

SECTION 2: GENERAL PROVISIONS

2-1 COMPLIANCE WITH COMPREHENSIVE PLAN, ZONING ORDINANCE, AND OFFICIAL MAP

No subdivision of land shall conflict with the provisions of the Comprehensive Plan, Zoning Ordinance, or Official Maps.

2-2 FEES

A subdivision application shall be accompanied by a fee established by City ordinance to pay for costs associated with the application processing and review. Said fee ordinance will be annually reviewed and updated. Any and all expenses incurred by the City for engineering, planning, legal or other services related to the review and processing of the subdivision application that exceeds the established application fee shall be collected from the applicant.

The acceptance of all applications, issuance of permits, or recording of any plat shall not occur until a complete application has been filed and the appropriate fees have been paid.

2-3 BUILDING PERMITS

Except for model homes or other special circumstances approved by the City Council, no building permit shall be issued by the City with respect to any land, parcel or lot until the provisions of this Ordinance in regard to the subdividing of property have been met. No building permit shall be issued for a platted outlot.

2-4 VARIANCES

The City may grant a variance from the minimum standards of this Ordinance (not procedural provisions) when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the City shall prescribe any conditions that it deems necessary to or desirable for the public interest. In granting a variance, the City shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be granted when the City finds that there are special circumstances or conditions affecting the property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land. Also, that the granting of the variance will not be detrimental to the public health, safety, and welfare or injurious to other property in the territory in which property is situated. Also, that the

variance is to correct inequities resulting from an extreme physical hardship such as topography, etc.

2-5 PREMATURE SUBDIVISION

Any sketch plan, preliminary plat, final plat deemed premature pursuant to the following criteria shall be denied by the City Council:

A. Conditions for Establishing a Premature Subdivision

A subdivision may be deemed premature should any of the following conditions not be met:

1. Consistency with the Comprehensive Plan including any of the following:
 - a. Delano Comprehensive Plan.
 - b. Comprehensive Sanitary Sewer Plan.
 - c. Master Water Study.
 - d. Stormwater Management Plan.
 - e. Comprehensive Trail Plan.
 - f. Capital Improvement Plan.
2. Consistent with Growth Policies. A proposed urban subdivision shall meet the City's infill policies:
 - a. The urban subdivision must be located within the staged growth area as established by the City's Comprehensive Plan.
 - b. The cost of utilities and street extensions must be covered by one or more of the following and approved by the City Council:
 - (1) An immediate assessment to the proposed subdivision.
 - (2) One hundred (100) percent of the street and utility costs are privately financed by the developer.
 - (3) The cost of regional and/or oversized trunk utility lines can be financed with available City trunk funds.
 - (4) The cost and timing of the expenditure of City funds are consistent with the City's capital improvement plan.

- c. The cost, operation and maintenance of the utility system are consistent with the normal costs as projected within the City's water, sewer, and stormwater utility rates.
 - d. The developer payments will offset additional costs of utility installation or future operation and maintenance.
- 3. Roads or Highways to Serve the Subdivision. A proposed subdivision shall have adequate roads or highways when:
 - a. Roads or highways providing access to a subdivision are functioning at a level of service (LOS) D or better, as defined by the 2000 Highway Capacity Manual, as amended from time to time.
 - b. Traffic generated by a proposed subdivision will maintain the levels of service (LOS) of any street providing access to the subdivision to a LOS D or better, as defined by the 2000 Highway Capacity Manual, as amended from time to time.
 - c. Existing roads providing access to the subdivision have the structural capacity to accommodate projected traffic from the proposed subdivision or the developer will pay to correct any structural deficiencies.
 - d. The traffic generated from a proposed subdivision shall not require City street improvements that are inconsistent with the Delano Capital Improvement Plan or the developer shall pay to correct any street deficiencies.
 - e. The developer will finance any street improvements or upgrades required by the City's Comprehensive Plan or County Highway Department to insure proper traffic flow and traffic safety.
- 4. Water Supply. A proposed subdivision shall be deemed to have an adequate water supply when:
 - a. The City water system has adequate wells, storage, or pipe capacity to serve the subdivision.
 - b. The water utility extension is consistent with the Delano Master Water Study and offers the opportunity for water main looping to serve the urban subdivision.

- c. The extension of water mains will provide adequate water pressure for personal use and fire protection.
- d. Adequate well head protection measures have been implemented for all abandoned wells.

5. **Waste Disposal Systems.** A proposed subdivision shall be served with adequate waste disposal systems when:

- a. The City has sufficient waste treatment plant and pipe capacity to serve the subdivision if developed to its maximum density.
- b. The subdivision will result in a sewer extension consistent with Delano's Comprehensive Sanitary Sewer Plan and Capital Improvement Plan.

6. **Lack of Adequate Drainage.** A condition of inadequate drainage shall be deemed to exist if:

- a. Surface or subsurface water retention and runoff are such that it constitutes a danger to the structural security of existing or proposed structures.
- b. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.
- c. The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.
- d. Factors to be considered in making these determinations may include: average rainfall for the area; the relation of the land to floodplains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.

B. Burden of Establishing

The burden shall be upon the applicant to show that the proposed subdivision is not premature.

2-6 DENIAL OF PLAT

The Planning Commission may recommend denial and the City Council may deny the subdivision if it makes any one or more of the following findings:

- A. That the proposed subdivision is in conflict with adopted applicable general and specific comprehensive plans of the City.
- B. That the physical characteristics of this site, including but not limited to topography, percolation rate, soil conditions, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention, are such that the site is not suitable for the type of development, design, or use contemplated.
- C. That the site is not physically suitable for the proposed density of development.
- D. That the design of the subdivision or the proposed improvements are likely to cause environmental damage.
- E. That the design of the subdivision or the type of improvements are likely to cause public health problems.
- F. That the design of the subdivision or the type of improvements will conflict with easements of record or with easements established by judgment of a court.
- G. That the proposed subdivision, its site, or its design adversely affects the flood-carrying capacity of the floodway, increases flood stages and velocities, or increases flood hazards within the floodway fringe or within other areas of the City.
- H. The proposed subdivision is inconsistent with the policies and standards of the State defined shoreland, floodplain, and wetland regulations.
- I. The City Council deems the subdivision to be premature.
- J. The design of the subdivision does not conform to minimum City development standards.
- K. The time period for review of the plat has reached expiration without resolution of design features or conformance with City development regulations that would allow for City approval.

