All manholes complete to required elevations and vacuum tested.
4. Sewer services marked.
5. Lift station site functionally complete with the exception of electricity.
6. Tracer wires on force mains and tested.
7. Lift station alarm deposit.
8. Draft of as-builts.
9. Passing test results for all backflow devices provided.
10. All backflow prevention devices installed properly and functional.

c. Water

1. All waterlines in place, pressure tested, and bacteriologically tested safe.
2. All hydrants and valves in place, accessible and operational (facing street).
3. Meter tiles and setters in place.
4. Tracer wires in place and tested.
5. Draft of as-builts.

d. Electric Conduit

1. Conduit in place at proper depth and clear of obstructions.
2. Conduit termination points in proper location per design layout, marked and protected.
3. Transformer and junction box locations at or near final grade.

e. Drainage

1. Drainage swales in place, sodded or concrete lined. Properly dedicated with erosion control measures in place.
2. Detention/retention facilities of grade and draining properly.
3. Outlet structures, pilot channels, and headwalls, flumes, guardrails etc. in place and constructed to approved plans and specifications.
4. Any needed off-site improvements or easements in place.
5. Sodding of detention/retention ponds complete and established.
6. Fencing of detention/retention ponds in place.
7. Aeration facilities for retention ponds in place.
8. All drainage inlets, outlets and conduits in proper location and constructed to approved plans and specifications.
9. Final layer of drainage paving in place as required by approved plan, including parking lots.

Prior to Applying for Final Plat Approval:

An application for final plat approval may be submitted for Planning Commission approval when the following requirement(s) is/are met:

a. Certificate of Completion: The owner/developer's engineer of record submits a statement certifying that all improvements and installations to the subdivision required for its approval have been made, added or installed in accordance with city specifications.

b. After Recording: Building permits may be issued after proof of the recording of the final plat has been provided to the appropriate city department.

Approval: The Planning Commission shall approve or disapprove the final plat within 30 days after its submission. If disapproved, the reasons therefore shall be recorded in the minutes of the Planning Commission and shall be transmitted to the applicant in writing. Failure of the Planning Commission to act within 90 days from the date of the application shall be deemed approval of the plat.

3. LARGE SCALE DEVELOPMENT

- A. A large scale development plan shall be required for all development intended on all parcels of land regardless of size in all Zoning Districts with the exception of R-1 and R-2 zonings, except:
- a single-family residence; an addition to or an accessory structure for a single-family residence; and an addition to an existing nonresidential structure in the above districts, which does not exceed twenty (20) percent or two thousand (2,000) sq. ft. of the existing structure.
- B. All large-scale developments must be reviewed and approved by the Planning Commission, after having afforded the opportunity for public comment, before a building permit may be issued. Approval by the City Council shall not be required unless an appeal is taken and heard pursuant to Section G of this Article.
- C. Before a building permit for a large-scale development may be issued, the developer shall:
- a. Submit a development plan to the Planning Commission for review. The development plan shall consist of a black line site location map drawn to scale, and an accurate black line vicinity map. The vicinity map need not be drawn to scale.
- Site location map. The site location map shall depict the following:
 1. The size and shape of the property on which the development is to be located.
 2. The location, size and arrangement of existing buildings, signs, outdoor advertising, and other improvements, water courses, ponds and streams, and any other distinctive or unusual features that will remain after the development is completed.
 3. The location, size and arrangement of proposed buildings or additions, parking and loading areas and the type of surfacing proposed for such areas, streets, driveways, curb cuts, community facilities, pedestrian ways, and open spaces.
 4. A correct legal description of the property located within the large scale development, and a correct legal description, certified by an abstractor or surveyor, of street right-of-way dedications and vacations and utility and drainage easements.
 - Vicinity map. The vicinity map shall depict the following:
 5. The location and name of any street, which abuts or intersects the large scale development.

6. The location and name of any other street, building or landmark necessary to clearly indicate the location of the large-scale development.
- b. (Required only where the developer proposes new streets or an alteration in the existing street plan.) Submit to the Planning Commission for review preliminary street and drainage plans, showing alignment of streets and direction of flow of storm and sanitary sewers (where applicable) in relation to topography. Where an official street and drainage plan exists, it shall be submitted for purposes of comparison.
- c. Dedicate sufficient right-of-way to bring those streets which the master street plan shows to abut or intersect the large scale development into conformance with the right-of-way requirements of the master street plan for said streets; provided, the Planning Commission may recommend a lesser dedication in the event of undue hardship or practical difficulties. Such lesser dedication shall be subject to approval by the City Council.
- d.
 1. Comply with those requirements of Articles 3 and 4 of the subdivision regulations pertaining to fitness for development, street design principles, minimum standards for street improvements, intersections, residential blocks, easements, residential lots, general improvements, streets, water systems, and sanitary sewer systems; and install a sidewalk adjacent to all abutting streets or highways in accordance with town specifications for sidewalk construction.
 2. The developer may be required to install off-site improvements, where the need for such improvements is created in whole or in part by the proposed large-scale development. For purposes of this section, an off-site improvement shall mean all, or any part of, a street, surface drainage system, water system, or sanitary sewer system, which is to be installed on property located outside the proposed large-scale development.
 3. Any required off-site improvements shall be installed according to town standards. The developer shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the large-scale development.
- e. Prior to the Planning Commission meeting at which the development plan is to be considered, the developer shall give notice of the proposed development to the owners of any property having a common boundary with the property proposed for development (irrespective of street rights-of-way):

1. By mailing written notice to all of the record owners of such property that a large-scale development plan has been submitted to the Planning Commission. Said notices shall be mailed by certified or registered mail. The receipts shall be filed with the Planning Commission Chair along with a copy of the notice. Said notice shall describe in general terms the nature of the proposed development.
 2. Proof of notice, pursuant to Section C.e.1. Above, shall be filed with the City Clerk at least seven (7) days prior to the Planning Commission meeting at which approval of the large-scale development plan will be considered. The notice will specify the date of the Planning Commission meeting at which the large-scale development plan will be considered.
- D.** Each large-scale development plan shall be reviewed by the Planning Commission. The Planning Commission shall approve, approve with conditions, disapprove, or refer back to the developer for more information, each large-scale development plan within thirty (30) days of receipt of the plan, or at its next meeting.
- E.** The Planning Commission may refuse to approve a large-scale development for any of the following reasons:
- a. The development plan is not submitted in accordance with the requirements of this section.
 - b. The proposed development would violate a town ordinance, a state statute, or a federal statute.
 - c. The developer refuses to dedicate the street right-of-way, utility easements or drainage easements required by this section.
 - d. The proposed development would create or compound a dangerous traffic condition. For the purpose of this section, a "dangerous" traffic condition shall be construed to mean a traffic condition in which the risk of accidents involving motor vehicles is significant due to factors such as, but not limited to, high traffic volume, topography, or the nature of the traffic pattern.
- F.**
- a. No certificate of occupancy shall be issued until the improvements required by Section C.d. above are installed to city specifications.
 - b. Upon completion of the development, the developer shall file with the city Clerk an "as built" plot plan for the large scale development showing:
 1. The location of all buildings and the setback distance for said buildings from street right-of-way and adjoining property lines;
 2. The location of any freestanding signs and the setback distance of said signs from street right-of-way and adjoining property lines;
 3. The location, number, dimensions and surfacing of all parking spaces and of all screens or fences;

4. The location and size of all water, sewer, gas, electric, telephone and television cable lines.
- G.**
- a. The developer, or the owners of any property adjacent to the proposed large-scale development, or any member of the City Council, may appeal the decision of the Planning Commission to the City Council by filing written notice of appeal with the City Clerk within ten (10) days from the date of such decision. The notice of appeal shall specifically state the reasons the appellant contends the Planning Commission's findings and decision were in error. An appeal may be heard by the City Council only if a majority of the Council votes to hear the appeal.
 - b. The City Council shall hear all persons desiring to be heard on the question of whether the findings and decisions of the Planning Commission were in error. Following such hearing, the City Council may affirm, modify, or reverse any findings and decision of the Planning Commission or may refer the proposed large scale development back to the Planning Commission for additional findings. The City Council may refuse to approve a large-scale development for any of the reasons specified in Section E of this section.
- H.** Building and moving permits. If a large scale development which is excluded from the requirements of this section meets the requirements for a building or moving permit, the Building Inspector shall issue such permit immediately upon determination that the development will not conflict with the town's master street plan; provided, if the city water and sewer service is not available to the development, no building or moving permit shall be issued until the water supply and waste disposal system proposed for the development has been approved by the City Engineer.
- I.** Fee. The developer shall be required to pay the following fee to cover the cost of expenses incurred in connection with processing the large scale, additional cost incurred by the City of Bethel Heights in excess of the fees set forth will be paid by the developer for such cost. All cost shall be paid before the large scale is final .
- J.** Expiration of Large Scale Development Approval.
- a. Expiration. The approved development plan is conditioned upon the applicant accomplishing the following tasks within six (6) months from the date of approval:
 1. Receive a building permit;
 2. Pour footing; and
 3. Receive all permits and approvals required by City, State, and Federal regulations to start construction of the development or project.
 - b. Extension. Prior to the expiration of the six (6) month time limit, an applicant may request the Planning Commission to extend the period to accomplish the task by up to six (6) additional months. The applicant has the burden to show good cause why the task could not be completed within the normal six (6) month time limit. An applicant may only receive one extension.

- **For each large scale application submitted, the Planning Commission shall collect a fee of \$1,000.00.**

4. DESIGN STANDARDS

These standards are intended to help the developer achieve development that is safe, efficient, pleasant, economic to build and easy to maintain.

A. Modifications

If the provisions of these standards are shown by the subdivider to cause undue hardship as they apply to his/her proposed subdivision, the City Planning Commission may grant a waiver to the subdivider from such provision, so that substantial justice may be done and the public interest secured; provided that the waiver will not have the effect of nullifying the intent and purpose of this ordinance.

In granting waivers and modifications, the Planning Commission may impose such conditions at will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

B. Fitness For Development

Based on topographic maps, soil surveys prepared by the Department of Agriculture and drainage information from the appropriate sources, the Planning Commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property. The Planning Commission may require the subdivider to establish building lines to allow for future acquisitions of right-of-way for arterial streets.

C. Street Design Principles

Extension: All street extensions shall be projected at the same or greater width, but in no case less than the standards.

Substandard widths: Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the minimum widths listed.

Street names: Names of streets shall be consistent with natural alignment and extensions of existing streets, and new street names must be used which will not duplicate or be confused with existing names.

Tangents: A straight tangent at least one hundred feet (100') long shall separate reverse curves.

Access: Safe and adequate vehicular and pedestrian access shall be provided to all parcels.

Access Control: Local streets and driveways shall not detract from the safety and efficiency of bordering arterial routes.

Through Traffic: Local street systems should be designed to minimize through traffic movements.

Speed: Local streets should be designed to discourage excessive speeds.

Pedestrian: Pedestrian-vehicular conflict points should be minimized.

Economy: A minimum amount of space should be devoted to street uses.

Traffic Conflict: There should be a minimum number of intersections.

Street Pattern: The arrangement of local streets should permit economical and practiced patterns, shapes and sizes of development parcels.

Topography: Local streets should be related to topography.

D. Minimum Standards for Street Improvements and Private Drives Serving Tandem Lots

See Existing Street Standards Ordinance #24, or as amended.

E. Intersections

1. Streets shall be planned and designed to provide a safe system for present and prospective traffic.
2. Proposed streets shall be planned in such manner as to provide safe access to proposed lots.
3. Design Standards:

| | <u>Ordinary</u> | <u>Hilly</u> |
|---------------------|-----------------|--------------|
| Approach speed | 25 mph | 20 mph |
| Sight distance | 90 ft. | 70 ft. |
| Grades within 100' | Flat | 4% |
| Minimum angle | 75 degrees | 75 degrees |
| Minimum curb radius | | |
| Local streets | 30' | 30' |
| Collector streets | 50' | 50' |
| Minimum jogs | | |
| Local streets | 150' | 150' |
| Collector streets | 200' | 200' |

F. Residential Blocks

Width: Blocks shall be two (2) tiers of lots wide, except where topography, highway, railroads, utility lines or other physical features will not permit it.

Length: Blocks shall be at least four hundred feet (400') long, but no longer than 1000 feet.

G. Easements

Easements at least twenty-five feet (25') wide shall be centered along rear lot lines and along side lot lines where needed to provide for utility lines and surface drainage. The Planning Commission may require larger easements for major utility lines, unusual terrain or drainage problems.

H. Residential Lots

The use and design of lots shall conform to the provisions of the zoning ordinance where zoning is in effect.

When no zoning applies, the following standards shall govern unless in conflict with more stringent local or state regulations applicable to the use of individual disposal systems.

Lot minimum standards: See Bethel Heights Zoning Ordinance No. 169, or as amended, for Residential development lot standards.

Size: The size and shape of the lots shall not be required to conform to any stipulated pattern, but insofar as practicable side lot lines should be at right angles to straight street lines or radial to curved street lines. When a tract of land is subdivided into larger than normal lots, such lots shall be so arranged as to permit the logical location and opening of future streets and appropriate re-subdivision of the lots, with provision for adequate utility connections for such re-subdivision.

5. IMPROVEMENTS

A. **General** -- All improvements will be installed prior to Final Plat approval.

Construction Plans: Construction plans and specifications prepared by a registered professional engineer showing all necessary data for all public and private improvements to be installed shall be submitted to the Planning Commission. In addition to the plans, the engineer shall certify in writing that all plans and specifications have been prepared in conformance with or in excess of the applicable requirements of the City. The Planning Commission with the approval of the City Council reserves the right to retain a disinterested engineer for advice and review purposes concerning any plans submitted.

As-Built Plans: Following the completion of any or all improvements the subdivider shall submit one copy of the As-Built Plans. Sufficient measurements will be provided to allow for locating the improvements and services.

Acceptance of Improvements: The developer shall be responsible for the installation of all improvements. Once the developer and engineer have certified that all improvements were constructed in keeping with or in excess of the City's standards and in keeping with good engineering practices, the City shall accept the improvements.

B. **Streets**

Standards: Refer to Section 4 (C) and (D) of this ordinance for the minimum standards for street improvements.

Signs: The subdivider shall be responsible for acquiring and placing all street signs. Such signs shall meet all applicable local, state and federal requirements. Street names may be provided by the subdivider subject to the approval of the Planning Commission and the Benton County 911 Coordinator. Street signs shall be placed at two opposite points of all four-way intersections and at one point at all three-way intersections.

Street Lights: The most energy efficient streetlights provided by the electric utility at the time of installation, or as directed by the planning commission or his/her designated representative, shall be installed at each intersection and along the street at intervals of 300 to 350 feet as measured along the centerline of the street and paid for by the developer. If standard streetlights and poles provided by the electric utility are not used, the planning commission or representative must approve proposed lights and poles. The minimum initial rating of the streetlamp shall be based upon the classification of the street along which the streetlight is located, or in the case of intersections, the highest street classification in accordance with the following, or as directed by the planning commission or his/her designated representative.

| Street Classifications | Lumens (Minimum Initial Rating) |
|------------------------|---------------------------------|
| Local | 6,800 |
| Collector | 11,000 |
| Arterial | 20,000 |

C. Utilities

Water: Construction plans showing the water distribution system, pipe sizes, valve location and fire hydrants shall be submitted to the Planning Commission. All subdivisions within 1320 feet of an approved public water supply shall connect with such water supply and make it available to each lot in the subdivision. All plans and connections shall comply with the regulations of the State Board of Health. If terrain does not permit, variance may be requested.

Sewer: Construction plans and profiles of all sanitary sewer systems including grades and pipe sizes shall be submitted to the Planning Commission. All subdivisions within 1320 feet of an approved public sewer system shall connect to such system and make it available to each lot. All plans and connections shall comply with the regulations of the State Board of Health. If terrain does not permit, a variance may be requested.

Fire Hydrants: The Planning Commission requires that fire hydrants will be at intervals of 1000 feet (1000') on any 6" or larger water line.

Storm Drainage: All storm drainage systems shall be designed so that concentrated runoff will be discharged onto adjacent property only in existing natural streams, creeks or drainage courses. The developer's engineer shall submit a statement upon request concerning the effect of the proposed development on the downstream flooding problem. If in the Commission's opinion, the statement seems to warrant corrective action, the Commission may require the developer to take such action as is deemed necessary to insure protection to downstream property.

D. Sidewalks: Subdivisions and new development generally.

A. Sidewalks shall be installed according to city standards and specifications, as adopted by the city council, along both sides of all city of public streets in all subdivisions platted after July 15th 2003 and along all adjacent public streets, in all other new development, which is required to submit a large-scale development, plan.

- B. All sidewalks shall be constructed to the following specifications:
1. Sidewalks shall be 4 feet wide.
 2. Handicapped curb ramps shall be provided wherever a sidewalk crosses a curb at crosswalks, driveways and street intersections.
 3. Sidewalks shall be constructed on a compacted sub grade, which is free from dust pockets, ruts and other defects.
 4. Sidewalks shall be constructed of Portland cement concrete with a minimum 28-day compressive strength of 3,000 pounds per square inch.
 5. Sidewalks shall be constructed with a minimum transverse slope of one-fourth inch per foot, sloped towards the street.
 6. The concrete shall be four inches thick. The planning authority or street authority may require a four-inch base if the sub grade is not compacted.
 7. Expansion joints shall be 25 feet apart.
 8. Transverse joints between expansion joints shall be scored at five-foot intervals.
 9. Sidewalks shall be finished with a float to a smooth and even surface.
 10. Sidewalk sub grade shall be inspected prior to pouring the sidewalk.
 11. The city planning authority or street authority shall have the discretion and authority to grant exceptions in order to accomplish reasonable continuity in sidewalks.
 12. The property owner shall be responsible for repair and maintenance of the sidewalk, and this requirement shall be included in the protective covenants and on the face of the plat.
 13. In existing subdivisions that are covered by this section, the developer shall submit suggestions pertaining to sidewalk location to the planning commission. The developer and the planning commission shall make the final decision on the location.
 14. There shall be a four foot (4') wide green space between the sidewalk and the curbing, it shall be set in grass and be graded to a slope of 2% from the sidewalk to the curb.
 15. In new subdivisions, sidewalks shall be laid out by the developer on the plat and presented to the planning commission for approval at the same time as the streets. The developer will have the flexibility to choose where the sidewalks are located and to design his sidewalk system based on the terrain, necessity, functional utility, etc. Final approval location cannot be changed without approval of the planning commission.
 16. In addition to the above requirements of this article, sidewalks shall be constructed in accordance with the American National Standards Institutes' Accessibility Requirements (ANSIA 117.1). (Code 1982, § 51-24)

C. Penalties and Fine.

1. If the sidewalk is not installed per the large-scale development plan or subdivision plat as required above, the record owner of the land shall be subject to a fine not to exceed \$250.00; and each day that the violation exists shall constitute a separate offence. In addition, the city shall have the right to install the sidewalk and charge the cost thereof to the owner; and the city shall have a lien against the land for such costs.

6. ADMINISTRATION

A. Interpretation

When a developer or property owner disagrees with an interpretation of this ordinance by the building inspector, it may be appealed to the Planning Commission for a decision within fifteen days. If the disagreement cannot be resolved by the Planning Commission, it may be appealed to the City Council within fifteen days.

B. Severability

If any section, paragraph, clause, phrase, or part of this subdivision ordinance is for any reason invalid, such decision shall not affect the validity of the remaining provisions of this ordinance and the application of those provisions to any person or circumstances shall not be affected thereby.

C. Enforcement

In order to carry out the purposes of this code and to assure an orderly program of land development after the effective date of this ordinance:

- a. No plat of any tract of land within the planning area jurisdiction of the Planning Commission shall be accepted by the County Recorder for filing unless the plat has been approved by the Planning Commission.
- b. No conveyance by metes and bounds of tracts coming under the definition of subdivision without compliance with the applicable provisions of this ordinance or amendments thereto shall be permitted. This provision is aimed at preventing any attempt to circumvent this ordinance by conveying by metes and bounds without taking the necessary steps for filing an approved plat.

D. Variance

If any of the provisions of this ordinance are shown by the subdivider to cause undue hardship as they apply to this subdivision, the Planning Commission may grant a variance to the subdivider; provided said variance will not have the effect of nullifying the intent and purpose of this ordinance. In granting a variance, the Planning Commission may impose such additional conditions as will, in its judgment, secure substantially the objectives of this ordinance and not cause due hardship.

E. Amendments

On any proposed amendments to this ordinance, the Planning Commission shall hold a public hearing, for which fifteen (15) days advance notice in a local newspaper of general distribution has been published or in the absence of a local newspaper any proposed amendment shall be posted in five conspicuous places in the Town. Following such a hearing the City Council may by ordinance adopt the amendment or amendments as recommended by the Planning Commission or as determined by the majority vote of the City Council.

F. Repealing Clause

All ordinances or parts of ordinances in conflict herewith are specifically repealed.

G. Fees

- a. Large scale: For each large scale application submitted, the Planning Commission shall collect a fee of \$1,000.00.
- b. Preliminary plat: For each preliminary plat submitted, the Planning Commission shall collect a fee of \$1000.00.
- c. Final plat: For each final plat submitted, the Planning Commission shall collect a fee of \$750.00.
- d. Lot split and Correctional lot split procedure: For each Lot split and Correctional lot procedure application submitted, the Planning Commission shall collect a fee of \$150.00.
- e. Property Line Adjustment: For each Property line adjustment application submitted, the Planning Commission shall collect a fee of \$150.00.
- f. Additional costs and expenses: Additional costs and expenses incurred by the City in the normal course of consideration of the application in excess of the fees set forth herein shall be charged to and paid by the developer.
- g. All fees, costs and expenses shall be paid before the project is submitted to the City Council for approval of the final plat.

H. Penalty Clause

Violation of the provisions of this code or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance or special exceptions) shall constitute a misdemeanor. Any person who violates this code or fails to comply with any of its requirements shall upon conviction thereon be subject to a fine not to exceed five hundred dollars (\$500.00) for any one specified offense or violation. If the thing prohibited or rendered unlawful is, in its nature, continuous in respect to time the fine or penalty for allowing the continuance thereof shall not exceed two hundred and fifty dollars (\$250.00) for each day that the same be unlawfully continued.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, engineer, agent or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

I. Effective Date

It has been found and is hereby declared by the City Council, that this ordinance is immediately required in order: to lessen congestion in the streets; to secure safety from fire and other dangers; to promote healthful living conditions; to prevent the unsanitary use and development of land; to provide adequate light and air; to prevent the overcrowding of land and undue concentration of population; to facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public facilities; to stabilize property value and to insure the orderly development of the community for the general welfare of the citizens.

PASSED AND APPROVED THIS 14 DAY OF MAY 1995.

APPROVED: Mayor Bonnie Ramsey

ATTEST: City Recorder/Treasurer Herman Seiter

Amended, Ordinance No. 87, and approved this 18th day of November 1997.
Amended, Ordinance No. 103, and approved this 18th day of May 1998.
Amended, Ordinance No. 149, and approved this 19th day of August 2003.
Amended, Ordinance No. 187, and approved this 16th day of November 2004.
Amended, Ordinance No. 189, and approved this 21st day of December 2004.
Amended, Ordinance No. 226, and approved this 19th day of September 2006.
Amended, Ordinance No. 242, and approved this 19th day of July 2007.
Amended, Ordinance No. 264, and approved this 17th day of June 2008.
Amended, Ordinance No. 282, and approved this 20th day of October 2009.
Amended, Ordinance No. 318, and approved this 19th day of November 2013.
Amended, Ordinance No. 359, and approved this 20th day of June 2017.
Amended, Ordinance No. 368, and approved this 20th day of March 2018.
Amended, Ordinance No. 377, and approved this 16th day of April 2019.