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MODEL REGULATIONS FOR THE CONTROL OF LAND SUBDIVISION

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SUBDIVISION REGULATIONS IN GENERAL

A new subdivision of land is not an isolated experience involving only the buyer and seller. The pattern of a subdivision becomes the pattern of a community, which in turn may influence the character of an entire city. If growth is to be orderly and rational, some control over land development must be exercised. In the early part of this century the line of urbanization moved westward and speculations began to distort the growth of communities.¹ Uncontrolled subdivision of land left many communities without adequate streets, water mains or sewers. Nearby governmental units often extended their facilities to many more people than the facilities were designed to service. The result was "urban sprawl"; disorderly, chaotic growth followed by depressed economic values.²

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1. Land speculations often resulted in sardonic and economically depressing situations. One of the more famous personalities to fall victim to the rainbow of land speculation was Charles Dickens. In the 1840's, Dickens succumbed to the lithographic temptations of Cairo City. Tempted by the lure of the junction of the Mississippi and Ohio Rivers, Dickens invested more than he could afford not knowing that the prime land was generally submerged most of the year. His realization and bitterness prompted the novel *Martin Chuzzlewit* which reflected Dicken's temperament following his visit to the United States in 1842. Dicken's comment following this trip is a summation of the results of premature land speculations: "A dismal swamp on which the half-built houses rot away; cleared here and there for the space of a few yards, and teeming with rank unwholesome vegetation, in whose baleful shade the wretched wanderers who are tempted hither, droop and die, and lay their bones; the hateful Mississippi circling and eddying before it, and off upon its southern course, a shiny monster hideous to behold; a hotbed of disease, an ugly sepulchre, a grave uncheered by any gleam of promise; a place without one single quality, in earth or air or water, to commend it, such is this dismal Cairo." See E. RACHLIS & J. MARQUSEE, *THE LANDLORDS* 37-40 (1963).

2. Speculation brought to the American scene orators of unusual distinction. One of the most exotic stories is about El Camino Real, a street two hundred and nineteen feet wide to accommodate twenty lanes, yet only one-half mile long, leading to the storied city of Boca Raton, Florida. High pressure sales (by orators

Today, subdivision regulations are a tool to fashion development in defined ways and prescribed methods, regulating the use of private lands in the public interest. But prior to 1926, the purpose behind subdivision regulations was to provide a more efficient method of selling land, permitting a seller to record a plat of his land by dividing it into blocks and lots, sequentially numbered and laid out. Sales of land could then be made by reference to this recorded plat, rather than by a more cumbersome description in metes and bounds. Platting of land in this fashion reduced costs and prevented conflicting deeds. Starting in 1926, subdivision regulations were used as a method to control urban development. In that year the Standard City Planning Enabling Act, published by the Department of Commerce, was offered as a partial answer to the problems created by land speculation and premature development. It shifted the concept of subdivision regulations from a device for land recordation to providing a means to implement a comprehensive community plan. The new enabling act included provisions dealing with the

arrangement of streets in relation to other existing or planned streets and to the master plan, for adequate and convenient open spaces for traffic, utilities, access of fire fighting apparatus, recreation, light and air, and for avoidance of congestion of population, including minimum width and area of lots.³

Following the adoption of enabling acts which were patterned on the Standard City Planning Enabling Act, decisions from state courts across the country indicated acceptance of the use of plat approval as a land-use control device.⁴

no less famous than William Jennings Bryan) resulted in skyrocketing prices of the lots only to deflate during the infamous Florida land bust of the 1920's. The gimmick was "vision"—"can you imagine a city not being there?"—and the result was pathos. See A. JOHNSTON, *THE LEGENDARY MIZNERS*, 235, 238, 242, 272, 274, 276-7 (1953). The Interstate Land Sales Full Disclosure Act of 1968, 15 U.S.C. § 1701 (1968), now requires interstate sale of unimproved lots in subdivisions of fifty or more units to be registered with the Secretary of the U. S. Department of Housing and Urban Development and a detailed "report" of the land made available to prospective purchasers of lots.

3. Standard City Planning Enabling Act § 14 (1928). At this point a caveat should be mentioned. Just as the zoning requirement contained in the Standard Zoning Enabling Act that zoning "be in accordance with a comprehensive plan" has never been interpreted to require that a master plan precede adoption of a zoning ordinance, Harr, *In Accordance With a Comprehensive Plan*, 68 HARV. L. REV. 1154 (1954), a master plan need not precede subdivision regulations, Nelson, *The Master Plan and Subdivision Control*, 16 ME. L. REV. 107 (1964).

4. Typical of this was a 1938 decision of the New Jersey Supreme Court: [I]t is essential to adequate planning that there be provision for future community needs reasonably to be anticipated. We are surrounded with the problems of planless growth. The baneful consequences of haphazard development are everywhere apparent, there are evils effecting the health, safety, and prosperity of our citizens that are well-nigh unsurmountable because of the prohibitive corrective cost. To challenge the power to give proper direction to community growth and development in the particulars

A second result stemming from the Standard City Planning Enabling Act has been a trend to flexible development regulations. The traditional method for controlling urban development has been "Euclidean" zoning. But zoning is based upon the supposition that it is possible, by careful intellectual effort, to determine optimum land use long before actual development.⁵ The use of subdivision regulations allows consideration of an application for development by an administrative body which exercises *ad hoc* judgments based on standards in pre-stated regulations. Each application is handled as a unique development. The procedure for subdivision approval is comparable to modern techniques of flexible zoning—floating zones, planned unit developments, special permits, incentive zoning and cluster developments—in that an administrative agency (the Planning Commission) renders determinations when each application is filed.⁶

The use of subdivision regulations is more relevant to today's problems than is zoning. The fast-moving shift of population to sprawling suburban environments threatens the utilization of every existing acre of land without adequate provisions for community facilities and no consideration for preservation of woodlands, streams and fresh air.⁷ Development has become so rapid in many areas that there is no longer time to adopt fixed and permanent master plans which will regulate in predetermined fashion every step of a community's development. The rapid pace of modern urbanization requires flexible decision-making tied to rational planning policies.⁸

The technique of subdivision regulations gives the governing unit one of its most potent means to coordinate the demands for new development with the demands for essential facilities. Full use of subdivision regulations also provides a means to put into operation the environmental and aesthetic

mentioned is to deny the vitality of a principle that has brought men together in organized society for their mutual advantage. A sound economy to advance the selective interest in local affairs is the primary aim of local government.

Mansfield & Swett, Inc. v. West Orange, 120 N.J.L. 145, 150-51, 198 A. 225, 229 (1938).

5. Village of Euclid v. Ambler Realty Co., 272 U.S. 366 (1926). See ALI MODEL LAND DEVELOPMENT CODE XXVI at 176 (1968 Draft).

6. Bair, *Improving Zoning, Some New Approaches*, 2 LAND USE CONTROLS 1 (1968); AMERICAN SOCIETY OF PLANNING OFFICIALS, TOWARD A MORE EFFECTIVE LAND USE GUIDANCE SYSTEM (Planning Advisory Service Report No. 250, 1969).

7. Preliminary counts by the Bureau of the Census for 1970 point out the disparity in growth patterns for metropolitan areas. That portion of Kansas City, Missouri, contained in Jackson County declined in population in the 1960-1970 period from 440,000 to 432,800. In a similar period, suburban Jackson County communities showed marked increases: Independence rose to 110,800 from 62,000 in 1960; Raytown showed a 1970 figure of 32,000 compared to 17,000 in 1960.

8. F. CHAPIN, URBAN LAND USE PLANNING 98 (2d ed. 1965). This is the view of land use as a constantly evolving and continuously changing phenomenon—an evolutionary scheme which through the medium of development policies is progressively adjusted in the flow of time to take account of technological and social change.

considerations which are today so much a part of the American man's concept of "the good life."

Viewed in this framework of the changing needs of land use controls, this article will endeavor to show how subdivision regulations can be successfully utilized to accomplish a community's goals and objectives. Our purpose will be to indicate the problems concerning subdivision regulations in Missouri and to suggest various solutions based on existing legislation. This article will also present proposals for statutory revision, analysis of judicial decisions, and lastly, the provisions of a set of model subdivision regulations. The model covers all possible situations with which a governing body or administrative agency may be faced and incorporates requirements suited to meet each community's respective needs. There are many areas of Missouri law in this field which require clarification. New concepts such as money-in-lieu of land, excess facilities, and compulsory dedications will have to be accorded judicial scrutiny and clarification. The model regulations have, however, been drafted in a form suited for immediate adoption by municipalities and counties.

The governmental power to regulate the subdivision of land is delegated through enabling statutes which give local elected governing bodies such as county courts, city councils, boards of aldermen, or appointed planning commissions, the power to formulate or enact subdivision regulations. Following adoption of such regulations, no plat can be recorded which does not meet the specific requirements for plat approval and subsequent recordation. Basically, the authority is asserted when the subdivider submits his subdivision plat for approval of the planning commission, and in some cases, approval of the legislative council. Criminal sanctions are imposed if means of subdividing and subsequent sale are used which avoid this approval process. Administrative relief through denial of building permits on illegally subdivided lots is also available, as well as civil injunctive relief.

While the validity of subdivision regulations has never been tested in Missouri, other states have upheld them as a valid exercise of the police power based on their similarity to zoning,⁹ and on the fiction of "voluntariness;" that is, that the subdivision of land is a privilege to which the legislative body may attach reasonable conditions.¹⁰ The leading case in this area is *Ayres v. City Council of Los Angeles*:¹¹

It is the petitioner who is seeking to acquire the advantages of lot subdivision and upon him rests the duty of compliance with reason-

9. *Krieger v. Planning Comm'n of Howard County*, 224 Md. 320, 167 A.2d 885 (1961); *Lake Intervale Homes, Inc. v. Parsippany-Tory Hills Tp.*, 28 N.J. 423, 147 A.2d 28 (1958).

10. *Ridgefield Land Co. v. Detroit*, 241 Mich. 468, 472, 217 N.W. 58, 59 (1928). [T]he owner of a subdivision voluntarily dedicates sufficient land for streets in return for the advantage and privilege of having his plat recorded. Unless he does so, the law gives him no right to have it recorded. *Id.*

11. 34 Cal.2d 31, 207 P.2d 1 (1949). See also *Ridgefield Land Co. v. Detroit*, 241 Mich. 468, 217 N.W. 58 (1928), holding that the city conditions for plat approval be complied with for the "privilege" of plat approval.

able conditions for design, dedication, improvement and restrictive use of the land so as to conform to the safety and general welfare of the lot owners in the Subdivision and of the public.¹²

The court in *Ayres* held that the dedication of land for widening of streets was a reasonable condition to plat approval because of its direct relation to the needs of the subdivision. The conditions imposed were lawful if reasonably related to the character of local and neighborhood planning and traffic conditions. These standards are derived from the enabling statutes. Any conditions which are not reasonably based on the statutory standards are invalid and a developer can utilize mandamus to compel plat approval.¹³

The model regulations accompanying these materials were prepared in conformance with the legislative standards and procedures dictated by the statutory parameters of this state. The intention was to give the local governments in Missouri the opportunity to utilize in the fullest possible context those powers granted to them. These regulations have been tested in the courts and many of the provisions have been utilized by the authors in rapidly growing areas in New York and New Jersey and more recently in Missouri. Hopefully most sections will be self explanatory. While the form is basically designed for a second or third class county, the model can be modified with little difficulty as has been done for cities in the Kansas City region.¹⁴

The Missouri statutes offer no exact definitions of a subdivision. For subdivision regulations, no less than seven enabling statutes can be found depending on type of jurisdiction: a municipality adopting a plan;¹⁵ a municipality not adopting a plan;¹⁶ a municipality of over 400,000 not adopting a plan;¹⁷ a class one county;¹⁸ noncharter class one county;¹⁹ class two and three counties;²⁰ and alternative procedures for second and third class counties.²¹ The most concise definition of a subdivision in these statutes is:

“Subdivision”, the division of a parcel of land into two or more lots, or other divisions of land; it includes resubdivision and, when

12. 34 Cal.2d 31, 42, 207 P.2d 1, 7 (1949). Most states have adopted similar enabling statutes, making these comparisons valid.

13. *Knutson v. State*, 157 N.E.2d 469, *aff'd*, 160 N.E.2d 200 (Ind. 1959).

14. Gratitude is expressed to the staff of the Metropolitan Planning Commission—Kansas City Region (special thanks to Stuart Eurman, Executive Director) for their aid in the preparation of this Model, which was financed in part by the Department of Housing and Urban Development through a comprehensive urban planning grant under § 701 of the Housing Act of 1954, as amended.

15. § 89.300, RSMo 1969.

16. § 445.010, RSMo 1969.

17. § 445.100, RSMo 1969.

18. § 64.060, RSMo 1969.

19. § 64.241, RSMo 1969.

20. § 64.580, RSMo 1969.

21. § 64.825, RSMo 1969.

appropriate to the content, relates to the process of subdividing or to the land or territory subdivided.²²

Noncharter class one urban counties (of which Jackson County, containing downtown Kansas City, is the sole member) are limited by the proviso that subdivision regulations shall not apply to the division of land into lots, the smallest of which is 10 acres or more.²³ Presumably this distinction exists for the purpose of eliminating from the process of subdivision approval the sale or division of farm land remaining in agricultural use. Beyond this, exempting large parcels from subdivision control in urban counties negates many of the theories behind the need for regulations, such as the creation of new streets, shaping the future of semi-urban communities and having a system of recorded plats on file. If the legislative purpose was to remove such subdivisions from the rigors of plat approval, the method suggested in § 2.1 of the Model would seem more appropriate. This section divides subdivisions into two categories—major and minor. Major subdivisions contain four or more lots and/or a new street or capital improvement. Minor subdivisions contain less than four lots and no major improvement or new street. The distinction permits minor subdivisions to go through an abbreviated review process; however, the plat is still reviewed and properly recorded.²⁴ The sale and division of agricultural lands can thus be handled in an expeditious manner without a loss of the benefits of a limited review.

For purposes of clarity, the Model Regulations restate the statutory definition and add other elements included by the implication of other statutory requirements.²⁵ The Model definition includes and incorporates flexible zoning devices such as planned unit developments, community unit projects, group housing projects and cluster zoning. All fall within the scrutiny of subdivision requirements.

Only one Missouri case deals with the scope and requirements of sub-

22. § 89.300 (3), RSMo 1969.

23. § 64.241, RSMo 1969. Why this legislative limitation is placed only on Jackson County is a mystery. Many second and third class counties are more rural.

24. This same distinction has been used with great success in other areas, notably Fairlawn, New Jersey, Charlotte, North Carolina, and Ramapo, New York. See *Graves v. Bloomfield Planning Board*, 97 N.J. Super. 306, 235 A.2d 51 (1967); N.J.S.A. § 40:55-1.15 (1967). A definition which exempts a tract of land from subdivision approval based on the number of lots will lessen the leverage of the city or county by allowing a developer to build two or three houses at a time without subdivision approval. See *Jack Homes, Inc. v. Baldwin*, 39 Misc. 2d 693, 241 N.Y.S.2d 487 (1963).

25. Article VI defines a subdivision as:

Subdivision—Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision. Subdivision includes the division or development of residential and non-residential zoned land, whether by deed, metes and bounds description, map, plat or other recorded instrument.

division regulations. In *Vinyard v. St. Louis County*,²⁶ the appellants contended that under certain county ordinances the splitting off of 25 feet from each of two lots for a driveway constituted a "subdivision" of land which had to be shown on a plat approved by the planning commission and county council. The regulations defined a subdivision as "(1) The division of land into two or more tracts, sites or parcels of three acres or less in area; . . . (3) dedication or establishment of a road, highway or street through a tract of land regardless of area, and (4) resubdivisions of land heretofore divided or platted into lots, sites or parcels, containing one acre or more or a total area of one acre or more."²⁷ The court relied for the substantive element of this decision on a note attached to the section of the ordinance which excepted land "in previously recorded subdivisions" from complying with the regulations *upon certification by the planning commission*. Reading the intent of the act into the text, the court held that "the zoning requirements would be sufficient to maintain adequate control over the subdivision of lots within a platted subdivision, and that the relatively insignificant act of dividing a lot in a subdivision was not sufficiently important to require compliance with the complex and onerous procedures imposed upon subdividers of land in the usual and ordinarily accepted sense of the term 'subdivision'."²⁸ Certain procedural irregularities aided the court in its decision. The court ignored the fact that the certification required to allow this abbreviated procedure had to be granted by the Planning Commission and in this sense the court was usurping the commission's prerogative and substituting its own. Such action may have been appropriate if the case were, in fact, brought as a quo warranto proceeding or in the nature of prohibition, but the conduct of the court seems dubious in a declaratory judgment action construing the rights of parties.

The importance of the *Vinyard* decision, however, would seem to be that the Missouri Supreme Court will uphold a local legislative discretionary action relieving certain types of subdivision of land from falling within the requirement of complying with a complete review procedure. This can be achieved by utilization of the major-minor subdivision distinction found in the Model Regulations.

ADOPTION OF SUBDIVISION REGULATIONS

In Missouri, the actual adoption of subdivision regulations varies by jurisdiction. In all municipalities adopting a "plan," subdivision regulations are adopted by the City Council or Board of Aldermen upon recommendation of the Planning Commission.²⁹ In first class counties, the adoption is by the Planning Commission.³⁰ The same procedure is used in class

26. 399 S.W.2d 99 (Mo. 1966).

27. *Id.* at 107.

28. *Id.* at 108.

29. § 89.410, RSMo 1969.

30. § 64.060, RSMo 1969 for first class counties, presumably charter types; and § 64.241, RSMo 1969 for noncharter class one counties.

two and three counties.³¹ For some curious reason, however, in second and third class counties adopting the alternate form of government and in noncharter class one counties, the Planning Commission has authority only to recommend to the county court that it adopt certain subdivision regulations.³² This procedure is quite obviously a contravention of the policy of the Standard City Planning Enabling Act which envisioned that subdivision regulations, being tied to the long term growth of the community, should be adopted not by the legislative body but the Planning Commission which also adopts the Master or Comprehensive Plan. All of these statutes require that duly advertised hearings be held before such adoption.

MODEL REGULATIONS: COMMENT

Article I: General Provisions

The statement of policy and purposes behind subdivision regulations is an important section. Section 1.4 of the Model indicates the purposes for which the regulations are adopted. These purposes serve as a yardstick for the developer and the reviewing agency. Without these standards and those found throughout the regulations, it has been held that a planning commission would be acting arbitrarily in denying approval of a plat which has been developed at great expense to the subdivider.³³ Similarly, a city cannot, through contract with the subdivider, exercise powers beyond the scope of their own authority.³⁴

The purposes of subdivision regulations as well as the standards contained within them are limited by Dillon's Rule of statutory interpretation. The case of *State ex rel. Strother v. Chase*,³⁵ established the principle in Missouri by holding that the power of a planning commission or other reviewing agency dealing with subdivision regulations is derived from the state enabling act and any condition for approval may be imposed only if it is authorized by the statute. The *Strother* decision should be closely scrutinized before too much reliance is placed on such a strict statement of

31. § 64.830, RSMo 1969.

32. § 64.580, RSMo 1969.

33. *Knutson v. State*, 160 N.E.2d 200, *aff'd*, 157 N.E.2d 469 (Ind. 1959).

34. *Midtown Properties, Inc. v. Township of Madison*, 68 N.J. Super. 197, 172 A.2d 40 (1961), *aff'd*, 78 N.J. Super. 471, 189 A.2d 226 (1963).

35. 42 Mo. App. 343 (1890). However, it should be noted that the *Strother* decision was handed down at a time when, as the court stated, only two conditions were imposed by an 1887 statute on plat approval: a map correctly showing the streets and an indication of the dimensions and number of the lots. Other cases have similarly construed plat approval in a narrow fashion: *State ex rel. Lewis v. City Council of City of Minneapolis*, 140 Minn. 433, 168 N.W. 188 (1918), holding that the city could not require grading under a statute referring only to direction and width of streets; *Magnolia Dev. Co. v. Coles*, 10 N.J. 223, 89 A.2d 664 (1952), holding that, in the absence of enabling authority, there was no power to require sidewalks, curbs or gutters; *In re Lake Secor Dev. Co.*, 141 Misc. 913, 252 N.Y.S. 809 (Sup. Ct. 1931), holding that under a statute referring only to streets, light and air, there could be no requirement for installation of water systems.

law. It was an 1890 case decided before modern concepts of health, safety, and welfare were introduced. The *Ayres*³⁶ case represents a more modern view of subdivision as a police power regulation rather than purely one of map or plat specifications. In that case the subdivider contended that the conditions imposed were not expressly provided for in the statute or ordinance. The California court held that conditions which are not inconsistent with the statute and are reasonably required by the subdivision type and use as it is related to the character of the local neighborhood and to planning and traffic conditions would be lawful. While Missouri courts have been rigid followers of Dillon's Rule restricting the scope of local legislative initiative, a decision such as *Ayres* would be in line with the modern trend of decisions.

Subdivision regulations have often been attacked as being an unconstitutional taking of property without due process on the grounds that requiring the developer to meet certain standards at great expense to his subdivision amounts to an exercise of the power of eminent domain without just compensation. There is also the contention that subdivision regulations are a form of taxation and are unconstitutional as a violation of the uniformity of taxation requirement. This argument was dealt with in an Illinois decision construing the right of a city to require storm drainage facilities as a "reasonable requirement" for plat approval.³⁷

Section 1.11 of the Model Regulations reserves the power of a Planning Commission to reconsider a subdivision plat that has already been approved if a change affects any street layout, area reserved for public use, lot line, or any plat legally recorded prior to the adoption of regulations governing subdivisions. Where a planning commission does not reserve this power, it has been held that in the absence of such regulations, a planning commission could not disapprove a plat submitted that had already complied with the subdivision regulations.³⁸

36. *Ayres v. City Council of Los Angeles*, 34 Cal.2d 31, 207 P.2d 1 (1949).

37. *Petterson v. City of Naperville*, 9 Ill.2d 233, 249-50, 137 N.E.2d 371, 380 (1956):

The case at bar does not involve the imposition of a tax by the municipal authorities, but rather involves the imposition of regulatory provisions by way of the exercise of the police power through an ordinance requiring certain conditions precedent to the subdivision of lands and approval of plats thereof. The validity of the ordinance is to be tested, neither by the principle of uniformity of taxation nor by the law of eminent domain, but rather by the settled rules of law applicable to cases involving the exercise of police powers. The fact that the exercise of such powers imposes certain burdens, or prevents the most profitable use of property in private hands, does not of itself render the legislation invalid as a taking of property without just compensation. . . . The imposition of reasonable regulations as a condition precedent to the subdivision of lands and the recording of plats thereof is not a violation of the constitutional requirement of uniformity of taxation or tantamount to the taking of private property for public use without just compensation.

38. *Purtill c. Town Plan & Zoning Comm'n of Glastonsbury*, 153 A.2d 441 (Conn. 1959).

Similarly, unless power is granted to a Planning Commission to review old filed plats that no longer conform to existing zoning requirements, such plats are not subject to change, regardless of their effect on the community's planning. Section 1.2 of the Model Regulations gives the Planning Commission the power to pass on any plat which has been recorded without the approval of the Planning Commission in a case where more than three years have elapsed since the last application for a building permit. The plat will then be treated as undeveloped land and subject to the new zoning and subdivision requirements. This procedure is sometimes recognized by statute,³⁹ but in the absence of statute it has been recognized that an old filed map showing unaccepted paper "streets" has no vitality as a subdivision.⁴⁰ The Model Regulations have provided a reasonable time period for subdivision development, after which time no vested rights will be recognized.

The enforcement, violation and penalty provision (Section 1.14 of the Model) should differ according to the governmental enabling authorization. In class one charter counties⁴¹ (St. Louis County being the only one) an officer is appointed or designated by the county court to administer the subdivision regulations, zoning regulations and setback regulations. This officer refers all violations to the "county general attorney." The same officer has been delegated the authority to examine all subdivision plats and determine whether the proposed development conforms to the regulations adopted. If the proposed subdivision plat conforms to the adopted regulations, the county officer is to either approve the plat "promptly," or refer it to the planning commission for its approval, amendment or rejection.⁴² In non-charter class one counties⁴³ a similar officer is employed by the county court. Any violations are reported to the prosecuting attorney. In class two and three counties⁴⁴ the county court appoints an officer who is charged with the duty of issuing building permits. The same method of control is available to class four counties.⁴⁵ In all these counties violation of the subdivision regulations constitutes a misdemeanor, and civil remedies are also available for property owners whose land or interests have been affected by violation of the subdivision regulations.⁴⁶

For cities adopting a plan as well as subdivision regulations⁴⁷ the sale

39. N. Y. TOWN LAW § 265-a (McKinney 1963); N.J.S. 40:55-1.18.

40. *Lake Intervale Homes, Inc. v. Parsippany-Troy Hills Township*, 28 N.J. 423, 147 A.2d 28 (1958). Municipal approvals can only be valid for a "reasonable time." What is reasonable is a question solvable only through case by case adjudication. *Hilton Acres v. Klein*, 35 N.J. 570 (1961).

41. § 64.150, RSMo 1969.

42. *Id.*

43. § 64.291, RSMo 1969.

44. § 64.650, RSMo 1969.

45. § 64.865, RSMo 1969.

46. Class one counties: § 64.160, RSMo 1969; Class one non-charter counties: § 64.295, RSMo 1969; Class two and three counties: § 64.690, RSMo 1969; alternative for class two, three and four counties: § 64.895, RSMo 1969.

47. § 89.450 and § 89.490, RSMo 1969.

of land with reference to a plat that has not been approved by the planning commission and recorded with the recorder of deeds of the county may be subject to a fine of up to \$300 per lot. A municipality may enjoin an attempted transfer by metes and bounds or any other transfer where there is an attempt to get around the subdivision regulations and recover the penalty. A violation of the statutes (presumably including any regulations adopted pursuant thereto) is a misdemeanor and punishable by a fine of up to five hundred dollars and/or confinement in the county jail for a term not to exceed one year.

Article II: Subdivision Application Procedure and Approval Process

The application and review procedure outlined in Article II involves a three stage procedure. The procedures are designed to achieve continued coordination between the developer and the Planning Commission. As the developer proceeds from the initial general discussion with the administrative assistant on the submission of a sketch plat to the more detailed preliminary and final plats, an agreement is reached on the best design for the subdivision. This methodology prevents undue expense by the developer and prevents unneeded time consumption by the Planning Commission. Also, submission of the plat to other agencies and parties—school boards, metropolitan, regional and state agencies, health boards—encourages and promotes community development in the manner best designed for public goals and objectives.

It is suggested that a Community Design Review Board be established as a technical advisory committee to the Planning Commission for the consideration of subdivision plats. Ideally, this board would consist of public officials concerned with rational and orderly development (such as planners, engineers, building officials, firemen and police, etc.) who would provide expertise at several stages of the review process. The idea for such a technical board is not a new one, having been recommended by the American Society of Planning Officials in 1950.⁴⁸ It has been successfully utilized in many rapidly growing communities in California, New York, Illinois and other states.

The recommended procedure for subdivision plat approval can be briefly summarized. The developer meets with the "administrative assistant" (the official appointed to administer the subdivision regulations through all stages) to discuss the proposed development. The administrative assistant indicates the procedures which will be required and advises the developer to contact other governmental agencies concerned with the development. The developer then submits a sketch plat of the development to the administrative assistant. The sketch plat lays out the approximate location of existing features and planned construction, and provides owner-

48. AMERICAN SOCIETY OF PLANNING OFFICIALS, CONSIDERATION IN SUBDIVISION CONTROL (Information Report No. 10, 1950).

ship information. The administrative assistant submits the sketch plat to the Community Design Review Board for its review and recommendation. Classification of the subdivision as either major (four or more lots and a new street is a "major" improvement) or minor (less than four lots and no new street is a "minor" improvement) is made at this time. If it is a minor subdivision, preliminary plat review is not necessary. The Community Design Review Board submits the sketch plat to appropriate agencies and adjoining communities for their review. Within 60 days, a report of the Community Design Review Board is submitted to the Planning Commission for its approval. The advantages of this procedure are obvious. The developer obtains an early determination of his prospects before investing heavily in detailed final plat drawings. The community obtains a thorough report on the subdivision in time to recommend needed changes. The Planning Commission is not reduced to the position of acting without sufficient information to require other than minor changes.

The next step for the developer is to file a preliminary plat which shows a detailed plan of the subdivision. The Community Design Review Board reviews the plat for the final time and makes a report to the Planning Commission, which then holds a public hearing on the plat. Within 30 days after the hearing, a decision on the plat is rendered.⁴⁹ If approved, the Planning Commission may require that the developer either install all public improvements prior to final approval, or post a bond for these improvements. The approval of the preliminary plat is valid for a period of one year, during which time a final plat must be filed. Since approval of the preliminary plat covers all substantive aspects of the subdivision, the final plat can now be prepared with full knowledge of certain approval if all conditions are met.

In addition to containing a detailed plat of the subdivision, the final plat contains an offer of dedication of all streets, easements and public areas and all required bonds, inspection fees and fees for each sign to be installed. This also saves the developer valuable time. The plat must be approved by the health departments as to sewer and water facilities before being submitted to the Planning Commission. A public hearing is held within two weeks of the date of application. Within 30 days in the case of a county (60 days in the case of a city) the plat must be either approved or disapproved.

This type of procedure is admittedly not based on any specific enabling authority. The statutes merely require that the planning commission of a county act within 30 days⁵⁰ and a city planning commission within 60 days⁵¹ or the plat will automatically be deemed approved. These provisions would seem to give the planning commission only these limited number of

49. Denial of preliminary plat approval is subject to judicial review. *Lake-shore Dev. Corp. v. Plan Comm'n*, 12 Wis.2d 560, 107 N.W.2d 590 (1961).

50. §§ 64.070, 64.245, 64.590, 64.830, RSMo 1969.

51. § 89.420, RSMo 1969.

days to consider a plat, notwithstanding holding a hearing. Cities adopting a plan are permitted to grant "tentative" approval of a "plat" previous to the installation of improvements⁵² adding credence to some type of staged approval procedure. The procedure suggested by the Model can, however, be supported. In the first instance, the statutes do not define what is considered a "plat" for purposes of approval and recording. Such a "plat" would presumably be one which adequately detailed all elements of the subdivision which the statutes require—streets, sewers, water, etc. A subdivider would not prepare such a plat until he was reasonably sure of approval by the Planning Commission. As such, this would be the "final" plat. Section 2.1-2 of the Model follows this theory by stating that the official submittal date of a "plat" will be when a plat in its final and detailed form is submitted. It would seem logical to give the Planning Commission more time to consider the complexities of a subdivision plat. Furthermore, cities may require that certain work be completed *before* final approval of the plat.⁵³ It would be an impossibility to complete all work in every instance within 60 days. The shortness of the period indicates that the legislature intended that a longer period be allowed for tentative or preliminary approval.

A public hearing can be a very important part of the entire subdivision approval process. Without it, adjoining property owners may never be given an opportunity to tell the Planning Commission about conditions of which the commission is unaware. The enabling acts make no provision for a public hearing. This is a serious omission. Where the enabling statute does not provide for a hearing, courts will refuse to read in a hearing requirement.⁵⁴ Some provision should be made, at the minimum, to give the Planning Commission the discretionary power to hold a hearing. Any hearing requirements could be justified under the authority of the Planning Commission to create rules for the transaction of business, which all are permitted to do.⁵⁵

The Model Regulations provide that the plat be submitted to outside reviewing agencies for review of health, fire, water, and regional planning requirements. While the enabling acts do not provide for such outside review and approval, it has been upheld in other jurisdictions pursuant to the phrase "securing adequate provision for water, sewerage, drainage and other necessary requirements," language which appears in nearly all enabling acts.⁵⁶

52. § 89.410, RSMo 1969. In other states, such as California, New Jersey, and New York, a two stage procedure has been recognized in the structure. N.J.S.A. 40:55-1.18 (1967).

53. § 89.410, RSMo 1969.

54. *Feldman v. Star Homes Inc.*, 199 Md. 1, 84 A.2d 903 (1951).

55. Cities: § 89.330, RSMo 1969; counties: §§ 64.030, 64.221, 64.540, 64.810, RSMo 1969.

56. *Castle Estates, Inc. v. Park & Planning Bd.*, 344 Mass. 329, 182 N.E.2d 540 (1962).

Final approval of a subdivision plat rests in the hands of a city council after recommendation of the Planning Commission. The Planning Commission must act on the plat within 60 days or it will be deemed approved by the Planning Commission.⁵⁷ County planning commissions retain final authority to approve a subdivision plat.⁵⁸ Action must be taken within 30 days. A decision of a county planning commission disapproving a plat may be overruled by the unanimous vote of the county court.⁵⁹ In second and third class counties municipalities have limited extra-territorial jurisdiction which allows them to file a protest with the planning commission in the form of a resolution against the action of the county planning commission approving any plat lying within one and one-half miles of the municipality. In such a case the action of the planning commission is deemed to be overruled and the plat may be approved only by a unanimous vote of the county court.⁶⁰ No cases in Missouri have considered the effect of the extra-territoriality provision. The provision, however, is a good one and can serve as a means whereby a city can control urban sprawl around its boundaries, especially in areas in which it plans to annex.⁶¹ Such action is within the purposes of subdivision regulations, namely, insuring sound and orderly development of a community in accordance with the availability of services and the spatial arrangement of developed areas.⁶²

The final act of recording the plat is the culmination of the activities of the developer and the planning commission and brings into fruition the actual development of the new subdivision. Recording a subdivision plat is a traditional function of the recorder of deeds. Before the recorder can receive a subdivision plat for land within an incorporated area it must have endorsed upon it the approval of the city council under the "hand of the clerk and the seal of the city, or (*sic*) by the secretary of the planning commission."⁶³ As to counties, the recorder of deeds in class one counties must have a certificate from the officer in charge of enforcement of the subdivision regulations that the plat has been properly approved.⁶⁴ In class two

57. §§ 89.420, .440, RSMo 1969.

58. §§ 64.070, .245, .590, .830, RSMo 1969.

59. *Id.*

60. §§ 64.590 and 64.830, RSMo 1969.

61. See *Walworth Co. v. City of Elkhorn*, 27 Wisc.2d 30, 133 N.W.2d 257 (1965), in which extra-territorial controls were upheld on the ground of the desirability of regulating the development of areas adjacent to a city prior to annexation.

62. See WASH. U.L.Q. 107 (1965); Fagin, *Regulating the Timing of Urban Development*, 20 LAW & CONTEMP. PROB. 298 (1955); Hallman, *Growth Control, A Proposal For Handling Scattered Metropolitan Development*, 33 LAND ECON. 80 (1957).

63. § 89.440, RSMo 1969. In cities not adopting a "plan" the plat must be approved by the mayor and city council, have upon it the signature of the clerk and seal of the city, and not be recorded until all taxes against the land have been paid. § 445.030, RSMo 1969. In cities of over 400,000 without a plan, the plat must be signed by the agency in charge of streets. § 445.100, RSMo 1969.

64. § 64.070, RSMo 1969, in class one counties. The officer in charge is the planning director in non-charter class one counties. § 64.150, RSMo 1969.

and three counties the certification of the officer in charge is not required, indicating that the chairman and/or secretary of the planning commission would be so charged.⁶⁵ Because of the importance attached to the ministerial act of recording of a plat, the Model Regulations in section 2.5-2 recommend that the administrative assistant be charged with such duty.

The fees required in approving subdivision plats are another important part of the process of insuring sound community growth without burdening already financially pressed local governments. The developer should bear the cost of review under the theory that adequate professional inspection of development will not take place where the general public is bearing the cost. The fees should be set to cover the costs of inspection, processing and review that will be incurred by the planning commission and its employees.⁶⁶ The fees charged to subdividers may not be used for revenue purposes for the community.⁶⁷ Some fees have been struck down where not specifically authorized by statute,⁶⁸ but presumably the fact that all statutes allow a planning commission to adopt its rules and procedures would constitute adequate authorization.⁶⁹

Article III: Assurance for Completion and Maintenance of Improvements

The Planning Commission has the authority to require the installation of various improvements before a plat is finally approved and recorded. Required improvements can cause long delays and expense to a developer who cannot begin construction of homes until improvements are completed. In some cases subdividers have succeeded in persuading a Planning Commission to give them a waiver of the prior completion requirements, but in some of these instances the developer fails to complete all improvements and there is no effective way to force completion. The answer to such prob-

65. §§ 64.590 and 64.830, RSMo 1969.

66. The American Society of Planning Officials has stated the reason underlying this rule as follows:

Experience suggests, however, that in many communities fees are substantially lower than costs. In those communities, the public at large pays a cost that could be passed on to the developer. It is not clear why the developer should not be required to assume this cost, just as he must (in many communities) assume the costs for streets, sewers, and building inspections incident to his development.

A community desiring to relate fees to costs should determine its average costs for reviewing subdivisions of various sizes and set up a sliding scale of fees based on these averages. . . . Inspection fees, based on actual cost, should be charged in addition.

AMERICAN SOCIETY OF PLANNING OFFICIALS, SUBDIVISION FEES REVISITED 4, (Information Report No. 202, Sept., 1965).

67. Haugen v. Gleason, 359 P.2d 108 (Ore. 1960). The fee should be scrutinized for reasonableness; an excessive fee may be considered an illegal tax. West Park Ave. v. Ocean Township, 48 N.J. 122, 224 A.2d 1 (1966).

68. Gordon v. Village of Wayne, 370 Mich. 329, 121 N.W.2d 823 (1963).

69. In addition, for cities adopting a plan, the Planning Commission "shall have the power necessary to enable it to perform its functions and promote municipal planning." § 89.370, RSMo 1969.

lems is the performance bond. Article III of the Model provides for the acceptance of a performance bond in accordance with the appropriate enabling provisions.⁷⁰ Performance bonds in lieu of actual completion of improvements and as assurance for work to be carried out in accordance with an approved plat have become a widely accepted tool of planning commissions.⁷¹

The amount of the bond should be sufficient to secure the satisfactory construction, installation and dedication of the uncompleted portions of the required improvements. It should also include individual lot improvement costs. The time period should generally not extend beyond two years. An inspection fee in the amount of 2% of the improvements is also recommended to defray costs of making certain that specifications have been complied with. The performance bond may be reduced proportionately as the improvements are completed.

The performance bond must be requested before the plat is approved.⁷² The Planning Commission may not require a performance bond which does not conform to the requirement provisions set out in statutes or or-

70. § 89.410, RSMo 1969, states:

The regulations may provide that, in lieu of the completion of the work and installations previous to the final approval of a plat, the council may accept a bond in an amount and with surety and conditions satisfactory to it, providing for and securing the actual construction and installation of the improvements and utilities within a period specified by the council and expressed in the bond; and the council may enforce the bond by all appropriate legal and equitable remedies.

§ 64.060, RSMo 1969, is the statute authorizing a bond to be required by a first class county:

In lieu of the immediate completion or installation of the improvements required under the regulation adopted, the county zoning enforcement officer shall accept bond for the county in an amount and with surety and conditions prescribed by the county general attorney and approved by the county court. Such bond shall provide and secure to the county the actual construction of such improvements and utilities within the period prescribed by such regulations.

The provisions for other class counties are similar with the exception of the substitution of "may" for "shall". The reason for this alternative is unknown as are its ramifications.

71. AMERICAN SOCIETY OF PLANNING OFFICIALS, PERFORMANCE BONDS FOR THE INSTALLATION OF SUBDIVISION IMPROVEMENTS 24 (Information Report No. 48, March, 1958):

The bonds are most easily obtained in those localities where the market for new lots is good, and are most easily obtained by developers whose credit is high and whose experience is good. Difficulty in getting performance bonds is in direct proportion to the risk involved, either because of the uncertainty of the market or the poor credit or lack of experience of the developer. The performance bond does serve as a useful purpose in reducing the cost of land development, where there is the sensible requirement that subdivided land must be improved. The bond serves to lessen cost of tied-up capital, but it can only do this if the city exerts every effort to expedite subdivision approval and to release security promptly.

72. *McKenzie v. Arthur T. McIntosh & Co.*, 50 Ill. App. 2d 370, 200 N.E.2d 138 (1964).

dinances for these bonds.⁷³ Under Missouri law a bond is authorized to secure both construction and installation of the improvements and hence may be both a payment and a performance bond.⁷⁴ If the subdivider is delayed in his efforts to complete the improvements due to circumstances beyond his control, the subdivider will not be held liable on his performance bond.⁷⁵

Performance bonds name the city or county as obligee of the bond. Only the legislative body of the governmental unit is the proper party to maintain an action to enforce the bond. This excludes a homeowner from attempting to enforce a bond on improvements improperly installed,⁷⁶ but does not prevent the city from enforcing individual lot improvements specified in the bond. The amount recoverable under a performance bond is generally held to be that amount which is required to complete the work.⁷⁷

Another method, similar to performance bonds, which assures completion of improvements although permitting occupancy of the house by the purchaser is the escrow deposit (section 3.3 of the Model). The escrow deposit is particularly advantageous in cases of improvements which cannot be completed due to seasonal variances hampering construction. Such deposits are generally held for a maximum of nine months during which time the purchaser of the home is permitted to occupy under a "temporary" certificate of occupancy.⁷⁸

Still another tool available to insure full performance by the de-

73. *W. S. Dickey Clay Mfg. Co. v. Ferguson Inv. Co.*, 388 P.2d 300 (Okla. 1963), denying extension of a performance bond to include a guarantee on all labor and materials furnished (i.e., making the bond a "payment" and performance bond).

74. § 89.410, RSMo 1969.

75. *City of Medford v. Fellsmere Realty Co.*, 187 N.E.2d 849 (Mass. 1963), where the failure to complete water lines was caused by the water board's failure to authorize installations.

76. *University City ex rel. Mackey v. Frank Micelli and Sons Realty and Bldg. Co.*, 347 S.W.2d 131 (Mo. 1961), holding that the purchaser of land in a subdivision where improvements should have been installed cannot maintain an action on a bond securing the subdivider's promise to complete the improvements.

77. *Morro Palisades Co. v. Hartford Accident and Indem. Co.*, 52 Cal.2d 397, 340 P.2d 628 (1959) (value of incomplete work); *Stoneham v. Savelo*, 341 Mass. 456, 170 N.E.2d 417 (1960) (the amount to do the work contracted for); N.Y. TOWN LAW § 277 (McKinney 1963) (enforceable only to the extent commensurate with the developers actual construction).

78. A more recent remedy has been fashioned for homeowners under the common law against both the builder-developer and the interim construction financier. *Crawley v. Terhune*, 437 S.W.2d 743, 745 (Ky. Ct. App. 1969) (implied warranty of fitness, condition or quality applied in the sale of a new dwelling "because the caveat emptor rule is completely unrealistic and inequitable as applied in the case of the ordinarily inexperienced buyer of a new house from the professional builder-seller. . ."). See also *Conner v. Great Western Sav. & Loan Assn.*, 69 Cal.2d 850, 447 P.2d 609 (1968) holding that a construction financier is liable to a purchaser of a subdivision for negligence in failing to exercise reasonable care to prevent construction and sale of seriously defective homes to the purchasers.

veloper is the maintenance bond; a device used to cover the cost of maintaining improvements until they are accepted by the city or county through dedication. While performance bonds cannot extend beyond the purview and scope of subdivision regulations, maintenance bonds can because they have been upheld as an extension of the requirement of guaranteeing performance.⁷⁹

In a large scale development the developer may be most anxious to display the type of house he foresees in his subdivision. Special provisions are included in section 2.3-8 to allow development of two lots as "model" homes prior to final subdivision approval as a separate minor subdivision, provided that no future road or improvement is anticipated where the models are proposed. Section 2.3-7 prohibits any grading prior to final approval of the minor subdivision.

When there is a proposed major development which lends itself to staged development due to size or financing, Section 2.5-3 empowers the Planning Commission to allow sectionalized development over a period of time if proper dedications are made and performance bonds offered. This procedure will protect the developer from changes in the subdivision regulations which may be made prior to final approval of his plat concerning requirements for improvements such as road widths, paving specifications and drainage requirements.⁸⁰ Without a provision for sectionalized development only final plat approval would guarantee against changes in improvement requirements.

Article IV: Requirements for Improvements, Reservations and Design

Those sections of subdivision regulations governing the imposition of conditions and design standards may very well be the most important. The right to require installation and construction of improvements prior to approval of a plat is based on two considerations:⁸¹ (1) the health and welfare of the occupants of the homes to be constructed within the subdivision (streets, alleys, water supply, sewage, etc.); and (2) reducing the financial burden on hard pressed municipalities by requiring the developer to make the initial installation of capital improvements after which the local government assumes responsibility for maintenance and repair.

There are three types of requirements by which a subdivision is judged. First, there is a prohibition against any subdivision activity in areas where soil, subsoil, or flooding conditions would create dangers to health or safety if development were to occur. Coordination is required with the zoning

79. *Legion Manor, Inc. v. Township of Wayne*, 49 N.J. 420, 231 A.2d 20 (1967), approving a maintenance bond equal to ten percent of the performance bond for all defects in material and workmanship within three years.

80. *Pennyton Homes v. Stanhope*, 41 N.J. 578, 197 A.2d 870 (1964); *Levin v. Livingston Township*, 35 N.J. 500, 173 A.2d 391 (1961); *Hilton Acres v. Klein*, 35 N.J. 570, 174 A.2d 465 (1961).

81. E. YOKLEY, *SUBDIVISIONS* § 58 at 129 (1963).

ordinance which sets out the locations desirable for human habitation. Second, the subdivision should be in compliance with the comprehensive plan for the area. This includes such things as reservation of space within the subdivision for planned parks, schools, and public roads and improvements. The subdivision should be designed in such a manner as to avoid overburdening area facilities; facilities which may in some cases be located outside the subdivision itself. Third, the proposed subdivision should be coordinated with the general neighborhood's streets, drainage facilities and open spaces.⁸²

Enabling legislation generally sets the parameters within which requirements may be imposed by a local government. The regulations should seek to "avoid congestion of population,"⁸³ particularly by providing for the "distribution of population and traffic."⁸⁴ Designed to "protect public health, safety or general welfare,"⁸⁵ provision must be made for the coordination of streets within the subdivision with other streets in the city or on the official map.⁸⁶ The streets should conform to existing streets⁸⁷ or the street development plan,⁸⁸ and the location and width of streets⁸⁹ as well as access to major streets must be considered.⁹⁰ The minimum width and area of lots should be considered.⁹¹ "Open spaces" standards should be provided,⁹² in particular for traffic, light and air⁹³ as well as recreation and safety,⁹⁴ and drainage and utility easements should be included.⁹⁵ The regulations should set out standards for grading and improving streets.⁹⁶

As previously noted, there are differences in enabling legislation for different governmental units. Interpretive rules of liberal statutory construction must be applied to make any sense out of the maze of provisions.

Missouri courts have apparently never ruled that subdivision regulations enacted pursuant to any of these enabling acts are *ultra vires*. Broad statutory standards are generally adequate to guide the discretion of a planning commission and to provide a court with a basis for reviewing the action taken. The Missouri statutes, however, are neither specific enough nor

82. P. GREEN, JR., *Principles and Practice of Urban Planning*, LAND SUBDIVISION (Goodman ed. 1968).

83. §§ 89.410, 64.060, .241, .580, .825, RSMo 1969.

84. § 89.410, RSMo 1969.

85. §§ 64.060, .241, .580, .825, RSMo 1969.

86. § 89.410, RSMo 1969.

87. § 445.010 (2), RSMo 1969.

88. § 445.030, RSMo 1969.

89. §§ 64.060, .241, .580, .825, RSMo 1969.

90. § 64.241, RSMo 1969.

91. §§ 64.060, .241, .580, .825, RSMo 1969. This requirement, however, would seem to relate more to zoning than subdivision regulations.

92. §§ 89.410, 64.060, .241, .580, .825, RSMo 1969.

93. § 89.410, RSMo 1969.

94. §§ 89.410, 64.580, .825, RSMo 1969.

95. § 64.241, RSMo 1969.

96. §§ 89.410, 64.060, .241, .580, .825, RSMo 1969.

sufficiently tailored to the needs of particular municipalities to insure certainty in all cases. They leave to the local boards a wide range of discretion. If such broad standards are not refined by carefully drawn local regulations, developers will lack guidance in their initial preparation of plans, and there will be a hazard that subdivision controls will not be administered evenly and fairly.⁹⁷

Providing a complete set of improvement requirements often leads to the criticism that the cost of housing to the purchaser is unnecessarily increased by several thousand dollars and that low and moderate income housing is thereby impeded. Such criticism is unjustified because this additional amount is amortized over the period of the mortgage (often 25 to 40 years) and in actuality will represent only a small part of the monthly payment. But the alternative may well be a subdivision improperly designed and unfinished, with all the lots sold, the developer gone from the scene, and with the need for sidewalks, curbs, street extensions, drainage, sewers and other improvements remaining behind. The homeowner would have to pay for these expenses, but instead of amortizing this cost over a long term mortgage, payment would have to be made over a few years.

Section 4.1-1 deals with provisions relating to general mandates for all subdivisions. These provisions require coordination of design standards with the zoning map and ordinances, with the land use plan, the master plan, the street plan and other planning guides. These planning tools can be of great use in obtaining the subdivider's cooperation in providing park and school sites, in tying the street pattern to arterial highway plans, and in obtaining development in conformity with long-range community goals.

Careful attention should be given to the topography of the subdivision to assure that development does not occur in hazardous areas. Basically, the subdivision design should achieve certain basic elements:⁹⁸

- preservation of character of the land
- economy of construction
- inclusion of special facilities
- variation in design
- privacy and sociability
- individual lot sizes that are practicable and desirable

Lot layout should be governed by three requirements:⁹⁹ 1) a buildable site on each lot; 2) grading and drainage of each lot; and 3) coordination of sizes of lots with requirements for sewage disposal and water service.

Section 4.3 deals with the problem of roads. Subdivisions should have access to an existing or planned major road. In addition, each home in the

97. R. ANDERSON, *AMERICAN LAW OF ZONING* § 19.19 at 425 (1968).

98. *AMERICAN SOCIETY OF PLANNING OFFICIALS, CLUSTER SUBDIVISIONS*, (Information Report No. 135, June, 1960).

99. *AMERICAN SOCIETY OF PLANNING OFFICIALS, ORGANIZATION OF THE SUBDIVISION ORDINANCE* (Information Report No. 116, Nov. 1958).

subdivision should have physical access to a local or collector road.¹⁰⁰ Fronting homes on arterial highways can lead to service and safety problems and should be avoided. Streets should be related to any existing street plan as well as existing arteries and terrain. The number of intersections along major streets should be held to a minimum. Double frontage lots should be avoided as well as street jogs of less than 150 feet. Blocks should be of a width sufficient to hold two tiers of building lots.¹⁰¹ It is important that a complete and comprehensive street naming and numbering system be followed. The final authority for this function has been left with the Planning Commission. Similar names should be assigned to continuous streets and should be avoided where streets do not connect.¹⁰²

The enabling statutes give the Planning Commission the authority to control the extent and manner to which streets shall be graded and improved.¹⁰³ The purpose of this requirement is to relieve the local government of the burden.¹⁰⁴ The requirement, however, extends only to streets within the subdivision and the Planning Commission may not require improvement of streets which are necessary for the total activity of the community.¹⁰⁵ The standards set for the construction of roads and other

100. *Turner v. Galgi*, 13 Misc.2d 1012, 176 N.Y.S.2d 680 (1958).

101. Design standards for streets were taken primarily from standards developed by the Metropolitan Planning Commission—Kansas City Region in its "Planning Guide No. 1." These standards were compared to those found in AMERICAN SOCIETY OF PLANNING OFFICIALS, STREET STANDARDS IN SUBDIVISION REGULATIONS (Information Report No. 183 February, 1964), which collected corresponding requirements from 22 subdivision regulations.

102. For a detailed study of these problems, see AMERICAN SOCIETY OF PLANNING OFFICIALS, STREET NAMING AND HOUSE NUMBERING SYSTEMS (Information Report No. 13, 1950).

103. §§ 89.410, 84.060, 64.241, .580, .825, RSMo 1969.

104. *Hoover v. Kern County*, 118 Cal. App. 2d 139, 257 P.2d 492 (1953); *Evola v. Wendt Construction Co.*, 170 Cal. App. 2d 21, 338 P.2d 498 (1959).

105. *Ayres v. City Council of Los Angeles*, 34 Cal.2d 31, 207 P.2d 1 (1949). The developer was required to dedicate that portion of the highway which was related to the needs of the subdivision. The landmark case in this area was *Brous v. Smith*, 304 N.Y. 164, 106 N.E.2d 503 (1952), in which the developer sought building permits for houses on lots which did not have access on suitably improved roads. In upholding denial of subdivision approval the New York Court of Appeals stated:

In a time of emergency, such as sickness, accident, fire or other catastrophe . . . a road over which automobiles and fire apparatus can travel safely must always be available, otherwise great suffering, property damage and even loss of life may result. . . . Unimproved or defective roads can cause a complete breakdown of services in a community. The state has a legitimate and real interest in requiring that the means of access to the new construction be properly improved and sufficient for the purpose.

Id. at 170, 106 N.E.2d at 506. In a recent case, *City of Bellefontaine Neighbors v. J. J. Kelly Realty & Bldg. Co.*, 460 S.W.2d 298 (Mo. 1970), the supreme court upheld the right of a city to require improvement of a street fronting on the proposed subdivision as a condition of plat approval. However, a city has been held to have exceeded the scope of its authority in approval of a plat solely on the ground of alleged physical inadequacy of three public access routes outside the proposed subdivision. *Pearson Kent Corp. v. Bear*, 315 N.Y.2d 226 (App. Div.2d Dept. 1970).

improvements are related specifically to the density of the area as authorized in the zoning ordinances.¹⁰⁶

Drainage and storm sewers are among the most critical improvements of a subdivision. All subdivisions must contain provisions for storm and flood water runoff channels or basins independent of the sanitary sewer system. Drainage facilities should be provided in road right-of-way or unobstructed easements. The size of storm sewers should not be based solely on present needs, but rather on the contemplated density of the drainage basin. The plat must take into account upstream and downstream drainage as it affects runoff in both directions. Similar to these considerations are the problems of flood plains and drainage obstructions. Appropriate provisions are included for drainage easements where a subdivision traverses some watercourse. In *Haferkamp v. City of Rock Hill*,¹⁰⁷ the Missouri Supreme Court upheld drainage system requirements, stating that they were justified not only by obvious relation to health and safety but also by the potential liability of a municipality for damages resulting from approval and design of improper drainage for a subdivision. Authority for demanding such exactions is provided by statute.¹⁰⁸

The requirements set out in the model regulations for sewerage facilities are an example of requirements geared toward future development. In areas where public sanitary sewer systems are not available but will become so within a reasonable time (15 years), the subdivider may put in either a central sewerage system or an individual disposal system; but in either event the subdivider is required to put in "capped sewers." Capped sewers are simply unused laterals installed and ready for use when the time comes to provide public sewers to the subdivision. The advantages of such a system are numerous.¹⁰⁹ For the homeowner, the cost of sewers will be

See also Daley Const. Co. v. Planning Bd. of Randolph, 340 Mass. 149, 163 N.E.2d 27 (1959) and Beach v. Planning & Zoning Comm., 141 Conn. 79, 103 A.2d 814 (1954).

106. The rationale for this has been stated in the report of the AMERICAN SOCIETY OF PLANNING OFFICIALS, VARYING IMPROVEMENTS IN SUBDIVISION ORDINANCES at 2 and 8 (Information Report No. 174, July, 1963):

Improvement requirements often vary according to the density of new subdivisions. The reasoning is simple: Higher density developments generate greater loads on public facilities and streets necessary to service the future residents than do lower density developments. Therefore more rigorous requirements are placed on higher density districts. . . . Perhaps the best and fairest way to justify imposing requirements for oversized improvements on a particular subdivision is to base the decision on the outcome of planning studies for the general area in which the subdivision is to be platted. If urban growth is anticipated in the area in five years or so, then the oversized improvement requirement should apply. Again, location of the subdivision in this case in relation to expected growth in rigorous requirements on some subdivisions and not on others.

107. 316 S.W.2d 620 (Mo. 1958).

108. §§ 89.410, 64.060, .241, 580, .825, RSMo 1969.

109. For a detailed discussion of this topic see R. HARRAL, *Preparing for Public Waste Disposal Systems—Capped Sewers*, UNIVERSITY OF PITTSBURGH INSTITUTE OF LOCAL GOVERNMENT, LOCAL GOVERNMENT CONFERENCE ON SUBDIVISION CONTROL (May, 1957).

grouped into the mortgage cost and amortized. For the municipalities several advantages appear. Extension of sewer facilities can be geared to the city's capital improvements program. The requirement for capped sewers thus becomes an effective and potent tool of "development timing," encouraging a more sequential geographical order of growth as new subdivisions hook on to the end of existing sewer lines. The burdens in the form of increased costs falling on the developer are offset by cheaper raw land costs resulting from greater land use density.

The problem of sidewalks has long been one of great controversy. Of concern is not only how wide or where they should be located, but also whether they should be built on both sides of the street. The approach taken in the Model Regulations is based on density.¹¹⁰ In low density areas, they are optional; in high and middle densities, they are required on both sides.

Utility easements to each home in a residential subdivision should be located underground. Though this idea has often generated opposition, the argument for buried cables is based on four points:¹¹¹

- a) a more attractive neighborhood
- b) safety (auto collision, wind, trees, climbing children)
- c) a more stable neighborhood
- d) less maintenance

The cost differential between above ground and under ground utilities can be narrowed by the use of cul-de-sacs and curvilinear streets, and less expensive components.¹¹² The regulations require that all utility lines

110. . . . [E]xperience with laws that require developers to build sidewalks prior to plat approval shows by pragmatic tests that they are successful: (1) sidewalks are in place when families move in; (2) cost and risk to local government is at a minimum; (3) lump sum payment in purchase price of a house is more satisfactory than taxes added later . . . we can hypothesize that when the average lot size in a single family residential development has a certain minimum value, sidewalks are not needed. The problem is to determine the minimum value. Specifications should consider the following:

1. Lots are so large that children have no inclination to play in the streets;
2. Lots are so large and development so spread out that:
 - a) Distances between house and schools, stores and transportation terminals are great enough to discourage walking and all but require travel by auto.
 - b) Frequent visiting back and forth among neighbors is not likely to take place.

If a sidewalk is located on just one side of street, the presumption must be that it will be used by adult pedestrians only.

AMERICAN SOCIETY OF PLANNING OFFICIALS, SIDEWALKS IN THE SUBURBS (Information Report No. 95, Feb., 1957). The National Safety Council, in its publication, BUILDING TRAFFIC SAFETY IN RESIDENTIAL DEVELOPMENTS, concurs on the use of sidewalks on both sides of the street.

111. URBAN LAND INSTITUTE, BURIED CABLES, Technical Bulletin 48 (March, 1964).

112. Many telephone lines are today being placed underground, so that utility companies can no longer so strongly rely on cost sharing. AMERICAN SOCIETY OF PLANNING OFFICIALS, UNDERGROUND WIRING IN NEW RESIDENTIAL AREAS (Information Report No. 163, Oct., 1962).

existing in the area to be subdivided be relocated underground unless they are presently on an easement or right-of-way.

Article V: Dedications and Improvements

The justification for requiring a subdivider to prepare and then dedicate public improvements, sewers, streets, parks and open space is to have the subdivision pay the costs of the burden on municipal facilities which it has created.¹¹³ Mandatory dedication of land for streets indicated for public use has long been recognized for cities by statute¹¹⁴ and case law.¹¹⁵ The statutes for counties are silent on this matter; however, similar provisions have been upheld as a reasonable requirement of plat approval.¹¹⁶ The police power permits the imposition of reasonable conditions of dedication upon a landowner's proposal.¹¹⁷ The approval of a plat does not in itself constitute the acceptance of a dedication by a municipality.¹¹⁸ For this reason the Model Regulations provide that the county court or city council must specifically accept such dedication after the improvement has been completed and a clear title has been ascertained.

Mandatory dedications for uses other than streets is clearly provided by statute for "lands and open spaces necessary for public uses indicated on the city plan."¹¹⁹ Standards for such dedications are provided for in the Model Regulations in Section 4.9. Open space for parks is required at the ratio of three acres per one thousand dwelling units. If the proposed subdivision lies in an area indicated on the Master Plan as a proposed park, that area should be designated as such on the plat. The subdivider can be encouraged to dedicate public areas for parks through a city's use of modern techniques of zoning, such as cluster or average density zoning.¹²⁰

113. Johnston, *Constitutionality of Subdivision Control Exactions: The Quest for a Rationale*, 52 CORNELL L. REV. 871 (1967).

114. §§ 89.410, 445.100, .070, RSMo 1969.

115. *Bobb v. City of St. Louis*, 276 Mo. 59, 205 S.W. 713 (1918).

116. *Mansfield & Swett, Inc. v. West Orange*, 120 N.J.L. 145, 198 A 225 (1938). See also, *Gavin v. Baker*, 59 So.2d 360 (Fla. 1952); *Hudson Oil Co. v. Wichita*, 193 Kan. 623, 396 P.2d 271 (1964).

117. See 41 ST. JOHNS L. REV. 374 (1967).

118. § 89.430, RSMo 1969.

119. § 89.410, RSMo 1969.

120. The following model cluster zoning ordinance is similar to one developed by Professor Freilich which appears in LITTLE, *Challenge of the Land*, OPEN SPACE ACTION INSTITUTE 108 (1968), and in the Model Zoning Ordinance developed by the Metropolitan Planning Commission—Kansas City Region.

Cluster Zoning

A. General Considerations

The purpose of this authorization is to enable and encourage flexibility of design and development of land in such manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands. This procedure shall be applicable to all residential subdivisions.

B. Procedures

- (1) After the submission of the sketch plat to the Planning Commission, if the

This technique allows the developer to reduce lot size in return for dedicating public land at no cost to the community. The resulting savings in utility, road, sewer, curb and sidewalk costs usually exceed the value of

applicant requests the use of cluster zoning and the Planning Commission determines that cluster zoning is suitable, then the sketch plat, together with a Planning Commission study setting forth the basis for recommending utilization of the procedures herein, shall be submitted to the County Court.

(2) Upon submission of the sketch plat and recommendations, the County Court shall expeditiously cause to be published in a newspaper of general circulation, a notice stating that an application for the utilization of the provisions of this section has been submitted to the County Court and shall generally describe the area covered in the application, and that such application will be placed on the agenda of the County Court meeting, which meeting date shall be no less than ten nor more than twenty days subsequent to the date of publication of the aforesaid notice.

(3) Discussion at the County Court meeting shall be to assist the County Court in setting forth the conditions to be incorporated in the special permit.

(4) In the event that the plat shows lands available for a sewer plant or school purposes, the County Court will conduct a public hearing on the matter in lieu of placing the matter on the agenda, as set forth in subdivision (2) hereof. Such public hearing shall be held after due notice in a newspaper of general circulation, such notice to be published not less than ten nor more than twenty days prior to such public hearing.

(5) If the County Court determines that the sketch plat is suitable for utilization of the procedures herein, the County Court shall issue a special permit authorizing the use of cluster zoning and containing the following conditions, namely, that the procedures shall be applicable only to the lands zoned for residential purposes and its application shall result in a permitted number of dwelling units which shall in no case exceed the number which could be permitted, in the Planning Commission's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the Zoning Order applicable to the district or districts in which such land is situated and conforming to all other applicable requirements.

(6) If the application of this procedure results in a plat showing land available for park, recreation, open space or other municipal purposes, directly related to the plat, then conditions as to ownership, use and maintenance of such lands as are necessary to assure the preservation of such lands for their intended purposes shall be set forth.

Other conditions to be included by the County Court shall include permission for the Planning Commission to reduce area, plot width, yard requirements and frontage, in keeping with good planning practice. In no event shall the minimum plot area of any plot in single- or two-family residential Zoning District be reduced below 12,000 square feet and the minimum plot width below 75 feet. In Townhouse and Garden Apartment districts the minimum plot area and minimum plot width shall not be reduced by more than twenty percent (20%). The land reserved by the Planning Commission need not be all contiguous but may consist of one large parcel or strips of land lying between lots shown on the subdivision plat or any other design or location as in the Planning Commission's judgment shall encourage the most appropriate use of the land.

(7) Before the County Court shall determine that such sketch plat is suitable for cluster zoning, it shall find that the above standards and conditions will generally be met, that the appropriate use of adjoining land is safeguarded, and that the proposed plan is consistent with the general health, safety, welfare, and general aesthetics of the County.

(8) The County Court shall not consider any land available for park, recreation, open space or other municipal purposes, unless such land shall have a minimum of two acres.

(9) Upon determination by the County Court that such pre-preliminary plat is suitable for cluster zoning, subsequent to the issuance of a special permit author-

the land dedicated.¹²¹ The subdivider may also choose to have the park area within the subdivision owned in common by the residents by virtue of a homes association. This technique would remove the local government's maintenance burden.¹²²

The more traditional forms of subdivision dedications have been tested and accepted for streets, utilities and sewers. However, suburban governments are now seeking methods to install facilities of a greater magnitude—such as sewage treatment plants, parks, and schools—without burdening the existing community residents. It is in this area of exactions that subdivision regulations are now being subjected to the greatest scrutiny because of the difficult constitutional questions presented.¹²³ The enabling legislation makes no mention of requiring the developer to build any of these facilities such as sewer treatment plants since it speaks only of “land and open spaces.”¹²⁴ The Model utilizes provisions which have been upheld in other jurisdictions which have statutory provisions somewhat similar to those in Missouri.

A technique which is often used together with mandatory dedications

izing the Planning Commission to proceed, a preliminary plat meeting all of the requirements of a special permit shall be presented to the Planning Commission and thereafter the Planning Commission shall proceed with the required public hearings and all other requirements as set forth by statutes and regulation for the subdivision.

121. See KRASNOWIECKI, *URBAN HOUSING AND RENEWAL* (1969).

122. See URBAN LAND INSTITUTE, *TECHNICAL BULLETIN No. 50, THE HOMES ASSOCIATION HANDBOOK* (Rev. Ed. 1966).

123. Heyman and Gilhool, *The Constitutionality of Imposing Increased Community Costs on New Suburban Residents Through Subdivision Exactions*, 73 *YALE L.J.* 1119, 1134 (1964):

It would seem clear that the objectives of these exactions are permissible. They are intended to minimize the overcrowding of existing facilities devoted to education and recreation—activities clearly important to the general welfare of the community. Since there is value left to the property owner and since the regulation is required to attain the objective, the newer exactions would also appear to avoid the barriers of confiscation and arbitrariness as easily as the conventional exactions.

Discrimination and taking limitations, however, are seen to pose a unique problem. The problem is the same under both rubrics. It is whether the subdivision homebuyer, who ultimately finances such exactions, will be required to pay more than a “fair” share for community schools, parks, and other facilities financed by the exactions. If they are forced to pay more than a fair share the result arguably is both a taking and discriminatory. Taking occurs because there is imposed on the homebuyers costs resulting not only from their own activities but from the activities of the rest of the community. Discrimination flows because such buyers unreasonably are being isolated to pay costs attributable to other residents as well.

Other excellent articles have been written on this subject. *E.g.*, Johnston, *Constitutionality of Subdivision Control Exactions: The Quest for a Rational*, 52 *CORNELL L. REV.* 871 (1967); Reps and Smith, *Control of Urban Land Subdivision*, 14 *SYRACUSE L. REV.* 405 (1963); Strine, *The Use of Conditions in Land Use Control*, 67 *DICK. L. REV.* 109 (1963); Culer, *Legal and Illegal Methods for Controlling Community Growth on the Urban Fringe*, 1961 *Wisc. L. REV.* 370.

124. § 89.410 (2), *RSMo* 1969.

of parks and open spaces is the use of "money-in-lieu of land." This technique is suggested in the Model in Section 4.9. The enabling provisions for cities adopting a plan allows the municipality to make regulations which not only require dedication, reservation, or acquisition of lands and open spaces necessary for public uses, but also for "reasonable charges against the subdivision, if any, over a period of time and in a manner as is in the public interest."¹²⁵ The wording of this section does not clearly indicate the meanings of such key terms as "compensation" or "reasonable charges." Basically, money-in-lieu of land provides that when there is not sufficient land to dedicate for parks and recreation, the community takes a cash payment in lieu of land. The money is placed in a trust fund known as a Neighborhood Park and Recreation Fund, to be used to purchase parks in the area of the subdivision when sufficient needs develop. The federal government will assist local communities in obtaining park sites by matching city funds which are allocated for these purposes. The money-in-lieu of land in the Neighborhood Park and Recreation Fund can be used as the municipality's matching share, thereby avoiding any drain on the general fund.

A survey of the cases in the area of mandatory dedications, while not yielding any conclusive rules of law, points to the problem of Missouri statutory language which fails to delineate the nature of the exactions permitted. After this threshold question of enabling authority is resolved, the crucial issue is the degree of the "taking" and when it becomes a deprivation without compensation. It is first necessary to place required dedications in the context of other subdivision requirements. Heyman and Gilhool¹²⁶ divide the governmental costs of a new subdivision into two categories, capital and service costs. Service costs, being per capita, remain relatively stable as population increases. Capital costs increase disproportionately faster than population. This situation is due to the fact that older residents have already paid for the costs of recreation areas while the new residents have paid nothing. The new costs, however, would be placed on all the citizens as they arise. Subdivision regulations should be used to offset this unfair burden on the older residents.

In considering the question of a taking for public purpose without compensation, one line of cases has required a "unique casual relation" between the needs expressed in the exaction and the development creating the need. This line of decisions began in Illinois with the *Rosen v. Village of Downer's Grove*¹²⁷ case which upheld the requirement for dedication of a school site as bearing valid relationship to the subdivision. The next year the same court in *Pioneer Trust and Savings Bank v. Mt. Prospect*,¹²⁸ held

125. § 89.410 (2), RSMo 1969.

126. Heyman and Gilhool, *The Constitutionality of Imposing Increased Community Costs on New Suburban Residents through Subdivision Exactions*, 73 YALE L.J. 1119, 1121 (1967).

127. 19 Ill.2d 448, 167 N.E.2d 230 (1960).

128. 22 Ill.2d 375, 176 N.E.2d 799 (1961).

unconstitutional a requirement of dedication for school sites. Its rationale was based on *Rosen* and *Ayres*, stating that schools were a part of the total community and that unique causal relationship to the subdivision could not be shown, hence the burden could not be assessed to a particular subdivision. The decision leaves some room for argument, especially since the *Ayres* decision found that the subdivision dedication did relate to neighborhood considerations. It would seem that school sites are a clear example of the extra needs generated by a subdivision and can be directly related to the new school-age children it produces. Section 4.9-2 of the Model Regulations gives the school board the opportunity to use land in the subdivision for a school site, if such a location would be in accordance with the board's future plans.

In New York the statute requiring dedication for park land was upheld in the early case of *In re Lake Secor Development Co.*¹²⁹ A 1959 amendment of the Town Law permitted money-in-lieu of land. The latter was struck down by the Appellate Division in *Gulest Associates, Inc. v. Town of Newburgh*,¹³⁰ because there was no guarantee that the trust fund would be used directly for recreational facilities for the benefit of the subdivision paying into the fund, and the court holding that the need for the park must result from activity on the land on which the burden of payment falls. This decision seemingly departs from the police power theory which predicates all standards on health and safety at the expense of a landowner's detriment as would be found in zoning and conventional subdivision requirements. The *Gulest* case was overruled as a precedent by the Court of Appeals in *Jenad, Inc. v. Village of Scarsdale*,¹³¹ which held that such a requirement was indeed a valid exercise of the police power. Reps and Smith¹³² have attempted to reconcile these cases. They state that when residents of a subdivision can be specially assessed for the cost of an improvement, because benefit is attributable directly to them, then dedication and money-in-lieu thereof becomes appropriate. This line of thinking also limits those types of uses for which exactions can be made to those types for which special assessments may be levied. This view prohibits exactions for general community service facilities such as schools and police stations.

129. 141 Misc. 913, 252 N.Y.S. 809 (Sup. Ct. 1931), *aff'd*, 221 App. Div. 627, 255 N.Y.S. 853 (1932).

130. 25 Misc. 2d 1004, 209 N.Y.S.2d 729 (Sup. Ct. 1960), *aff'd*, 15 App. Div. 2d 815, 225 N.Y.S.2d 538 (1962). A similar California decision is *Kelber v. City of Upland*, 155 Cal. App. 2d 631, 318 P.2d 561 (1957), which struck down fees for parks and schools. However, in *Longridge Estates v. City of Los Angeles*, 183 Cal. App. 2d 533, 6 Cal. Rptr. 900 (1960), the court upheld an outlet sewer charge to extend sewers to the subdivision. In *Coronado Dev. Co. v. McPhearson*, 189 Kan. 174, 368 P.2d 51 (1962), a requirement of 10% of the appraised valuation contribution for land improvement was struck down.

131. 18 N.Y.2d 78, 218 N.E.2d 673, 271 N.Y.S.2d 955 (1966).

132. Reps and Smith, *Control of Urban Land Subdivision*, 14 SYRACUSE L. REV. 405, 407-12 (1963).

Heyman and Gilhool¹³³ reject this reasoning because of the changing nature of ad valorem taxation. In addition, they look toward the overriding benefit-burden theory and the substantial financial impact that a new subdivision will place on an unprepared community.

In recent years both the test of "uniquely attributable" and "direct benefit" have been rejected by the courts of other states. The first of these cases, *Billings Properties, Inc. v. Yellowstone Co.*,¹³⁴ upheld dedications without the "uniquely attributable" test, stating that the need had been established by the legislature in passing the statute, and the court bowed to this determination. In *Jordan v. Menomonee Falls*,¹³⁵ the court looked at the historical trends of burdens created by new subdivisions and deferred both the need and legality of exactions and fees for schools and parks to legislative determination. This case followed the "uniquely attributable" test, but modified the scope of judicial review of the legislative determination. In *Jenad, Inc. v. Village of Scarsdale*,¹³⁶ the New York Court of Appeals upheld a requirement for dedication of park land or money-in-lieu of land under a statute similar to that considered in *Gulest*. In doing so, the court rejected the direct benefit requirement and relied instead on *Jordan*, stating that a requirement for school, park or recreational sites as a condition for plat approval was a valid exercise of the *police power*, if, without such exaction, the municipality would have to provide the land itself. The demand by the municipality must not, however, be so great as to substantially reduce the value of land or it will be held to be confiscatory.¹³⁷

In a recent California case the court reviewed all of the cases on dedication and laid down new tests of reasonableness which balance both community protection and the need for new facilities.¹³⁸ The Model Regula-

133. Heyman and Gilhool, *The Constitutionality of Imposing Increased Community Costs on New Suburban Residents through Subdivision Exactions*, 73 YALE L.J. 1119, 1140-49 (1964).

134. 144 Mont. 25, 394 P.2d 182 (1964).

135. 28 Wisc. 2d 608, 137 N.W.2d 442 (1965).

136. 23 App. Div. 2d 784, 258 N.Y.S.2d 777 (1965), *rev'd*, 18 N.Y.2d 78, 218 N.E.2d 673, 271 N.Y.S.2d 955 (1966).

137. *East Neck Estates, Ltd. v. Luchsinger*, 61 Misc. 2d 619, 305 N.Y.S.2d 922 (1969). The demand was for dedication of an 80 foot strip along the entire length of waterfront land, reducing the property value by \$90,000.

138. *Scrutton v. Sacramento County*, 275 A.C.A. 464, 474, 79 Cal. Rptr. 872, 879 (1969): "Although 'reasonableness' has been postulated as the hallmark of validity, a more precise standard is available." An utterance in *Ayres v. City Council of Los Angeles*, 34 Cal. 2d 31, 42, 207 P.2d 1, 8 (1949), supplies it: "where it is a condition reasonably related to increased traffic and other needs of the proposed land use it is voluntary in theory and not contrary to constitutional concepts." The *Ayres* formulation may be generalized by the statement that conditions imposed on the grant of land use applications are valid if reasonably conceived to fulfill public needs emanating from the landowner's proposed use.

The California decisions illustrate two kinds of need: the protection against the potentially deleterious effects of the landowner's proposal (see *Ayres v. City Council of Los Angeles*, *supra*) and the community's need for facilities to meet public service demands created by the proposal (*Bringle v. Board of Supervisors of Orange County*, 54 Cal. 2d 86, 4 Cal. Rptr. 493, 351 P.2d 765 (1960). Sommers

tions hopefully meet the standards needed to support proper exactions in Missouri, taking into account the admitted confusion present in recent cases.¹³⁹

CONCLUSION

The full benefits which subdivision regulations can provide for Missouri communities will not be available until concise and comprehensive enabling legislation is enacted. Attorneys, planners and governmental officials who attempt to implement any type of land use control find themselves enshrouded in a smog of confusing enabling legislation and vexing constitutional issues.

The Model Regulations are offered as the best possible set of substantive and procedural rules presently available to municipal and county officials for the creation of well-planned residential developments with a minimum burden on existing homeowners. Hopefully, these Model Regulations will serve as an impetus to provide uniformity from which individual communities can satisfy their own needs. Perhaps the problems outlined in this article will also serve as a clarion call to the legislature.

v. City of Los Angeles, 254 Cal. App. 2d 605, 62 Cal. Rptr. 523 (1967)). While decisions invalidating the exaction rely upon theories of constitutional invasion, their springboard is the lack of relationship between the exaction and the proposed use. *Midway Cabinet Mfg. v. County of San Joaquin*, 257 Cal. App. 2d 181, 65 Cal. Rptr. 37 (1967); *Kelber v. City of Upland*, 155 Cal. App. 2d 631, 318 P.2d 561 (1957).

139. As recent decisions now stand, the highest courts in four states have given their approval to this type of legislation and three have not. The favorable decisions are in Montana: *Billings Properties, Inc. v. Yellowstone County*, 394 P.2d 182 (Mont. 1964); Wisconsin: *Jordan v. Village of Menominee Falls*, 137 N.W.2d 442 (Wis. 1965); New York: *Jenad, Inc. v. Village of Scarsdale*, 18 N.Y.2d 78 (1966); and Connecticut: *Aunt Hack Ridge Estates, Inc. v. Danbury*, 230 A.2d 45 (Conn. 1967) (upholding the validity of an ordinance requiring land dedication for parks but not the acceptance of fees since they were to be used city wide). The unfavorable cases are in Oregon: *Havgen v. Gleason*, 359 P.2d 108 (Ore. 1961); New Jersey: *West Park Ave. v. Ocean Township*, 224 A.2d 1 (N.J. 1966) and Illinois: *Pioneer Trust Co. v. Mount Prospect*, 176 N.E.2d 799 (Ill. 1961). Curtin, *Zoning and Planning*, NIMLO MUNICIPAL L. REV. 468 (1970).

MODEL REGULATIONS

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ARTICLE I: GENERAL PROVISIONS

1.1 *Title*—These regulations shall hereafter be known, cited and referred to as the "Subdivision Regulations" of County.

1.2 *Authority*—By authority of the resolution of the County Planning Commission, (hereinafter referred to as "Planning Commission") adopted pursuant to the powers and jurisdictions vested through Sections 64.550 and 64.580, Chapter 64, Revised Statutes of Missouri, and other applicable laws, statutes, orders and regulations of the State of Missouri and County of, the Planning Commission does hereby exercise the power and authority to review, approve and disapprove plats for subdivision land within the unincorporated areas of the County which show lots, blocks or sites with or without new streets or highways. By the same authority, the Planning Commission does hereby exercise the power and authority to pass and approve the development of plat subdivisions of land already recorded in the office of the County Recorder of Deeds if such plats are entirely or partially undeveloped.

The plat shall be considered to be entirely or partially undeveloped if (a) said plat has been recorded with the County Recorder of Deed's office without a prior approval by the Planning Commission, or (b) said plat has been approved by the Planning Commission where the approval has been granted more than three (3) years prior to any application for a building permit, on the partially or entirely undeveloped land and the zoning regulations, either bulk or use, for the district in which the subdivision is located, have been changed subsequent to the original final subdivision approval.

1.3 *Jurisdiction*—These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the unincorporated areas of the County. No land shall be subdivided within the unincorporated area of the County until the subdivider or his agent shall submit a sketch plat of the parcel to the Planning Commission, through its administrative assistant as designated by the County Court, and obtain approval of the sketch plat and preliminary and final approval of the plat itself by the Planning Commission, and until the approved plat is filed with the County Recorder of Deeds. No building permit or certificate of occupancy shall be issued for any parcel or plot of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with the regulations.

1.4 *Policy and Purposes*—It is hereby declared to be the policy of the County to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the County pursuant to the official master plan of the County for the orderly, planned, efficient, physical and economical development of the County. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood or other menace, and land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage and capital improvements such as schools, parks, recreation facilities, transportation facilities and improvements. The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the Official Master Plan, Major Highway Plan and the capital budget and program of the County, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, zoning orders, Official Master Plan, Major Highway Plan and land use plan, and capital budget and program of the County.

These regulations are adopted for the following purposes:

- (1) To protect and provide for the public health, safety and general welfare of the County.

- (2) To guide the future growth and development of the County in accordance with the Official Master Plan that represents the most beneficial non-residential and public areas of the County, considering the suitability of such areas and having regard for the use of land and building development.
- (3) To provide for adequate light, air and privacy; to secure safety from fire, flood and other danger and to prevent overcrowding of the land and undue congestion of population.
- (4) To protect the character and the social and economic stability of all parts of the County and especially the unincorporated areas thereof, and to encourage the orderly and beneficial development of all parts of the County.
- (5) To protect and conserve the value of land throughout the County and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
- (6) To provide a guide to public policy and action in facilitating adequate provision for transportation, water, sewerage, schools, parks, playgrounds, recreation and other public requirements and in the efficient provision of public facilities and services and for private enterprise in building development, investment and other economic activity relating to uses of land buildings throughout the County.
- (7) To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the County, having particular regard to the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings throughout the County, and to provide for the proper location and width of streets and building lines.
- (8) To establish reasonable standards of design and procedures for subdivisions and resubdivisions; to further the orderly layout and use of land and to insure proper legal descriptions and proper monumenting of subdivided land.
- (9) To limit development to an amount equal to the availability and capacity of public facilities and services.
- (10) To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources throughout the County in order to preserve the integrity, stability and beauty of the community and the value of the land.
- (11) To preserve the natural beauty and topography of the County and to insure appropriate development with regard to these natural features.
- (12) To provide for open spaces through the most efficient design and layout of the land including the use of average density in providing for minimum width and area of lots while preserving the density of land as established in the Zoning Order of the County Court.

1.5 *Enactment*—In order that land may be subdivided in accordance with these purposes and policy, these subdivision regulations are hereby adopted.

1.6 *Interpretation, Conflict and Separability Interpretations*

1.6-1 In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

1.6-2 *Conflict with Public and Private Provisions*

A. *Public Provisions*—These regulations are not intended to interfere with; abrogate or annul any other County Court Order, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions, different from those imposed by any other provision of these regulations or any other County Court Order, rule or regulation or other provision of law, whichever provisions are more restrictive, or impose higher standards, shall control.

B. Private Provisions—These regulations are not intended to abrogate any easement, covenant or any other private agreement, or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations, than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Planning Commission or the County Court in approving a subdivision or in enforcing these regulations, and such private provisions are not inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

1.6-3 Separability—If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Planning Commission hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

1.7 Saving Provision—These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing subdivision regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the County under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the County, except as shall be expressly provided for in these regulations.

1.8 Reservations and Appeals—Upon the adoption of these regulations according to law, the Subdivision Regulations of County, adopted, as amended, are hereby repealed, except as to such sections expressly retained herein.

1.9 Amendments—For the purpose of providing the public health, safety and general welfare, the Planning Commission may from time to time amend the provisions imposed by these subdivision regulations. Public hearings on all proposed amendments shall be held by the Planning Commission in the manner prescribed by law.

1.10 Conditions—The subdivision of land is a privilege conferred upon the developer by the laws of the State of Missouri and through these subdivision regulations. It is the developer who is seeking to acquire the advantages of lot subdivision and upon him rests the duty of compliance with reasonable conditions laid down by the Planning Commission for design, dedication, improvement and restrictive use of the land so as to conform to the physical and economical development of the County and to the safety and general welfare of the future plot owners in the subdivision and of the community at large.

1.11 Resubdivision of Land

1.11-1 Procedure for Resubdivision—For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the Planning Commission by the same procedure, rules and regulations as for a subdivision.

1.11-2 *Procedure for Subdivisions Where Future Resubdivision Is Indicated*—Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will eventually be resubdivided into smaller building sites, the Planning Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

1.12 *Vacation of Plats*—Any plat or any part of any plat may be vacated by the owner of the premises, at any time before the sale of any lot therein, by a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated.

Such an instrument shall be approved by the Planning Commission in like manner as plats of subdivisions. The County Court may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys. Such an instrument shall be executed, acknowledged or approved, and recorded or filed, in like manner as plats of subdivisions; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described in such plat.

When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such writing.

1.13 *Variations and Exceptions*

1.13-1 *General*—Where the Planning Commission finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, it may approve variations or exceptions to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variation or exception shall not have the effect of nullifying the intent and purpose of these regulations; and further provided, the Planning Commission shall not recommend variations unless it shall make findings based upon the evidence presented to it in each specific case that:

- A. The granting of the variation will not be detrimental to the public safety, health or welfare or injurious to other property or improvements in the neighborhood in which the property is located;
- B. The conditions upon which the request for a variation is based are unique to the property for which the variation is sought, and are not applicable generally to other property;
- C. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out;
- D. The variation will not in any manner vary the provisions of the Zoning Order, Master Plan or Major Highway Plan.

1.13-2 *Conditions*—In recommending variations and exceptions, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

1.13-3 *Procedures*—A petition for any such variation shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

1.14 *Enforcement, Violations, and Penalties*

1.14-1 *General*

- A. It shall be the duty of the Administrative Assistant to the Planning Commission to enforce these regulations, and to bring to the atten-

tion of the County Prosecuting Attorney any violations or lack of compliance herewith.

- B. No owner, agent of the owner, of any parcel of land, located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the Planning Commission, in accordance with the provisions of these regulations, and filed with the County Recorder of Deeds.
 - C. The subdivision of any lot or any parcel of land by the use of metes and bounds description for the purpose of sale, transfer, or lease with the intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these regulations.
 - D. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations.
- 1.14-2 *Violations and Penalties*—Any person, firm or corporation who fails to comply with, or violates, any of these regulations shall be subject to a fine of not more than \$1,000.00 or imprisonment in the county jail for a period not exceeding one (1) year, or both, such fine and imprisonment, pursuant to the provisions of Section 64.690, of the Revised Statutes of the State of Missouri.
- 1.14-3 *Civil Enforcement*—Appropriate actions and proceedings may be taken by law or in equity pursuant to Section 64.690, Revised Statutes of Missouri, to prevent any violation of these regulations, to prevent unlawful construction, to recover damages to restrain, correct or abate a violation, to prevent illegal occupancy of a building structure or premises, and these remedies shall be in addition to the penalties described above.

ARTICLE II

SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS

2.1 *General Procedure*

- 2.1-1 *Classification of Subdivisions*—Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner, or his authorized agent, shall apply for and secure approval of such proposed subdivision in accordance with the following procedure, which includes basically two (2) steps for a minor subdivision and three (3) steps for a major subdivision:
- A. Minor Subdivision
 - (1) Sketch Plat
 - (2) Final Subdivision Plat
 - B. Major Subdivision
 - (1) Sketch Plat
 - (2) Preliminary Plat
 - (3) Final Subdivision Plat
- 2.1-2 *Official Submission Dates*—For the purpose of these regulations, for both major and minor subdivisions, the date of the regular meeting of the Planning Commission at which the public hearing on final approval of the subdivision plat, including any adjourned date thereof, is closed, shall constitute the official submittal date of the plat at which the thirty (30) day period required by Section 64.590, Revised Statutes of Missouri, for formal approval or disapproval of the plat commence to run.
- 2.1-3 *Coordination of Flexible Zoning Application with Subdivision Approval*
- A. It is the intent of the County that subdivision review be carried out simultaneously with the review of flexible zoning applications under the Zoning Order. The plans required for flexible zoning applica-

tions shall be submitted in a form to satisfy the requirements of the subdivision regulations.

- B. General Requirement—**Whenever the Zoning Order of the County authorizes flexible zoning applications which permit uses of land and density of buildings and structures different from those which are allowed as of right within the zoning district in which the land is situated, and the application entails the division of the land, vacant or improved, into two (2) or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease or development, either on the installment plan or upon any or all other plans, terms or conditions, including resubdivision, whether residential or non-residential, subdivision approval of the flexible zoning application shall be required by the Planning Commission in addition to all other procedures and approvals required in the Zoning Order, whether or not such zoning procedures also require Planning Commission approval, review or recommendation. Flexible zoning applications shall include, but not be limited to, all special permits and special uses, planned unit developments, group housing projects, community unit projects, average density or density zoning projects and shall apply to all such applications, whether before the County Court, Board of Zoning Adjustment, Planning Commission, Building and Zoning Inspector, or other official or agency of the County.
- C. Procedure to be Followed**
- (1) **Sketch Plan and Preliminary Plat Approval Required—**Whenever a flexible zoning application is submitted which involves a subdivision of land as set forth in Section 2.1-3 (a) of these regulations, such application shall be first submitted to the County Court, to the Board, Commission, Agency or Official authorized to accept such application under the Zoning Order. The application shall be made on the forms required for a sketch plat as set forth in Section 2.2 of these regulations and shall include all information required of a sketch plat application as set forth herein. The County Court, Board, Commission, Agency or official shall thereupon refer the application through sketch plat and preliminary plat approval. The Planning Commission shall also, when applicable, under the provisions of the Zoning Order, make such reviews of use, density and bulk standards as are required under the flexible zoning regulation.
 - (2) **Referral Back for Zoning Approval—**The Planning Commission shall thereupon refer the sketch plat and preliminary plat with its decision of approval, conditions, approval or disapproval, together with such recommendations and reviews of use, density, and bulk standards as it was required to make under the flexible zoning regulation of the Zoning Order, to the County Court, Board, Commission, Agency or Official authorized under the Zoning Order to approve the application, which body or official shall render a final determination on the application. In the event of approval of the application, application shall then be made to the Planning Commission for final plat approval. No building permits or certificates of occupancy shall be issued for the project until the zoning application has been finally approved and final subdivision plat approval has been given and the subdivision plat is recorded with the County Recorder of Deeds.
- D. Resubdivisions of Flexible Zoning Developments**
- (1) A flexible zoning development or land use plan may be subdivided or resubdivided for purposes of sale or lease after the project plan has been finally approved and development completed or partially completed.
 - (2) If the subdivision or resubdivision of a flexible zoning develop-

ment will create a new plot line, the applicant shall make application to the Planning Commission for the approval of the subdivision or resubdivision. The Planning Commission shall approve the subdivision only if simultaneously an amended zoning application is approved for the flexible development plan, by the County Court, Board, Commission, Agency or Official having jurisdiction under the Zoning Order, for all provisions governing use, density and bulk standards.

2.2 Sketch Plat

2.2-1 Discussion of Requirements—Before preparing the sketch plat for a subdivision, the applicant should discuss with the Administrative Assistant to the Planning Commission the procedure for adoption of a subdivision plat and the requirements as to general layout of streets and for reservations of land, street improvements, drainage, sewerage, fire protection and similar matters, as well as the availability of existing services. The Administrative Assistant shall also advise the applicant, where appropriate, to discuss the proposed subdivision with the County Engineer, County Health Officer, State Water Pollution Control Board, County Zoning Engineer and other officials which must eventually approve these aspects of the subdivision plat coming within their jurisdiction.

2.2-2 Application Procedure and Requirements—Prior to subdividing land, an owner of the land, or his representative, shall file an application for approval of a sketch plat. The application shall:

- A. Be made on forms available at the office of the Administrative Assistant to the Planning Commission.
- B. Include all contiguous holdings of the owner including land in the "same ownership", as defined herein, with an indication of the portion which is proposed to be subdivided, accompanied by an affidavit of ownership, which shall include the dates the respective holdings of land were acquired, together with the book and page of each conveyance into the present owner as recorded in the County Recorder of Deed's office. The affidavit shall advise as to the legal owner of the property, the contract owner of the property, the date contract of sale was executed, and, if any corporations are involved, a complete list of all directors, officers, and stockholders of each corporation owning more than five (5%) percent of any class of stock.
- C. Be accompanied by a minimum of seven (7) copies of the sketch plat as described in these regulations and complying in all respects with these regulations and Chapter 64 of the Revised Statutes of Missouri.
- D. Be presented to the Administrative Assistant to the Planning Commission in duplicate.
- E. Be accompanied by a fee of Ten (\$10.00) Dollars per lot.
- F. The application shall include an address and telephone number of an agent located within the County who shall be authorized to receive all notices required by these regulations.

2.2-3 Classification—Tentative classification of the sketch layout shall be made at this time by the Community Design Review Board, as same shall be established by order of the County Court concurrent with the adoption of these regulations, as to whether the subdivision is a major or minor subdivision as defined in these regulations. Subsequent to classification of the subdivision by the Community Design Review Board and its report, as required by Section 2.2-4 of these regulations, the Administrative Assistant to the Planning Commission shall place the matter on the next available regular meeting agenda of the Planning Commission for formal approval of the sketch layout. Subsequent to such approval by the Planning Commission, the applicant may proceed directly to the filing of an application for approval of a final subdivision plat as provided in these regulations if classified as a minor subdivision, and if classified as a major subdivision, the applicant must first file an applica-

tion for approval of a preliminary plat, as provided in these regulations before filing for final subdivision plat approval.

- 2.2-4 *Study of Sketch Plat*—The Community Design Review Board shall consider the sketch plat and shall render a report to the next regular meeting of the Planning Commission concerning the sketch plat. The Community Design Review Board shall transmit the sketch plat for review to appropriate officials or agencies of the County, adjoining counties or municipalities (including any municipality the outer limit of whose boundaries lie within one and one-half (1½) miles of any outer boundary of the proposed subdivision plat as required by Section 64.590, Revised Statutes of Missouri), special school districts, and other official bodies as it deems necessary or as mandated by law. The Community Design Review Board shall request that all officials and agencies, to whom a request for review has been made, submit their report to the Community Design Review Board within twenty (20) days after receipt of the request. The Community Design Review Board will consider all the reports submitted by the officials and agencies concerning the sketch plat and shall submit a report for proposed action to the Planning Commission for the next available regular meeting. The Community Design Board report to the Planning Commission shall in no event be made later than sixty (60) days following the date of application for sketch plat approval.
- 2.2-5 *Planning Commission Review of Community Design Board Report and Sketch Plat*—The Planning Commission shall study the sketch plat and the report of the Community Design Review Committee, taking into consideration the requirements of the Subdivision Regulations and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and width of streets, their relation to the topography of the land, sewage disposal, drainage, lot sizes and arrangement, the further development of adjoining lands as yet unsubdivided, and the requirements of the Major Highway Plan and Official Master Plan as adopted by the Planning Commission.
- 2.2-6 *Field Trip*—After the regular Planning Commission meeting at which the subdivision is first discussed, the Planning Commission may schedule a field trip to the site of the proposed subdivision, accompanied by the applicant or his representative. In order to facilitate field inspection and review of the site of the proposed subdivision, temporary staking along the center line of all proposed roads in the subdivision will be required in time for such field trip, or if impracticable, the Planning Commission shall permit a suitable alternative procedure.
- 2.2-7 *Approval of Sketch Plat*—After reviewing and discussing the sketch plat and report from the Community Design Review Board and other reports, as submitted by invited agencies and officials, the Planning Commission will advise the applicant of the specific changes or additions, if any, it will require in the layout, and the character and extent of required improvements and reservations which it will require as a prerequisite to the approval of the subdivision plat. This action by the Planning Commission shall constitute approval of the subdivision sketch plat, but prior to final approval of the subdivision plat, the Planning Commission may require additional changes as a result of further study of the subdivision in final form. Said approval shall constitute authorization to prepare and submit a preliminary plat in the case of a major subdivision and a final subdivision plat in the case of a minor subdivision. Such approval or disapproval shall be made by the Planning Commission within thirty (30) days after receiving the report of the Community Design Review Board.

2.3 Preliminary Plat

- 2.3-1 *Application Procedure and Requirements*—Based upon the approval of the Planning Commission of the sketch plat, the applicant should file

in duplicate an application for approval of a preliminary plat. The application shall:

- A. Be made on forms available at the office of the Administrative Assistant to the Planning Commission together with a fee of Ten (\$10.00) Dollars per lot.
- B. Include all land which the applicant proposes to subdivide and all land immediately adjacent extending one hundred (100) feet therefrom, or of that directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land, with the names of the owners as shown in the Assessor's files. This information may be shown on a separate current Tax Map reproduction from the Assessor's office showing the subdivision superimposed thereon.
- C. Be accompanied by a minimum of ten (10) copies of the preliminary plat as described in these regulations.
- D. Be accompanied by a minimum of three (3) copies of construction plans as described in these regulations.
- E. Comply in all respects with the sketch plat as approved.
- F. Be presented to the Administrative Assistant to the Planning Commission at least four (4) weeks prior to a regular meeting of the Commission.
- G. The Administrative Assistant to the Planning Commission shall refer the proposed preliminary plat to the Community Design Review Board for its review, recommendations and report. Such report of the Community Design Review Board shall be submitted in writing to the Planning Commission at the time of the next regular meeting of the Commission.
- H. The Administrative Assistant to the Planning Commission shall refer the proposed preliminary plat to all incorporated municipalities whose outer boundaries lie within one and one-half (1½) miles of the outer boundary of the proposed subdivision within one (1) week after receipt of the application for preliminary approval and shall within one (1) week after decision by the Planning Commission upon the application for preliminary approval send one (1) copy of such decision to all such municipalities. Such incorporated municipalities may file any protest with the Planning Commission pursuant to Section 64.590, Revised Statutes of Missouri, at any time prior to the public hearing but in no event later than two (2) weeks from the date of receipt of the decision of the Planning Commission on the application for preliminary approval.

2.3-2 Public Hearing—The Planning Commission shall hold a public hearing on the preliminary plat. Such hearing shall be advertised in the same manner as the subsequent public hearing on the final subdivision plat. At the time of the public hearing, the applicant shall submit an affidavit stating that he has notified by certified mail, return receipt requested, each adjacent or opposite owner of property as indicated on the application for subdivision approval at least ten (10) days prior to the public hearing, and that the applicant has placed four (4) posters provided to him by the Administrative Assistant to the Planning Commission on the four (4) closest public roads in visible locations surrounding the proposed subdivision property.

2.3-3 Preliminary Approval

- A. After the Planning Commission has reviewed the preliminary plat and construction plans, the report of the Community Design Review Board, any municipal protests or recommendations and testimony and exhibits submitted at the public hearing, the applicant shall be advised of any required changes and/or additions. The Commission shall approve, conditionally approve, or disapprove the preliminary plat within thirty (30) days after the date of the regular meeting of the Commission at which the public hearing on preliminary approval including adjourned date thereof, is closed. One (1) copy of

the proposed preliminary plat shall be returned to the developer with the date of approval, conditional approval or disapproval and the reasons therefore accompanying the plat. Before the Commission approves a preliminary plat showing park reservation or land for other municipal use proposed to be dedicated to the County, the Commission shall obtain approval of the park or land reservation from the County Court.

- B. If the proposed preliminary plat be amended or rejected by the Planning Commission, or if the Council or Board of Trustees of any municipality files with the Planning Commission a certified copy of a resolution of such Council or Board protesting against the action of the Planning Commission approving the preliminary plat, such approval shall be deemed overruled, and such plat may then be approved only by unanimous vote of the County Court, and the reasons for the approval or failure to approve such plat shall be spread upon the records of the County Court and certified to the Planning Commission.
- 2.3-4 *Public Improvements*—The Planning Commission may require that all public improvements be installed and dedicated prior to the signing of the subdivision plat by the Chairman of the Planning Commission. If the Planning Commission shall not require that all public improvements be installed and dedicated prior to signing of the subdivision plat by the Chairman of the Planning Commission, the amount of the bond shall be established by the Planning Commission based upon the recommendation of the County Engineer, which bond shall be submitted by the applicant at the time of application for final subdivision plat approval. The Planning Commission shall require the applicant to indicate on the plat all roads and public improvements to be dedicated, all districts for water, fire and utility improvements which shall be required to be established or extended and any other special requirements deemed necessary by the Planning Commission in order to conform the subdivision plat to the Major Highway Plan and the Master Plan of the County.
- 2.3-5 *Effective Period of Preliminary Approval*—The approval of a preliminary plat shall be effective for a period of one (1) year at the end of which time final approval on the subdivision must have been obtained from the Planning Commission, although the plat need not yet be signed and filed with the County Recorder of Deeds. Any plat not receiving final approval within the period of time set forth herein shall be null and void and the developer shall be required to resubmit a new plat for preliminary approval subject to all new zoning restrictions and subdivision regulations.
- 2.3-6 *Zoning Regulations*—Every plat shall conform to existing zoning regulations and subdivision regulations applicable at the time of proposed final approval, except that any plat which has received preliminary approval shall be exempt from any subsequent amendments to the Zoning Order rendering the plat non-conforming as to bulk or use, provided that final approval is obtained within the one-year period.
- 2.3-7 *Grading of Site Prior to Final Approval*—Subsequent to preliminary approval the developer may apply for a topsoil and excavation permit, if same be required by Zoning Order, and upon receipt of such permit may commence construction to the grades and elevations required by the approved preliminary plat.
- 2.3-7 *Model Homes*—For the purpose of allowing the early construction of model homes in a subdivision, the Planning Commission in its discretion may permit a portion of a major subdivision involving no more than two (2) lots to be created in accordance with the procedures for minor subdivisions, provided said portion derives access from an existing city, township, county or state highway, and provided no future road or other

improvement is anticipated where said lots are proposed. The subdivision plat for the "minor" portion shall be submitted to the Planning Commission simultaneously with the preliminary plat for the entire major subdivision. Subsequent to preliminary approval, the model may be constructed, subject to such additional requirements that the Planning Commission may require.

2.4 Final Subdivision Plat

2.4.1 Application Procedure and Requirements—Following the approval of sketch plat in the case of a minor subdivision, or of the preliminary plat in the case of a major subdivision, the applicant, if he wishes to proceed with the subdivision, shall file with the Planning Commission an application for final approval of a subdivision plat. The application shall:

- A. Be made on forms available at the Office of the Administrative Assistant to the Planning Commission, together with a fee of Fifteen (\$15.00) Dollars per lot, together with an additional fee of Twenty (\$20.00) Dollars for reproduction of plans.
- B. Include the entire subdivision, or section thereof, which derives access from an existing state or county highway.
- C. Be accompanied by a minimum of ten (10) copies of the subdivision plat and the construction plans, as described in these regulations.
- D. Comply in all respects with the sketch plat or preliminary plat, as approved, whichever is applicable, depending upon the classification of the subdivision.
- E. Be presented to the Administrative Assistant to the Planning Commission at least four (4) weeks prior to a regular meeting of the Commission in order that a public hearing may be scheduled and the required fifteen (15) days notice given. The date of the regular meeting of the Commission at which the public hearing on final approval, including any adjourned date thereof, is closed, shall constitute the official submittal date of the plat for the purposes of these regulations.
- F. Be accompanied by all formal irrevocable offers of dedication to the public of all streets, municipal uses, utilities, parks and easements, in a form approved by the County Attorney; and the subdivision plat shall be marked with a notation indicating said formal offers of dedication as follows:

"The owner, or his representative, hereby irrevocably offers for dedication to the County all the streets, municipal uses, easements, parks and required utilities shown in the within subdivision plat and construction plans in accordance with an irrevocable offer of dedication dated, and recorded in the County Recorder of Deeds Office

By
Owner or Representative
Date"

The applicant shall deliver a deed to all such lands in proper form for recording, together with a title policy for the County in the sum not less than Ten Thousand and no/100 (\$10,000.00) Dollars, which sum shall be determined by the County Attorney before signing of the final subdivision plat.

- H. Be accompanied by the performance bond, if required, in a form satisfactory to the County Attorney and in an amount established by the Planning Commission upon recommendation of the County Engineer. Such bond shall run to the benefit of the County and shall include a provision that the principal of the bond shall comply with all the terms of the resolution of final subdivision plat approval as determined by the Planning Commission, and shall include, but not be limited to, the performance of all required subdivision and off-

site improvements, and that all improvements and land included in the irrevocable offer of dedication shall be dedicated to the County free and clear of all liens and encumbrances on said premises.

- I. Be accompanied by stamped No. 10 envelopes addressed to each owner of property immediately adjacent extending one hundred (100) feet therefrom, or of that directly opposite thereto extending one hundred (100) feet from the street frontage of such opposite property owners are correct as within the knowledge of the applicant as shown on the latest tax assessment roll.
- J. Be accompanied by an inspection fee in an amount to be determined on the basis of the provisions of these regulations and by written assurance from the public utility companies and improvement districts that necessary utilities will be installed and proof that the applicant has submitted petitions in writing for the creation or extension of any improvement districts as required by the Planning Commission upon preliminary plat approval. The applicant shall also pay a Fifty and no/100 (\$50.00) Dollar fee for each street sign shown in the construction plans which street signs shall be installed by the County.

2.4-2 Endorsement of County Health Authorities—The final subdivision plat shall be properly endorsed by the County Health Department or County Health Officer with respect to all sewer and water facilities and that same comply with all the rules, regulations and requirements of the Missouri State Board of Health, Missouri State Water Pollution Board, and The County Health Department (a County Health Officer) where applicable, before being submitted to the Planning Commission for final approval. The plat should be in final form before submission to the County Health Department (County Health Officer) for endorsement.

2.4-3 Notice of Public Hearing

- A. Upon receipt of formal application and all accompanying material, the Administrative Assistant to the Planning Commission shall call a public hearing for the next scheduled meeting of the Planning Commission to be held at least two (2) weeks after the date of the application. The Administrative Assistant will submit a notice for publication in one (1) newspaper of general circulation to be published at least fifteen (15) days prior to the public hearing and mail notices to all property owners, as specified in Section 2.4-11, and will maintain file copies of the plat and construction plans for public review prior to the hearing. The Administrative Assistant to the Planning Commission shall furnish four (4) posters to the applicant to be posted by the applicant on the four (4) closest public roads in visible locations surrounding the proposed subdivision property at least ten (10) days prior to the public hearing.
- B. The Administrative Assistant to the Planning Commission shall refer the proposed final plat to all incorporated municipalities whose outer boundaries lie within one and one-half (1½) miles of the outer boundary of the proposed subdivision within one (1) week after receipt of the application for final approval and shall within one (1) week after decision by the Planning Commission upon the application for final approval send a copy of such decision to all such municipalities. Such incorporated municipalities may file protest with the Planning Commission pursuant to Section 64.590, Revised Statutes of Missouri, at any time prior to the public hearing, but in no event, later than two (2) weeks from the date of receipt of the decision of the Planning Commission on the application for final plat approval.

2.4-4 Public Hearing and Determination

- A. At the public hearing, the applicant shall furnish an affidavit as to placement of posters required by Section 2.4-3, and the Planning Commission will give an opportunity to any interested persons to

examine or comment upon the plat and construction plans. After the public hearing, the Planning Commission shall, within thirty (30) days after closing of the public hearing, approve, modify and approve or disapprove the subdivision application by resolution which shall set forth in detail any conditions to which the approval is subject, or reasons for disapproval. In the final resolution the Planning Commission shall stipulate the period of time when the performance bond shall be filed or the required improvements installed, whichever is applicable. In no event shall a performance bond be submitted later than six (6) months from the date of final resolution, together with all required documents and completion of required procedures. In no event shall the period of time stipulated by the Planning Commission for completion of required improvements exceed two (2) years from the date of the final resolution.

One copy of the final subdivision plat shall be returned to the subdivider with the date of approval, conditional approval, or disapproval noted thereon, and the reasons therefore accompanying the plat.

- B. If the proposed final plat be amended or rejected by the Planning Commission, or if the Council or Board of Trustees of any municipality files with the Planning Commission a certified copy of a resolution of such Council or Board protesting against the action of the Planning Commission approving the final plat, such approval shall be deemed overruled, and such plat may then be approved only by unanimous vote of the County Court, and the reasons for the approval or failure to approve such plat shall be spread upon the records of the County Court and certified to Planning Commission.

2.4.5 *Submission and Review*—Subsequent to the resolution of the Planning Commission, three (3) paper copies of the construction plans, and one (1) copy of the original of the subdivision plat on tracing cloth, and/or reproducible mylar, and two (2) copies of the subdivision plat on sepia paper and two (2) copies of the subdivision plat on paper shall be submitted to the Administrative Assistant for final review. A check payable to the County Recorder of Deeds in the amount of the current filing fee shall be provided. No final approval shall be endorsed on the plat until a review has indicated that all requirements of the resolution have been met.

2.4.6 *Vested Rights*—No vested rights shall accrue to any plat by reason of preliminary or final approval until the actual signing of the plat by the Chairman of the Planning Commission and all requirements, conditions or regulations adopted by the Planning Commission applicable to the subdivision or on all subdivisions generally shall be deemed a condition for any subdivision prior to the time of the signing of the final plat by the Chairman of the Planning Commission and Administrative Assistant to the Planning Commission. Where the Planning Commission has required the installation of improvements prior to signing of the final plat, the Planning Commission shall not unreasonably modify the conditions set forth in the final approval.

2.5 *Signing and Recording of Subdivision Plat*

2.5-1 *Signing of Plat*

- A. When a bond is required, the Chairman of the Planning Commission and the Administrative Assistant to the Planning Commission shall endorse approval on the plat after the bond has been approved by the County Court, and all the conditions of the resolution pertaining to the plat have been satisfied.
- B. When installation of improvements is required the Chairman of the Planning Commission and Administrative Assistant to the Planning Commission shall endorse approval on the plat after all conditions of the resolution have been satisfied and all improvements satisfactorily

completed. There shall be written evidence that the required public facilities have been installed in a manner satisfactory to the County as shown by a certificate signed by the County Engineer and County Attorney that the necessary dedication of public lands and improvements has been accomplished.

2.5-2 *Recording of Plat*

- A. The Chairman and Administrative Assistant will sign the tracing-cloth or reproducible mylar original of the subdivision plat and two (2) sepia prints of the subdivision plat. The sepia prints will be returned to the applicant's engineer.
- B. It shall be the responsibility of the Administrative Assistant to the Planning Commission to file the plat with the County Recorder of Deeds' Office within thirty (30) days of the date of signature. Simultaneously, with the filing of the plat, the Administrative Assistant to the Planning Commission shall record the agreement of dedication together with such legal documents as shall be required to be recorded by the County Attorney.

2.5-3 *Sectionalizing Major Subdivision Plats*—Prior to granting final approval of a major subdivision plat, the Planning Commission may permit the plat to be divided into two or more sections and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plat. The Planning Commission may require that the performance bond be in such amount as is commensurate with the section or sections of the plat to be filed and may defer the remaining required performance bond principal amount until the remaining sections of the plat are offered for filing. The developer may also file irrevocable offers to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining sections until such sections, subject to any conditions imposed by the Planning Commission, shall be granted concurrently with final approval of the plat. In the event of approval of sectionalizing the entire approved subdivision plat including all sections shall be filed within ninety (90) days after date of final approval with the County Clerk's office and such sections as have been authorized by the Planning Commission shall be filed with the County Recorder of Deeds. Such section must contain at least ten (10%) percent of the total number of lots contained in the approval plat. The approval of all remaining sections not filed with the County Recorder of Deeds shall automatically expire unless such sections have been approved for filing by the Planning Commission, all fees paid, all instruments and offers of dedication submitted and performance bonds approved and actually filed with the Recorder of Deeds within three (3) years of the date of final subdivision approval of the subdivision plat. (See Section 2.3-6 of these Regulations).

ARTICLE III

ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

3.1 *Improvements and Performance Bond*

3.1-1 *Completion of Improvements*—Before the plat is signed by the Chairman of the Planning Commission, all applicants shall be required to complete, in accordance with the Planning Commission's decision and to the satisfaction of the County Engineer all the street, sanitary and other improvements including lot improvements on the individual lots of the subdivision as required in these regulations, specified in the final subdivision plat, and as approved by the Planning Commission, and to dedicate same to the County free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

3.1-2 *Performance Bond*

- A. The Planning Commission in its discretion may waive the requirement that the applicant complete and dedicate all public improve-

ments prior to the signing of the subdivision plat and, that as an alternative the applicant post a bond at the time of application for final subdivision approval in an amount estimated by the Planning Commission as sufficient to secure to the County the satisfactory construction, installation and dedication of the incompleated portion of required improvements. The performance bond shall also secure all lot improvements on the individual lots of the subdivision as required in these regulations.

- B. Such performance bond shall comply with the requirements of Section 64.580 of the Revised Statutes of Missouri and shall be satisfactory to the County Attorney as to form, sufficiency and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the Planning Commission in the resolution approving the final subdivision plat and shall be incorporated in the bond and shall not in any event exceed two (2) years from date of final approval.

Such bond shall be approved by the County Court as to amount and surety and conditions satisfactory to the County Court. The Planning Commission may, upon proof of difficulty, recommend to the County Court extension of the completion date set forth in such bond for a maximum period of one (1) additional year. The County Court may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the Planning Commission.

- 3.1-3 *Temporary Improvement*—The developer shall build and pay for all costs of temporary improvements required by the Planning Commission, and shall maintain same for the period specified by the Planning Commission. Prior to construction of any temporary facility or improvement, the developer shall file with the County a separate suitable bond for temporary facilities, which bond shall insure that the temporary facilities will be properly constructed, maintained and removed.
- 3.1-4 *Costs of Improvement*—All required improvements shall be made by the applicant, at his expense, without reimbursement by the County or any improvement district therein.
- 3.1-5 *Governmental Units*—Governmental units to which these bonds and contract provisions apply may file in lieu of said contract or bond, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this Article.
- 3.1-6 *Failure to Complete Improvements*—For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the Planning Commission in the resolution approving the plat, the approval shall be deemed to have expired. In those cases where a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the County Court may thereupon declare said bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.
- 3.1-7 *Acceptance of Dedication Offers*—Acceptance of formal offers of dedication of streets, easements and parks shall rest with the County Court. The approval by the Planning Commission of a subdivision plat shall not be deemed to constitute or imply the acceptance by the County of any street, easement or park shown on said plat. The Planning Commission may require said plat to be endorsed with appropriate notes to this effect.

3.2 *Inspection of Improvements*

- 3.2-1 *General Procedure and Fees*—The Planning Commission shall provide for inspection of required improvements during construction and insure

their satisfactory completion. The applicant shall pay to the County an inspection fee of two (2%) percent of the amount of the performance bond or the estimated cost of required improvements, and the subdivision plat shall not be signed by the Chairman of the Planning Commission unless such fee has been paid at the time of application. Said fees shall be due and payable upon demand of the County and no building permits or certificates of occupancy shall be issued until all fees are paid. If the County Engineer finds upon inspection, that any of the required improvements have not been constructed in accordance with the County's construction standards and specifications, the applicant shall be responsible for completing said improvements. Wherever the cost of improvements is covered by a performance bond, the applicant and the bonding company shall be severally and jointly liable for completing said improvements according to specifications.

3.2-2 *Release or Reduction of Performance Bond*

A. *Certificate of Satisfactory Completion*—The County Court will not accept dedication of required improvements, nor release nor reduce a performance bond, until the County Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed, and until the applicant's engineer or surveyor has certified to the County Engineer through submission of detailed "as-built" survey plat of the subdivision indicating location, dimensions, construction materials and the dimensions and other information required by the Planning Commission or County Engineer that the lay-out of the line and grade of all public improvements is in accordance with construction plans for the subdivision and that a title insurance policy has been furnished to and approved by the County Attorney indicating that the improvements shall have been completed, are ready for dedication to the County and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation, the County Court shall thereafter accept the improvements for dedication in accordance with the established procedure.

B. *Reduction of Performance Bond*—A performance bond shall be reduced upon actual dedication of public improvements and then only to the ratio that the public improvement dedicated bears to the total public improvements for the plat. In no event shall a performance bond be reduced below twenty-five (25%) percent of the principal amount.

3.3 *Escrow Deposits for Lot Improvements*

3.3-1 *Acceptance of Escrow Funds*—Whenever, by reason of the season of the year, any lot improvements required by the subdivision regulations cannot be performed, the Building and Zoning Inspector may, nevertheless, 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 County Engineer for the cost of said improvements. The performance bond covering such lot improvements shall remain in full force and effect.

3.3-2 *Procedures on Escrow Fund*—All required improvements for which escrow monies have been accepted by the Building and Zoning Inspector at the time of issuance of a certificate of occupancy shall be installed by the developer within a period of nine (9) months from the date of deposit and issuance of the certificate of occupancy. In the event that said improvements have not been properly installed, at the end of said time period the Building and Zoning Inspector shall give two (2) weeks' written notice to the developer requiring him to install same, and in the event that same are not installed properly in the discretion of the Building and Zoning Inspector, the Building and Zoning Inspector may request the County Court to authorize the County 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 Building and Zoning Inspector, the developer shall obtain and file with the Building and Zoning Inspector prior to obtaining the certificate of occupancy a notarized statement from the purchaser or purchasers of the premises authorizing the Building and Zoning Inspector to install the improvements at the end of the nine-month period in the event that the same have not been duly installed by the developer.

3.4 *Maintenance of Improvements*—The applicant shall be required to maintain all improvements on the individual subdivided lots and provide for snow removal on streets and sidewalks, if required, until acceptance of said improvements by the County Court. If there are any certificates of occupancy on a street not dedicated to the County, the County may on twelve (12) hours' notice plow the street, or effect emergency repairs and charge same to developer. The applicant shall be required to file a maintenance bond with the County Court, prior to dedication, in an amount considered adequate by the County Engineer and in a form satisfactory to the County Attorney in order to assure the satisfactory condition of the required improvements including all lot improvements on the individual subdivided lots for a period of one (1) year after the date of their acceptance by the County Court and dedication of same to the County.

3.5 *Deferral or Waiver of Required Improvements*—The Planning Commission may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interests of the public health, safety and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

Whenever it is deemed necessary by the Planning Commission to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the developer shall pay his share of the costs of the future improvements to the County prior to signing of the final subdivision plat, or the developer may post a bond insuring completion of said improvements upon demand of the County.

3.6 *Issuance of Building Permits and Certificates of Occupancy*—Where a performance bond has been required for a subdivision, no certificate of occupancy for any building in the subdivision shall be issued prior to the completion of the improvements and dedication of same to the County, as required in the Planning Commission's final approval of the subdivision plat. In general, the extent of said street improvement shall be adequate for vehicular access by the prospective occupant and by police and fire equipment, prior to the issuance of an occupancy permit. The developer shall at the time of the dedication submit monies in escrow to the County in a sum determined by the County Engineer for the necessary final improvement of the street.

No building permit shall be issued for the final ten (10%) percent of lots in a subdivision, or if ten (10%) percent be less than two (2), for the final two (2) lots of a subdivision, until all public improvements required by the Planning Commission for the plat have been fully completed and dedicated to the County.

ARTICLE IV

REQUIREMENTS FOR IMPROVEMENTS, RESERVATIONS AND DESIGN

4.1 *General Improvements*

4.1-1 *Conformance to Applicable Rules and Regulations*—In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules and regulations:

A. All applicable provisions of the Missouri Statutes.

- B. The County Zoning Order, building and housing codes, and all other applicable laws of the appropriate jurisdictions.
 - C. The Official Master Plan, Major Highway Plan, Public Utilities Plan and Capital Improvements Program of the County, including all streets, drainage systems and parks shown on the Major Highway Plan or Official Master Plan as adopted.
 - D. The special requirements of these regulations and any rules of the County Health Department, the Missouri State Board of Health and the Missouri State Water Pollution Board.
 - E. The rules of the Missouri State Highway Department and if the subdivision or any lot contained therein abuts a state highway or connecting street.
 - F. The standards and regulations adopted by the County Highway Engineer and all Boards, Commissions, Agencies and Officials of the County.
 - G. All pertinent standards contained within the planning guides published by the Metropolitan Planning Commission.
 - H. Plat approval may be withheld if a subdivision is not in conformity with the above guides or policy and purposes of these regulations established in Section 1.4 of these regulations.
- 4.1-2 *Self Improved Restrictions*—If the owner places restrictions on any of the land contained in the subdivision greater than those required by the Zoning Order or these regulations, such restrictions or reference thereto may be required to be indicated on the subdivision plat, or the Planning Commission may require that restrictive covenants be recorded with the County Recorder of Deeds in form to be approved by the County Attorney.
- 4.1-3 *Plats Straddling Municipal Boundaries*—Whenever access to the subdivision is required across land in a municipality, the Planning Commission may request assurance from the County Attorney that access is legally established, from the County Engineer that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross municipal boundary lines.
- 4.1-4 *Monuments*—The subdivider shall place permanent reference monuments in the subdivision as required herein and as approved by a registered Land Surveyor. 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.
- A. 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, not less than four (4) inches square or five (5) inches in diameter, and 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, said points to be not less than twenty (20) feet back from the bank of any river or stream, except that 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.
 - B. All internal boundaries and those corners and points not referred to in the preceding paragraph shall be monumented in the field by like monuments as described above. These monuments shall be placed at all block corners, at each end of all curves, at a point where a river changes its radius and at all angle points in any line.

- C. The lines of lots that extend to rivers or streams shall be monumented in the field by iron pipes at least thirty (30) inches long and seven-eighths ($\frac{7}{8}$) inch in diameter, or by round or square iron bars at least thirty (30) inches long. These monuments shall be placed at the point of intersection of the river or stream lot line, with a meander line established not less than twenty (20) feet back from the bank of the river or stream.
- D. All such monuments shall be set flush with the ground and planted in such a manner that they will not be removed by frost.
- E. All monuments shall be properly set in the ground and approved by a registered Land Surveyor prior to the time the Planning Commission recommends approval of the final plat.

4.1-5 *Character of the Land*—Land which the Planning Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements or other features which will reasonably be harmful to the safety, health and general welfare of inhabitants of the land and surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning Commission, upon recommendation of the County Engineer, to solve the problems created by the unsuitable land conditions. Such land shall be set aside for such uses as shall not involve such a danger.

4.1-6 *Subdivision Name*—The proposed name of the subdivision shall not duplicate or too closely approximate phonetically, the name of any other subdivision in the area covered by these regulations. The Planning Commission shall have final authority to designate the name of the subdivision which shall be determined at sketch plat approval.

4.2 *Lot Improvements*

4.2-1 *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 Order and County Health Department Regulations, and in providing driveway access to buildings on such lots from an approved street.

4.2-2 *Lot Dimensions*—Lot dimensions shall comply with the minimum standards of the Zoning Order. Where lots are more than double the minimum required area for the Zoning District, the Planning Commission may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the Zoning Order 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 erection 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 use and development contemplated, as established in the County Zoning Order.

4.2-3 *Double Frontage Lots and Access to Lots*

A. *Double Frontage Lots*—Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography and orientation.

B. *Access from Major and Secondary Arterials*—Lots shall not, in general, derive access exclusively from a major or secondary street. Where driveway access from a major or secondary street may be

necessary for several adjoining lots, the Planning Commission may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street. Where possible, drive-ways should be designed and arranged so as to avoid requiring vehicles to back into traffic on major or secondary arterials.

4.2.4 *Soil Preservation, Grading and Seeding*

- A. *Soil Preservation and Final Grading*—No certificate of occupancy shall be issued until final grading has been completed in accordance with the approved final subdivision plat and the lot precovered with soil with an average depth of at least six (6) inches which shall contain no particles over two (2) inches in diameter over the entire area of the lot, except that portion covered by buildings or included in streets, or where the grade has not been changed or natural vegetation seriously damaged.

Topsoil shall not be removed from residential lots or used as spoil, but shall be redistributed so as to provide at least six (6) inches of cover on the lots and at least four (4) inches of cover between the sidewalks and curbs, and shall be stabilized by seeding or planting.

- B. *Lot Drainage*—Lots shall be laid out so as to provide positive drainage away from all buildings 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 drainage water from each lot to adjacent lots.

- C. *Lawn-Grass Seed and Sod*—Lawn-grass seed shall be sown at not less than four (4) pounds to each one-thousand (1,000) square feet of land area. In the spring, the seed shall be sown between March 15 and May 15; and in the fall, the seed shall be sown between August 15 and September 30. The seed shall consist of a maximum of ten (10%) percent rye grass by weight and a minimum of ninety (90%) percent of permanent bluegrass and/or fescue grass by weight. All seed shall have been tested for germination within one (1) year of the date of seeding and the date of testing shall be on the label containing the seed analysis. All lots shall be seeded from the roadside edge of the unpaved right-of-way back to a distance of twenty-five (25) feet behind the principal residence on the lot. No certificate of occupancy shall be issued until respreading of soil between October 1 and March 15, and between May 15 and August 15, the developer shall submit an agreement in writing signed by the developer and the property owner, with a copy to the Building and Zoning Inspector, that respreading of soil and seeding of lawn will be done during the immediate following planting season as set forth in this section, and leave a cash escrow for performance in such amount as shall be determined by the Building and Zoning Inspector. Sod may be used to comply with any requirement of seeding set forth herein.

- 4.2.5 *Debris and Waste*—No cut trees, timber, debris, earth, rocks, stones, soil, junk, rubbish, or other waste materials of any kind shall be buried in any land or left or deposited on any lot or street at the time of the issuance of a certificate of occupancy, and removal of same shall be required prior to issuance of any certificate of occupancy on a subdivision. Nor shall any be left or deposited in any area of the subdivision at the time of expiration of the performance bond or dedication of public improvements, whichever is sooner.

- 4.2.6 *Fencing*—Each subdivider and/or developer shall be required to furnish and install all fences wherever the Planning Commission determines that a hazardous condition may exist. Said fences shall be constructed according to standards established by the County Engineer and shall be noted as to height and material on the final plat. No certificate of occupancy shall be issued until said fence improvements have been duly installed.

4.2-7 Waterbodies and Watercourses—If a tract being subdivided contains a water body, or portion thereof, lot lines shall be so drawn as to distribute the entire ownership of the water body among the fees of adjacent lots. The Planning Commission may approve an alternative plan whereby the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a County responsibility. No more than twenty-five (25%) percent of the minimum area of a lot required under the Zoning Order may be satisfied by land which is under water. Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structure, of design approved by the County Engineer.

4.2-8 Performance Bond to Include Lot Improvements—The performance bond shall include an amount to guarantee completion of all requirements contained in Section 4.2 of these regulations including, but not limited to, soil preservation, final grading, lot drainage, lawn-grass seeding, removal of debris and waste, fencing and all other lot improvements required by the Planning Commission. Whether or not a certificate of occupancy has been issued, at the expiration of the performance bond the County may enforce the provisions of said bond where the provisions of this section or any other applicable law, ordinance or regulation have not been complied with.

4.3 Roads

4.3-1 General Requirements

A. 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 Major Highway Plan, or if there be no Major Highway Plan, unless such street is: (1) an existing state, county, or township highway; or (2) a street shown upon a plat approved by the Planning Commission and recorded in the County Recorder of Deeds' office. Such street or highway must be suitably improved as required by the County highway rules, regulations, specifications or orders or be bonded by a performance bond required under these subdivision regulations, with the width and right-of-way required by these subdivision regulations or the Major Highway Plan.

Wherever the area to be subdivided is to utilize existing road frontage, said road shall be suitably improved as provided hereinabove. The Planning Commission shall further require that the entire right-of-way required by these subdivision regulations and the Major Highway Plan be dedicated to the County as a condition of final plat approval.

B. Grading and Improvement Plan—Roads shall be graded and improved and conform to the County construction standards and specifications, and shall be approved as to design and specifications by the County Engineer, in accordance with the construction plans required to be submitted prior to final plat approval.

C. Topography and Arrangement

1. Roads shall be related appropriately to the topography. Local roads shall be curved wherever possible to avoid conformity of lot appearance. All streets shall be arranged so as to obtain as many as possible of the building sites at, or above, the grades of the streets.

Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. Specific standards are contained in the design standards of these regulations.

2. All streets shall be properly integrated with the existing and proposed system of thoroughfares and dedicated right-of-ways as established on the Major Highway Plan or Official Master Plan.

3. All thoroughfares shall be properly related to special traffic generators such as industries, business districts, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land-uses.
 4. Minor or local streets shall be laid out to conform as much as possible to the topography, to discourage use 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.
 5. The rigid rectangular gridiron street pattern need not necessarily be adhered to, and the use of curvilinear streets, cul-de-sacs, or U-shaped streets shall be encouraged where such use will result in a more desirable layout.
 6. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or 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 or adjacent tracks.
 7. In business and industrial developments, the streets and other accessways shall be planned in connection with the grouping of buildings, location of rail facilities, and the provision of alleys, truck loading and maneuvering areas, and walks and parking areas so as to minimize conflict of movement between the various types of traffic, including pedestrian.
- D. Blocks
1. Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads or waterways.
 2. The lengths, widths, and shapes of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block lengths in residential areas shall not exceed two thousand two hundred (2,200) feet or twelve (12) times the minimum lot width required in the zoning district, nor be less than four hundred (400) feet in length. Wherever practicable, blocks along major arterials and collector streets shall be not less than one thousand (1,000) feet in length.
 3. In long blocks the Planning Commission may require the reservation of an easement through the block to accommodate utilities, drainage facilities or pedestrian traffic.
Pedestrianways or crosswalks, not less than ten (10) feet wide, may be required by the Planning Commission through the center of blocks more than eight hundred (800) feet long where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, transportation or other community facilities.
Blocks designed for industrial uses shall be of such length and width as may be determined suitable by the Planning Commission for prospective use.
- E. Access to Primary Arterials—Where a subdivision borders on or contains an existing or proposed primary arterial, the Planning Commission may require that access to such streets be limited by one of the following means:
1. The subdivision of lots so as to back onto the major arterial and front onto a parallel local street; no access shall be provided from primary arterial and screening shall be provided in a strip of land along the rear property line of such lots.
 2. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such a parallel

- street, with the rear lines of their terminal lots backing onto the major arterial.
3. A marginal access or service road (separated from the primary arterial by a planting or grass strip and having access thereto at suitable points).
 4. The number of residential or local streets entering a primary arterial shall be kept to a minimum.
- F. **Road Names**—The sketch plat as submitted shall not indicate any names upon proposed streets. The Planning Commission shall name all roads upon recommendation of the Community Design Review Board at the time of preliminary approval. The local postmaster shall be consulted by the Community Design Review Board prior to rendering its request to the Planning Commission. Names shall be sufficiently different in sound and in spelling from other road names in the County so as not to cause confusion. A road which is or is planned as a continuation of an existing road shall bear the same name.
- G. **Road Regulatory Signs**—The subdivider shall deposit with the County at the time of final subdivision approval the sum of Fifty (\$50.00) Dollars for each road sign required by the County Engineer at all road intersections. The County shall install all road signs before issuance of certificates of occupancy for any residence on the streets approved.
- Street name signs are to be placed at all intersections within or abutting the subdivision, the type and location of which to be approved by the County Engineer.
- H. **Street Lights**—Street lights shall be required to be installed in accordance with design and specification standards approved by the County Engineer.
- I. **Reserve Strips**—The creation of reserve strips adjacent to a proposed street in such a manner as to deny access from adjacent property to such street shall not be permitted.
- J. **Construction of Roads and Dead-End Roads**
1. **Construction of Roads**—The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is necessary for convenient movement of traffic, effective fire protection, for efficient provision of utilities, and where such continuation is in accordance with the County plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line. A temporary T- or L-shaped turnabout shall be provided on all temporary dead-end streets, with the notation on the subdivision plat that land outside the normal street right-of-way shall revert to abutters whenever the street is continued. The Planning Commission may limit the length of temporary dead-end streets in accordance with the design standards of these regulations.
 2. **Dead-End Roads (Permanent)**
 - a. Where a road does not extend the boundary of the subdivision and its continuation is not required by the Planning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than fifty (50) feet. However, the Planning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac turnaround shall be provided at the end of a permanent dead-end street in accordance with County construction standards and specifications.
 - b. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in gen-

eral, be limited in length in accordance with the design standards of these regulations.

4.3-2 *Design Standards*

A. General—In order to provide for roads of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, snow removal, sanitation and road-maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following design standards for roads are hereby required (Road classification may be indicated on the Master Plan, or Major Highway Plan; otherwise, it shall be determined by the Planning Commission).

IMPROVEMENT	DEVELOPMENT DENSITY			NON-RESIDENTIAL
	<i>Low</i>	<i>Medium</i>	<i>High</i>	<i>Business—Industrial</i>
<i>Minimum Width Right-of-Way</i>				
Local Road	50'	50'	60'	50'
Collector Road	50'	60'	70'	60'
Secondary Arterial	60'	80'	80'	80'
Primary Arterial	80'	80'	100'	100'
<i>Minimum Width Traveled Route</i>				
Local Road	20' W/S*	30' W/C**	32' W/C**	30' W/C**
Collector Road	22' W/S	32' W/C	32' W/C	40' W/C
Secondary Arterial	24' W/S	40' W/C	44' W/C	44' W/C
Primary Arterial	44' W/S	48' W/C	48' W/C	48' W/C
<i>Maximum Grade</i>				
Local Road	10%	10%	8%	.6%
Collector Road	8%	8%	8%	6%
Secondary Arterial	6%	6%	6%	5%
Primary Arterial	6%	6%	6%	5%
<i>Minimum Grade</i>				
	1%	1%	1%	1%
<i>Minimum Radius of Curve</i>				
Local Road	100'	100'	100'	200'
Collector Road	100'	100'	100'	200'
Secondary Arterial	300'	300'	300'	400'
Primary Arterial	500'	500'	500'	500'

*With Shoulders (Roll Type Curb)
 **With Curbs (Concrete Vertical Firm Curbs)

IMPROVEMENT	DEVELOPMENT DENSITY			NON-RESIDENTIAL
	<i>Low</i>	<i>Medium</i>	<i>High</i>	<i>Business—Industrial</i>
<i>Minimum Length of Vertical Curves</i>				
Local Road	} 100' but not less than 20' for each algebraic difference in grade 200' but not less than 50' for each 1% 300' but not less than 50' for each algebraic difference in grade			
Collector Road				
Second Arterial				
Primary Arterial				
<i>Minimum Length of Tangents Between Reverse Curves</i>				
Local Road	100'	100'	150'	200'
Collector Road	100'	100'	150'	200'
Secondary Arterial	200'	200'	250'	300'
Primary Arterial	300'	300'	350'	400'

IMPROVEMENT	DEVELOPMENT DENSITY			NON-RESIDENTIAL
	<i>Low</i>	<i>Medium</i>	<i>High</i>	<i>Business—Industrial</i>
<i>Minimum Sight Distance</i>				
Local Road	200'	200'	200'	250'
Collector Road	200'	240'	240'	250'
Secondary Arterial	275'	275'	300'	300'
Primary Arterial	275'	300'	300'	400'
Intersection	Across-Corners—75' Back			Intersection
<i>Minimum Turnaround</i>				
Local Roads				
Right-of-Way				
Diameter	120'	120'	140'	160'
Pavement	100'	100'	120'	140'
Center Island Diameter (If Required)	40'	40'	50'	60'
<i>Design Speed</i>				
Local Roads	25'	30'	30'	30'
Collector Roads	30'	35'	35'	35'
Secondary Arterial	40'	40'	40'	40'
Primary Arterial	40'	40'	40'	50'
<i>Minimum Length of Cul-De-Sac</i>				
Permanent	Six times minimum Lot Width, Serving no More than Fourteen (14) Families and not Exceeding 500 Feet in Length			
Temporary	Twelve Times Minimum Lot Width, Serving No More than Twenty-five (25) Families and not Exceeding 1,000 Feet in Length			
Minimum Radius at				
Right-Of-Way	25'	25'	30'	30'
Pavement	25'	25'	30'	30'

- B. Road Surfacing and Improvements—After sewer and water utilities have been installed by the developer, the subdivider shall construct curbs and gutters and shall surface or cause to be surfaced roadways to the widths prescribed in these regulations. Said surfacing shall be of such character as is suitable for the expected traffic and in harmony with similar improvements in the surrounding areas. Types of pavement shall be as determined by the County 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, County Engineer or County Court and shall be incorporated into the construction plans required to be submitted by the developer for plat approval.

- C. Excess Right-of-Way—Right-of-Way widths in excess of the standards designated in these regulations shall be required whenever, due to topography, additional width is necessary to provide adequate earth slopes. Such slopes shall not be in excess of three to one.
- D. Railroads and Limited Access Highways—Railroad right-of-way and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:
1. In residential districts a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way or limited

access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited."

2. In districts zoned for business, commercial or industrial uses the nearest street extending parallel or approximately parallel to the railroad shall, wherever practicable be at a sufficient distance therefrom to ensure suitable depth for commercial or industrial sites.
3. Streets parallel to the railroad when intersecting a street which crosses the railroad at grade shall, to the extent practicable, be at a distance of at least 150 feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

E. 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 shall not be acceptable. An oblique street should be curved approaching an intersection and should be approximately at right angles for at least one hundred (100) feet therefrom. 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 with center-line offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersection of major streets shall be at least eight hundred (800) feet apart.
 3. Minimum curb radius at the intersection of two (2) local streets shall be at least twenty (20) feet; and minimum curb radius at an intersection involving a collector street shall be at least twenty-five (25) feet. Alley intersections and abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.
 4. 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 two (2) percent rate a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.
 5. Where any street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the developer shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.
 6. The cross-slopes on all streets, including intersections, shall be three (3%) percent or less.
- F. Bridges—Bridges of primary benefit to the developer, as determined by the Planning Commission, shall be constructed at the full expense of the developer without reimbursement from the County. The sharing expense for the construction of bridges not of primary benefit to the developer as determined by the Planning Commission, will be fixed by special agreement between the County Court and the developer. Said cost shall be charged to the developer pro rata as the percentage of his land developed and so served.

4.3-3 *Road Dedications and Reservations*

- A. **New Perimeter Streets**—Street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half streets. Where an existing half street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider. The Planning Commission may authorize a new perimeter street where the subdivider improves and dedicates the entire required street right-of-way width within his own subdivision boundaries.
- B. **Widening and Realignment of Existing Roads**—Where a subdivision borders an existing narrow road or when the County Master Plan, Major Highway Plan or zoning setback regulations indicate plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivider shall be required to improve and dedicate at his expense such areas for widening or realignment of such roads. Such frontage roads and streets shall be improved and dedicated by the developer at his own expense to the full width as required by these subdivision regulations. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the Zoning Order whether the land is to be dedicated to the County in fee simple or an easement is granted to the County.

4.4 *Drainage and Storm Sewers*

4.4-1 **General Requirements**—The Planning Commission shall not recommend for approval any plat of subdivision which does not make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. Storm sewers, where required, shall be designed by the rational method, or other methods as approved by the Planning Commission, and a copy of design computations shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersection, nor for a distance of more than 600 feet in the gutter. When calculations indicate that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point and basins shall be used to intercept flow at that point. Surface water drainage patterns shall be shown for each and every lot and block.

4.4-2 *Nature of Storm Water Facilities*

- A. **Location**—The developer may be required by the Planning Commission 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.
- B. **Accessibility to Public Storm Sewers**
1. Where a public storm sewer is accessible, the developer shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provision shall be made for the disposal of storm waters, subject to the specifications of the County Engineer. However, in subdivisions containing lots less than 15,000 square feet in area, and in business and industrial districts, underground storm sewer systems shall be constructed throughout the subdivisions and be connected to an approved out-fall. Inspection of facilities shall be conducted by the County Engineer.
 2. If a connection to a public storm sewer will be provided eventually, as determined by the County Engineer and the Planning Commission, the developer shall make arrangements for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall

be incorporated by inclusion in the performance bond required for the subdivision plat.

- C. Accommodation of Upstream Drainage Areas—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. The County Engineer shall determine the necessary size of the facility, based on the provisions of the construction standards, and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Order.
- D. Effect on Downstream Drainage Areas—The County Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. County drainage studies together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. 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 may withhold approval of the subdivision until provision has been made for the improvement of said potential condition in such sum as the Planning Commission shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.
- E. Areas of Poor Drainage—Whenever a plat is submitted for an area which is subject to stream overflow in terms of high water, the Planning Commission may approve such subdivision provided that the subdivider fills the affected area of said subdivision to an elevation sufficient to place the elevation of streets and lots at a minimum of twelve (12) inches above the elevation of the maximum probable flood, as determined by the County Engineer. Such plat of such subdivision shall provide for an overflow zone along the bank of any stream or watercourse, in a width which shall be sufficient in times of high water to contain or move the water, and no fill shall be placed in said overflow zone nor shall any structure be erected or placed therein. The boundaries of such overflow zone shall be determined by the Professional Engineer, subject to approval by the County Engineer. Areas of extremely poor drainage should be discouraged.
- F. Flood Plain Areas—The Planning Commission, may when it deems it necessary for the health, safety or welfare of the present and future population of the area and necessary to the conservation of water, drainage and sanitary facilities, prohibit the subdivision of any portion of the property which lies within the flood plain of any stream or drainage course. These floodplain areas shall be preserved from any and all destruction or damage resulting from clearing, grading or dumping of earth, waste material or stumps, except at the discretion of the Planning Commission.
- 4.4-3 *Dedication of Drainage Easements*
- A. General Requirement—Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.
- B. Drainage Easements
1. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least fifteen (15) feet in width for such drainage facilities shall be provided across property

outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.

2. When a proposed drainage system will carry water across private land outside the subdivision, appropriate drainage rights must be secured and indicated on the plat.
3. The applicant shall dedicate, either in fee or by drainage or conservation easement of land on both sides of existing watercourses, to a distance to be determined by the Planning Commission.
4. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for dedication, shall be preserved and retained in their natural state as drainage ways. Such land or lands subject to periodic flooding shall not be computed in determining the number of lots to be utilized for average density procedure nor for computing the area requirement of any lot.

4.5 *Water Facilities*

4.5-1 *General Requirements*

- A. Necessary action shall be taken by the developer to extend or create a water-supply district for the purpose of providing a water supply system capable of providing domestic water use and fire protection.
- B. Where a public water main is accessible the subdivider shall install adequate water facilities (including fire hydrants) subject to the specifications of the Missouri Division of Health and the Missouri Inspection Bureau. All water mains shall be at least six (6) inches in diameter.
- C. Water main extensions shall be approved by the Missouri State Board of Health, or their officially designated agency.
- D. To facilitate the above, 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, and the cost of installing same shall be included in the performance bond to be furnished by the developer.

4.5-2 *Individual Wells and Central Water Systems*

- A. In low density zoning districts, in the discretion of the Planning Commission, if a public water system is not available, individual wells may be used or a central water system provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. Water samples shall be submitted to the County Health Department for its approval and individual wells and central water systems shall be approved by the County Health Department and the State Board of Health. Orders of approval shall be submitted to the Planning Commission.
- B. If the Planning Commission requires that a connection to a public water main be eventually provided as a condition to approval of an individual well or central water system, the developer shall make arrangements for future water service at the time the plat received final approval. Performance or cash bonds may be required to insure compliance.

4.5-3 *Fire Hydrants*—Fire hydrants shall be required for all subdivisions except those coming under Section 4.5-2. Fire hydrants shall be located no more than 1,000 feet apart and within 500 feet of any structure, and shall be approved by the applicable protection unit. To eliminate future street openings, all underground utilities for fire hydrants, together with the fire hydrants themselves and all other supply improvements, shall be installed before any final paving of a street shown on the subdivision plat.

4.6 Sewerage Facilities

- 4.6-1 *General Requirements*—The subdivider shall install sanitary sewer facilities in a manner prescribed by the County construction standards and specifications. All plans shall be designed in accordance with the rules, regulations and standards of the County Engineer, County Health Department, and the Missouri Water Pollution Board. Plans shall be approved by the above agencies. Necessary action shall be taken by the developer to extend or create a Sanitary Sewer District for the purpose of providing sewerage facilities to the subdivision, where no district exists for the land to be subdivided.
- 4.6-2 *High Density Residential and Non-Residential Districts*—Sanitary sewerage facilities shall connect with public sanitary sewerage systems. Sewers shall be installed to serve each lot and to grades and sizes required by approving officials and agencies. No individual disposal system or treatment plants (private or group disposal systems) shall be permitted. Sanitary sewerage facilities (including the installation of laterals in the right-of-way) shall be subject to the specifications, rules, regulations and guidelines of the County Health Officer, Missouri State Water Pollution Board, and the County Engineer.
- 4.6-3 *Low and Medium Density Residential Districts*—Sanitary sewerage systems shall be constructed as follows:
- A. Where a public sanitary sewerage system is reasonably accessible the subdivider shall connect with same and provide sewers accessible to each lot in the subdivision.
 - B. Where public sanitary sewerage systems are not reasonably accessible but will become available within a reasonable time (not to exceed fifteen [15] years), the subdivider may choose one of the following alternatives:
 1. Central Sewerage System, the maintenance cost to be assessed against each property benefited. Where plans for future public sanitary sewerage systems exist, the developer shall install the sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer mains; or
 2. Individual disposal systems, provided the subdivider shall install sanitary sewer lines, laterals and mains from the street curb to a point in the subdivision boundary where a future connection with the public sewer main shall be made. Sewer lines shall be laid from the house to the street line and a connection shall be available in the home to connect from the individual disposal system to the sewer system when the public sewers become available. Such sewer systems shall be capped until ready for use and shall conform to all plans for installation of the public sewer system, where such exist, and shall be ready for connection to such public sewer main.
 - C. Where sanitary sewer systems are not reasonably accessible and will not become available for a period in excess of fifteen (15) years, the subdivider may install sewerage systems as follows:
 1. Medium Density Residential Districts—A central sewerage system only. No individual disposal system will be permitted. Where plans exist for a public sewer system to be built, for a period in excess of fifteen (15) years, the developer shall install all sewer lines, laterals and mains to be in permanent conformance with such plans and ready for connection to such public sewer main.
 2. Low Density Residential District—Individual disposal systems or central sewerage systems shall be used.
- 4.6-4 *Mandatory Connection to Public Sewer System*—If a public sanitary sewer is accessible and a sanitary sewer is placed in a street or alley, abutting

upon property, the owner thereof shall be required to connect to said sewer for the purpose of disposing of waste and it shall be unlawful for any such owner or occupant to maintain upon any such property an individual sewage disposal system.

4.6-5 *Individual Disposal System Requirements*—If public sewer facilities are not available, and individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the Zoning Order and percolation tests and test holes shall be made as directed by the County Health Officer and the results submitted to the Health Department. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment device shall also be approved by the County Health Officer.

4.6-6 *Design Criteria for Sanitary Sewers*

- A. These design criteria are not intended to cover extraordinary situations. Deviations will be allowed and may be required in those instances where considered justified by the County Engineer.
- B. Design Factors—Sanitary sewer systems should be designed for the ultimate tributary population. Due consideration should be given to current zoning regulations and approved planning and zoning reports where applicable. Sewer capacities should be adequate to handle the anticipated maximum hourly quantity of sewerage and industrial waste together with an adequate allowance for infiltration and other extraneous flow. The unit design flows presented hereinafter should be adequate in each case for the particular type of development indicated. Sewers shall be designed for the total tributary area using the following criteria:

One and Two Family Dwellings .02 cubic feet per second (c.f.s.)/acre.

Apartments

One and Two Story	.02 c.f.s./acre
Three through Six-Story	.03 c.f.s./acre

Commercial

Small Stores, Offices and Miscellaneous Business	.02 c.f.s./acre
Shopping Centers	.02 c.f.s./acre
High Rise	As directed by County Engineer
Industrial	As directed by County Engineer

These design factors shall apply to watersheds of 300 acres or less. Design factors for watersheds larger than 300 acres and smaller than 1,000 acres shall be computed on the basis of a linear decrease from the applicable design factor for an area of 300 acres to a design factor of .01 c.f.s./acre for an area of 1,000 acres unless otherwise directed by the County Engineer. Design factors for watersheds larger than 1,000 acres shall be .01 c.f.s./acre unless otherwise directed by the County Engineer.

- C. Maximum Size—The diameter of sewers proposed shall not exceed the diameter of the existing or proposed outlet, whichever is applicable, unless otherwise approved by the County Engineer.
- D. Minimum Size—No public sewer shall be less than eight (8) inches in diameter.
- E. Minimum Slope—All sewers shall be designed to give mean velocities when flowing full of not less than 2.7 feet per second. All velocity and flow calculations shall be based on the Manning Formula using an N value of 0.013. The design slopes shall be evenly divisible by four (4). The following slopes shall be minimum for the size indicated:

Sewer Size	Minimum Slope in Feet Per 100 Feet
8"	0.60
10"	0.44
12"	0.36
15"	0.28
18"	0.24
21"	0.20
24"	0.16

Exceptions to these minimum slopes shall be made at the upper end of lateral sewers serving under thirty (30) houses. Said sewers shall have a minimum slope of 0.76%. Where lateral sewers serve less than ten (10) houses, the minimum slope shall be not less than 1%.

- F. Alignment—All sewers shall be laid with straight alignment between manholes, unless otherwise directed or approved by the County Engineer.
- G. Manhole Location—Manholes shall be installed at the end of each line; at all changes in grade, size or alignment; at all intersections; and at distances not greater than 400 feet for sewers 15 inches and smaller, and 500 feet for sewers 18 inches in diameter and larger.
- H. Manholes—The difference in elevation between any incoming sewer and the manhole invert shall not exceed 12 inches except where required to match crowns. The use of drop manholes will require approval by the County Engineer. The minimum inside diameter of the manholes shall conform to those specified by the County Engineer. Inside drop manholes will require special consideration; however, in no case shall the minimum clear distance be less than that indicated above. When a smaller sewer joins a larger one, the crown of the smaller sewer shall not be lower than that of the larger one. The minimum drop through manholes shall be 0.2 feet.
- I. Sewerage Locations—Sanitary sewers shall be located within street or alley rights-of-way unless topography dictates otherwise. When located in easements on private property, access shall be to all manholes. A manhole shall be provided at each street or alley crossing. End lines shall be extended to provide access from street or alley right-of-way where possible. Imposed loading shall be considered in all locations. Not less than six (6) feet of cover shall be provided over top of pipe in street and alley rights-of-way or three (3) feet in all other areas.
- J. Cleanouts and Lampholes—Cleanouts and lampholes will not be permitted.
- K. Water Supply Inter-Connections—There shall be no physical connection between a public or private potable water supply system and a sewer which will permit the passage of any sewage or polluted water into the potable supply. Sewers shall be kept removed from water supply wells or other water supply sources and structures.
- L. Relation of Sewers to Water Mains—A minimum horizontal distance of ten (10) feet shall be maintained between parallel water and sewer lines. At points where sewers cross water mains, the sewer shall be constructed of cast iron pipe or encased in concrete for a distance of ten (10) feet in each direction from the crossing, measured perpendicular to the water line. This will not be required when the water main is at least two (2) feet above the sewer.

4.7 Sidewalk

4.7-1 Required Improvements

- A. Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads as shown below:

Nature of Road	Development Density			
	Low	Medium	High	Non-Residential Business—Industrial
Local Road	Optional*	Both Sides 4' Wide	Both Sides 5' Wide	Both Sides 6' Wide
Collector Road	Optional**	Both Sides 5' Wide	Both Sides 5' Wide	Both Sides 6' Wide
Secondary Arterial	Optional**	Both Sides 5' Wide	Both Sides 5' Wide	Both Sides 6' Wide
Primary Arterial	Both Sides 5' Wide	Both Sides 5' Wide	Both Sides 5' Wide	Both Sides 6' Wide

*Optional, but where provided 4' minimum on either side of road with concrete curbs.

**Optional, but where provided 5' minimum on either side of road with concrete curbs.

B. Concrete curbs are required for all roads where sidewalks are required by these regulations or where required in the discretion of the Planning Commission.

C. Sidewalks shall be improved as required in Section 4.3-2 (B) of these regulations. A median strip of grassed or landscaped areas at least two (2) feet wide shall separate all sidewalks from adjacent curbs.

4.7-2 *Pedestrian Accesses*—The Planning Commission may require, in order to facilitate pedestrian access from roads to schools, parks, playgrounds or other nearby roads, perpetual unobstructed easements at least twenty (20) feet in width. Easements shall be indicated on the plat.

4.8 *Utilities*

4.8-1 *Location*—All utility facilities including but not limited to gas, electric power, telephone and CATV cables shall be located underground throughout the subdivision. Wherever existing utility facilities are located aboveground, except where existing on public roads and rights-of-way, they shall be removed and placed underground. All utility facilities existing and proposed throughout 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 subdivider'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.

4.8-2 *Easements*

A. Easements centered on rear lot lines shall be provided for utilities (private and municipal), 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 establishment of utility easements established in adjoining properties.

B. Where 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. Easements shall be indicated on the plat.

4.9 *Public Uses*

4.9-1 *Parks, Playgrounds and Recreation Areas*

A. *Recreation Standards*—The Planning Commission shall require that land be reserved for parks and playgrounds or other recreation pur-

poses in locations designated on the Master Plan or otherwise where such reservations would be appropriate. 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 recreation areas are required, the Planning Commission shall determine the number of acres to be reserved from the following table, which has been prepared on the basis of providing three (3) acres of recreation area for every one hundred (100) dwelling units. The Planning Commission may refer such proposed reservations to the County official or department in charge of Parks and Recreation for recommendation. The developer shall dedicate all such recreation areas to the County as a condition of final subdivision plat approval. Table of Recreation Requirements:

<i>Size of Lot</i>	<i>Percentage of Total Land in Subdivision to be Reserved for Recreation Purposes</i>
1. <i>Single Family Lots</i>	
80,000 & greater S.F.	1.5%
50,000 S.F.	2.5%
40,000 S.F.	3.0%
35,000 S.F.	3.5%
25,000 S.F.	5.0%
15,000 S.F.	8.0%
2. Multi-Family and High Density Residential—The Planning Commission shall determine the acreage for reservation based on the number of dwelling units per acre to occupy the site as permitted by the Zoning Order.	
B. Minimum Size of Park and Playground Reservations—In general, land reserved for recreation purposes shall have an area of at least four (4) acres. When the percentages from the table above would create less than four (4) acres, the Commission may require that the recreation area be located at a suitable place on the edge of the subdivision so that additional land may be added at such time as the adjacent land is subdivided. In no case shall an area of less than two (2) acres be reserved for recreation purposes if it will be impractical or impossible to secure additional lands in order to increase its area. Where recreation land in any subdivision is not reserved, or the land reserved is less than the percentage in Section 4.9-1 (A) the provisions of Section 4.9-1 (D) shall be applicable.	
C. Recreation Sites—Land reserved for recreation purposes shall be of a character and location suitable for use as a playground, playfield or other recreation purposes, and shall be relatively level and dry; and shall be improved by the developer to the standards required by the Planning Commission, which improvements shall be included in the performance bond. A recreation site shall have a total frontage on one (1) or more streets of at least two hundred (200) feet, and no other dimension of the site shall be less than two hundred (200) feet in depth. The Planning Commission may refer any subdivision proposed to contain a dedicated park to the County Official or department in charge of parks and recreation for a recommendation. All land to be reserved for dedication to the County for park purposes shall have prior approval of the County Court and shall be shown marked on the plat "Reserved for Park and/or Recreation Purposes."	
D. Alternative Procedure: Money in Lieu of Land—Where, with respect to a particular subdivision, the reservation of land required pursuant to this section, does not equal the percentage of total land required to be reserved in Section 4.9-1 (A), the Planning Commission shall	

require prior to final approval of the subdivision plat that the applicant deposit with the County Court a cash payment in lieu of land reservation. Such deposit shall be placed in a Neighborhood Park and Recreation Improvement Fund to be established by the County Court. Such deposit shall be used by the County for improvement of a neighborhood park, playground or recreation area including the acquisition of property. Such deposit must be used for facilities that will be actually available to and benefit the persons in said subdivision and be located in the general neighborhood of the subdivision. The Planning Commission shall determine the amount to be deposited, based on the following formula: Two hundred dollars (\$200) multiplied by the number of times the total area of the subdivision is divisible by the required minimum lot size of the zoning district in which it is located, less a credit for the amount of land actually reserved for recreation purposes, if any, as the land reserved bears in proportion to the land required for reservation in Section 4.9-1 (A), but not including any lands reserved through density zoning.

- E. **Applicability to Land Utilizing Average Density**—Any subdivision plat in which the principle of average density or flexible zoning has been utilized, shall not be exempt from the provisions of this section, except as to such portion of land which is actually dedicated to the County for park and recreation purposes. If no further area, other than the area to be reserved through averaging, is required by the Planning Commission, the full fee shall be paid as required in Section 4.9-1 (D). If further land is required for reservation, apart from that reserved by averaging, credit shall be given as provided by Section 4.9-1 (D).
- F. **Other Recreation Reservations**—The provisions of this section are minimum standards. None of the paragraphs above shall be construed as prohibiting a developer from reserving other land for recreation purposes in addition to the requirements of this section.

4.9-2 *Other Public Uses*

- A. **Plat to Provide for Public Uses**—Except when a developer utilizes planned unit development or density zoning, in which land is set aside by the developer as required by the provision of the Zoning Order, whenever a tract to be subdivided includes a school, recreation uses (in excess of the requirements of Section 4.9-1) or other public use as indicated on the Official Master Plan or any portion thereof, such space shall be suitably incorporated by the developer into his sketch plat. After proper determination of its necessity by the Planning Commission, and the appropriate County official or other public agency involved in the acquisition and use of each such site and a determination has been made to acquire the site by the public agency, the site shall be suitably incorporated by the developer into the preliminary and final plats.
- B. **Referral to Public Body**—The Planning Commission shall refer the sketch plat to the public body concerned with acquisition for its consideration and report. The Planning Commission may propose alternate areas for such acquisition and shall allow the public body or agency 30 days for reply. The agency's recommendation, if affirmative, shall include a map showing the boundaries and area of the parcel to be acquired and an estimate of the time required to complete the acquisition.
- C. **Notice to Property Owner**—Upon receipt of an affirmative report the Planning Commission shall notify the property owner and shall designate on the preliminary and final plats that area proposed to be acquired by the public body.
- D. **Duration of Land Reservation**—The acquisition of land reserved by a public agency on the final plat shall be initiated within 12 months of notification, in writing, from the owner that he intends to develop

the land. Such letter of intent shall be accompanied by a sketch plat of the proposed development and a tentative schedule of construction. Failure on the part of the public agency to initiate acquisition within the prescribed 12 months shall result in the removal of the "reserved" designation from the property involved and the freeing of the property for development in accordance with said regulations.

4.10 *Preservation of Natural Features and Amenities*

4.10-1 *General*—Existing features which would add value to residential development or to the County as a whole, such as trees, as herein defined, 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 sketch plat shall show the number and location of existing trees as required by these regulations, and shall further indicate all those marked for retention, and the location of all proposed shade trees required along the street side of each lot as required by these regulations.

4.10-2 *Shade Trees Planted by Developer*

A. As a requirement of subdivision approval the developer shall plant shade trees on the property of the subdivision. Such trees are to be planted within five (5) feet of the right-of-way of the road or roads within and abutting the subdivision, or in the discretion of the Planning Commission, within the right-of-way of such roads. One (1) tree shall be planted for every forty (40) feet of frontage along each road unless the Planning Commission, upon recommendation of the County Engineer, shall grant a waiver. Such waiver shall be granted only if there are trees growing along such right-of-way or on the abutting property which in the opinion of the Planning Commission comply with these regulations.

B. New trees to be provided pursuant to these regulations shall be approved by the County Engineer and shall be planted in accordance with the regulations of the County Engineer. Such trees shall have a minimum trunk diameter (measured twelve [12] inches above ground level) but not less than two (2) inches. Only Oak, Honey Locust, Hard Maples, Ginkgo, or other long-lived shade trees, acceptable to the County Engineer and to the Planning Commission, shall be planted.

4.10-4 *Shade Tree Easement and Dedication*—The preliminary plat and final plat shall reserve an easement authorizing the County to plant shade trees within five (5) feet of the required right-of-way of the County.

No street shall be accepted for dedication until the County Engineer shall inform the Planning Commission and the County Court that compliance, where necessary, has been made with these regulations.

4.11 *Non-Residential Subdivisions*

4.11-1 *General*—If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision with respect to such land shall make such provision as the Planning Commission may require.

A non-residential subdivision shall also be subject to all the requirements of site plan approval set forth in the Zoning Order. Site plan approval and non-residential subdivision plat approval may proceed simultaneously in the discretion of the Planning Commission. A non-residential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the Planning Commission and shall conform to the proposed land-use and

standards establishment in the Master Plan, Major Highway Plan and Zoning Order.

- 4.11-2 *Standards*—In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the Commission 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. Street rights-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereupon.
 - C. Special requirements may be imposed by the County with respect to street, curb, gutter and sidewalk design and construction.
 - D. Special requirements may be imposed by the County with respect to the installation of public utilities, including water, sewer and storm water drainage.
 - E. Every effort shall be made to protect adjacent residential areas from potential nuisance from the proposed residential subdivisions, 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.
 - F. Streets carrying non-residential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

ARTICLE V

SPECIFICATIONS FOR DOCUMENTS TO BE SUBMITTED

- 5.1 *Sketch Plat*—Sketch plats submitted to the Planning Commission, prepared in pen or pencil, shall be drawn to a convenient scale of not more than one hundred (100) feet to an inch, and shall show the following information.
- 5.1-1 *Name*
- A. Name of subdivision if property is within an existing subdivision.
 - B. Proposed name if not within a previously platted subdivision. The proposed name shall not duplicate the name of any plat previously recorded.
 - C. Name of property if no subdivision name has been chosen. (This is commonly the name by which the property is locally known.)
- 5.1-2 *Ownership*
- A. Name and address, including telephone number, of legal owner or agent of property and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date and land records reference.
 - B. Citation of any existing legal rights-of-way or easements affecting the property.
 - C. Existing covenants on the property, if any.
 - D. Name and address, including telephone number, of the profession person (s) responsible for subdivision design, for the design of public improvements, and for surveys.
- 5.1-3 *Description*—Location of property by government lot, section, township, range and county, graphic scale, north arrow and date.
- 5.1-4 *Features*
- A. Location of property lines, existing easements, burial grounds, railroad rights-of-way, watercourses and existing wooded areas or trees eight (8) inches or more in diameter, measured four (4) feet above ground level; location, width and names of all existing or platted

- streets or other public ways within or immediately adjacent to the tract; names of adjoining property owners from the latest County assessment rolls within five hundred (500) feet of any perimeter boundary of the subdivision.
- B. Location, sizes, elevations and slopes of existing sewers, water mains, culverts, and other underground structures within the tract and immediately adjacent thereto; existing permanent building and utility poles on or immediately adjacent to the site and utility rights-of-way.
 - C. Approximately topography, at the same scale as the sketch plat.
 - D. The approximate location and widths of proposed streets.
 - E. Preliminary proposals for connection with existing water supply and sanitary sewage systems, or alternative means of providing water supply and sanitary waste treatment and disposal; preliminary provisions for collecting and discharging surface water drainage.
 - F. The approximate location, dimensions and areas of all proposed or existing lots.
 - G. The approximate location, dimensions and area of all parcels of land proposed to be set aside for park or playground use or other public use, or for the use of property owners in the proposed subdivision.
 - H. The location of temporary stakes to enable the Planning Commission to find and appraise features of the sketch plat in the field.
 - I. Whenever the sketch plat covers only a part of an applicant's contiguous holdings, the applicant shall submit, at the scale of no more than two hundred (200) feet to the inch, a sketch in pen or pencil of the proposed subdivision area, together with its proposed street system, and an indication of the probable future street system, and an indication of the probable future street and drainage system of the remaining portion of the tract.
 - J. A vicinity map showing streets and other general development of the surrounding area. The sketch plat shall show all school and improvement district lines with the zones properly designated.

5.2 Preliminary Plat

5.2-1 *General*—The preliminary plat shall be prepared by a licensed land surveyor at a convenient scale not more than one (1) inch equals one hundred (100) feet, may be prepared in pen or pencil, and the sheets shall be numbered in sequence if more than one (1) sheet is used and shall be of such size as is acceptable for filing in the office of the Recorder of Deeds, but shall not be thirty-four by forty-four (34 x 44) inches or larger. It should be noted that the map prepared for the preliminary plat may also be used for the final subdivision plat and, therefore, should be drawn on tracing cloth or reproducible mylar, preparation in pencil will make required changes and additions easier.

5.2-2 *Features*—The preliminary plat shall show the following:

- A. The location of property with respect to surrounding property and streets, the names of all adjoining property owners of record, or the names of adjoining developments; the names of adjoining streets.
- B. The location and dimensions of all boundary lines of the property to be expressed in feet and decimals of a foot.
- C. The location of existing streets, easements, water bodies, streams and other pertinent features such as swamps, railroads, buildings, parks, cemeteries, drainage ditches, bridges, as determined by the Planning Commission.
- D. The location and width of all existing and proposed streets and easements, alleys and other public ways and easement and proposed street rights-of-ways and building set-back lines.
- E. The locations, dimensions and areas of all proposed or existing lots.
- F. The location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation.

- G. The name and address of the owner or owners of land to be subdivided, the name and address of the subdivider if other than the owner, and the name of the land surveyor.
- H. The date of the map, approximate true north point, scale and title of the subdivision.
- I. Sufficient data acceptable to the County Engineer to determine readily the location, bearing and length of all lines, and to reproduce such lines upon the ground; the location of all proposed monuments.
- J. Names of the subdivision and all new streets as approved by the Planning Commission.
- K. Indication of the use of any lot (single-family, two-family, multi-family, townhouse) and all uses other than residential proposed by the subdivider.
- L. Blocks shall be consecutively numbered, or lettered in alphabetical order. The blocks in numbered additions to subdivisions bearing the same name shall be numbered or lettered consecutively through the several additions.
- M. All lots in each block consecutively numbered. Outlots shall be lettered in alphabetical order. If blocks are numbered or lettered, outlots shall be lettered in alphabetical order within each block.
- N. All information required on sketch plat should also be shown on the preliminary plat and the following notation shall also be shown:
 - a. Explanation of drainage easements, if any.
 - b. Explanation of site easements, if any.
 - c. Explanation of reservations, if any.
 - d. Endorsement of owner, as follows:
 Approved for filing:

Owner
Date
- O. Form for endorsements by Commission Chairman as follows:
 Approved by Resolution of the
 Planning Commission.

Chairman
Date
- P. The lack of information under any item specified herein, or improper information supplied by the applicant, shall be cause of disapproval of a preliminary plat.

5.3 Construction Plans

5.3-1 General—Construction plans shall be prepared for all required improvements. Plans shall be drawn at a scale no more than one (1) inch equals fifty (50) feet, and map sheets shall be of the same size as the preliminary plat. The following shall be shown:

- A. Profiles showing existing and proposed elevations along center lines of all roads. Where a proposed road intersects an existing road or roads, the elevation along the center line of the existing road or roads within one hundred (100) feet of the intersection, shall be shown. Approximate radii of all curves, lengths of tangents and central angles on all streets.
- B. The Planning Commission may require, where steep slopes exist, that cross-sections of all proposed streets at one-hundred-foot stations shall be shown at five (5) points as follows: On a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line, and points twenty-five (25) feet inside each property line.
- C. Plans and profiles showing the locations and typical cross section of street pavements including curbs and gutters, sidewalks, drainage easements, servitudes, rights-of-way, manholes and catch basins; the locations of street trees, street lighting standards and street signs;

ARTICLE VI
DEFINITIONS6.1 *Usage*

- 6.1-1 For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this section.
- 6.1-2 Unless the context clearly indicates to the contrary, words used in the present tense include the future tense, words used in the plural number include the singular; the word "herein" means "in these regulations"; the word "regulations" means "these regulations."
- 6.1-3 A "person" includes a corporation, a partnership, and an unincorporated association of persons such as a club; "shall" is always mandatory; a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

6.2 *Words and Terms Defined*

Administrative Assistant to the Planning Commission—The officer as shall be appointed by the County Court to administer these regulations and to administratively assist other County Boards and Commissions. If no such officer shall be appointed, the Building and Zoning Inspector shall also serve as Administrative Assistant.

Alley—A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant—The owner of land proposed to be subdivided, or his representative. Consent shall be required from the legal owner of the premises.

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.

Bond—Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the County Court. All bonds shall be approved by the County Court wherever a bond is required by these regulations.

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

Building and Zoning Inspector—The person designated by the County Court to enforce the County Zoning Order. If no Administrative Assistant to the Planning Commission is appointed to administer these regulations, the Building and Zoning Inspector shall administer these regulations.

Capital Improvements Program—A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual County operating expenses, for the purchase, construction or replacement of the physical assets for the community are included.

Central Water System—A private water company formed by a developer to serve a new community development in an outlying area. It includes water treatment and distribution facilities.

Central Sewerage System—A community sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.

Collector Roads—A road intended to move traffic from local roads to secondary arterials. A collector road serves a neighborhood or large subdivision and should be designed so that no residential properties face onto it.

Community Design Review Board—A board established by the County Court to provide technical services to the Planning Commission in the administration of these regulations.

Construction Plan—The maps or drawings accompanying a subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission as a condition of the approval of said plat.

County Attorney—The County Prosecuting Attorney or such licensed attorney designated by the Prosecuting Attorney or County Court to furnish legal assistance for the administration of these regulations.

County Engineer—The County Highway Engineer or such professional engineer as shall be appointed by the County Court to administer these regulations.

County Health Officer—That person designated to administer the health regulations of the County.

Cul-De-Sac—A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Easement—Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Escrow—A deposit of cash with the County in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the Building and Zoning Inspector in a separate account.

Final Plat—The map or plan or record of a subdivision and any accompanying material, as described in these regulations.

Flexible Zoning—Zoning which permits uses of land and density of buildings and structures different from those which are allowed as of right within the zoning district in which the land is situated. Flexible zoning applications shall include, but not be limited to, all special permits and special uses, planned unit developments, group housing projects, community unit projects, average density or density zoning projects.

Frontage—That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

Frontage Street—Any street to be constructed by the developer or any existing street in which development shall take place on both sides.

Grade—The slope of a road, street or other public way, specified in percentage (%) terms.

High Density—Those residential zoning districts in which the density is equal to or greater than one dwelling unit per 15,000 square feet.

Highway, Limited Access—A freeway, or expressway providing a trafficway for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.

Improvements—See Lot Improvements or Public Improvements.

Individual Sewage Disposal System—A septic tank, seepage tile sewage disposal system or any other sewage treatment device approved by the County Health Officer, the Missouri State Water Pollution Board and the County Engineer.

Local Road—A road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for sewer, water and storm drainage pipes.

Lot—A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

Lot, Corner—A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 135 degrees.

Lot Improvement—Any building, structure, place, work of art, or other object or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

Low Density—Those residential zoning districts in which the density is equal or less than one dwelling unit per 50,000 square feet.

Major Highway Plan—The plan established by the County Court, pursuant to Section 64.600 of the Revised Statutes of Missouri showing the streets, highways and parks, and drainage systems and set-back lines theretofore laid out, adopted and established by law, and any amendments or additions thereto adopted by the County Court, or additions thereto resulting from the approval of subdivision plats by the Planning Commission and the subsequent filing of such approved plats.

Major Subdivision—All subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of County facilities, or the creation of any public improvements.

Master Plan—A comprehensive plan for development of the County prepared and adopted by the Planning Commission, pursuant to Section 64.550 of the Revised Statutes of Missouri, and includes any part of such plan separately adopted and any amendment to such plan, or parts thereof.

Medium Density—Those residential zoning districts in which the density is between 15,000 and 50,000 square feet per dwelling unit.

Metropolitan Planning Commission—The Planning Agency established for the Metropolitan Kansas City Region to carry on comprehensive planning. The official title of such agency is Metropolitan Planning Commission—Kansas City Region.

Minor Subdivision—Any subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities, or the creation of any public improvements and not adversely affecting the remainder of the parcel or adjoining property and not in conflict with any provision or portion of the Master Plan, Major Highway Plan, Zoning Order, or these regulations.

Missouri State Board of Health—The Agency of the Department of Public Health and Welfare, including the Division of Health, as designated by the state of Missouri.

Missouri Water Pollution Board—The official State agency delegated with the control of water pollution.

Model Home—A dwelling unit used initially for display purposes which typifies the type of units that will be constructed in the subdivision. Such dwelling units may be erected, at the discretion of the Planning Commission, by permitting a portion of a major subdivision involving no more than two (2) lots to be created according to the procedures for minor subdivisions, as set out in Section 2.3-8 of these regulations.

Municipality—For the purposes of these regulations, any city, township, village or county established pursuant to the Revised Statutes of Missouri.

Neighborhood Park and Recreation Improvement Fund—A special fund established by the County Court to retain monies contributed by developers in accordance with the "money in lieu of land" provisions of these regulations within reasonable proximity of the land to be subdivided so as to be of local use to the future residents of said subdivision.

Non-Residential Subdivision—A subdivision whose intended use is other than residential, such as commercial or industrial. Such subdivision shall comply with the applicable provisions of these regulations.

Off-Site—Any premises not located within the area of the property to be subdivided whether or not in the same ownership of the applicant for subdivision approval.

Official Master Plan—See Master Plan.

Owner—Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

Ownership, Same—See Same Ownership.

Perimeter Street—Any existing street to which the parcel of land to be subdivided abuts on only one (1) side.

Planning Commission—The County Planning established in accordance with Chapter 64 of the Revised Statutes of Missouri.

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.

Primary Arterial—A road intended to move through traffic to and from such major attractors as central business districts, regional shopping centers, colleges and/or universities, military installations, major industrial areas and similar traffic generators within the County; and/or as a route for traffic between communities or large areas.

Public Improvement—Any drainage ditch, roadway, parkway, sidewalk, pedestrianway, tree, lawn, off-street parking area, lot improvement or other facility for which the County may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which County responsibility is established. All such improvements shall be properly bonded.

Registered Engineer—An engineer properly licensed and registered in the State of Missouri.

Registered Land Surveyor—A land surveyor properly licensed and registered in the State of Missouri.

Resubdivision—A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right-Of-Way—A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown 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 intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

Roads, Classification—For the purpose of providing for the development of the street, highways, roads and rights-of-way in the County and for their future improvement, reconstruction, realignment and necessary widening, including provision for curbs and sidewalks, each existing street, highway, road and right-of-way, and those located on approved and filed plats, have been designated on the Major Highway Plan of the County and classified therein. The classification of each street, highway, road and right-of-way is based upon its location in the respective zoning districts of the County and its present and estimated future traffic volume and its relative importance and function as specified in the Master Plan of the County. The required improvements shall be measured as set forth for each street classification on the Major Highway Plan.

Road, Dead-End—A road or a portion of a street with only one (1) vehicular-traffic outlet.

Road Right-Of-Way Width—The distance between property lines measured at right angles to the center line of the street.

Sale or Lease—Any immediate or future transfer of ownership, including contract of sale or transfer, of an interest in a subdivision or part thereof, whether by metes and bounds, deed, contract, plat, map or other written instrument.

Same Ownership—Ownership by the same person, corporation, firm, entity, partnership or unincorporated association; or ownership by different corpora-

tions, firms, partnerships, entities or unincorporated associations, in which a stockholder, partner or associate or a member of his family owns an interest in each corporation, firm, partnership, entity or unincorporated association.

Secondary Arterial—A road intended to collect and distribute traffic in a manner similar to primary arterials, except that these roads service minor traffic generating areas such as community-commercial areas, primary and secondary educational plants, hospitals, major recreational areas, churches and offices and/or designed to carry traffic from collector streets to the system of primary arterials.

Setback—The distance between a building and the street line nearest thereto.

Screening—Either (A) a strip of at least ten (10) feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year-round dense screen at least six (6) feet high. (B) an opaque wall or barrier or uniformly painted fence at least six (6) feet high.

Either (A) or (B) shall be maintained in good condition at all times, and may have no signs affixed to or hung in relation to the outside thereof except the following: for each entrance, one (1) directional arrow with the name of the establishment with "For Patrons Only" or like limitation, not over two (2) square feet in area, which shall be non-illuminated. Where required in the district regulations, a screen shall be installed along or within the lines of a plot as a protection to adjoining or nearby properties.

Shade Tree—A tree in a public place, street, or special easement adjoining a street as provided in these regulations.

Sketch Plat—A sketch preparatory to the preparation of the preliminary plat (or subdivision plat in the case of minor subdivisions) to enable 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.

Street—See Road.

Structure—Any construction above or below ground.

Subdivider—Any person who (1), having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2), directly or indirectly, sells, leases or develops or offers to sell, lease or develop, or advertises for sale, lease or development, any interest, lot, parcel cite, unit or plot in a subdivision, or, who (3) engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel site, unit or plot in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

Subdivision—Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease, or development, either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. Subdivision includes the division or development of residential and nonresidential zoned land, whether by deed, metes and bounds description, map, plat or other recorded instrument.

Subdivision Agent—Any person who represents, or acts for or on behalf of, a subdivider or developer, in selling, leasing or developing or offering to sell, lease or develop any interest, lot, parcel, unit, site or plot in a subdivision, except an attorney at law whose representation of another person consists solely of rendering legal services.

Subdivision, Major—See Major Subdivision.

Subdivision, Minor—See Minor Subdivision.

Subdivision Plat—The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented to the Planning Commission for approval and which, if approved, may be submitted to the County Recorder of Deeds for filing.