

## **175.04 IMPROVEMENTS.**

### **1. General Requirements for Improvements.**

A. **Improvements Required.** The subdivider shall, at his/her expense, construct the improvements required by this chapter. The required improvements shall be designed in accordance with the requirements set forth in the Design Standards Manual. The drawings and technical specifications shall be approved by the City Engineer prior to commencing construction of the proposed improvements. The proposed improvements shall be constructed in accordance with the drawings and technical specifications as approved by the City Engineer.

B. **Plans Required.** Plans and specifications shall be in essential conformity with the approved preliminary plat and grading plan and shall conform to standard engineering practices and the Design Standards Manual of the City.

C. **City Engineer's Review.** The City Engineer shall review the plan of improvements for conformance to the Design Standards Manual and the approved preliminary plat and grading plan and shall either approve, approve with conditions or disapprove the plan of improvements by written statement within a reasonable time after their filing. If the City Engineer's review of the plans as submitted reveals a deficiency or error requiring the material revision and resubmittal of the plans, the approval process shall recommence at the time of submittal of the revised plans. The developer may seek a variance from the required standards or file an appeal of any portion of the City Engineer's decisions or interpretations to the Council. The plan of improvements shall be reviewed by the City Engineer prior to the Commission and/or Council consideration of the final plat. The final plat shall not be considered by the Council until the plan of

improvements has been approved by the City Engineer. No construction shall begin on subdivision public improvements until the plan of improvements has been approved. No construction field changes shall be made without the written approval of the City Engineer.

D. Installation of Improvements. Before the final plat of any subdivision is approved and recorded, the public improvements required under this section shall have been either installed or assured as provided under subsection 3 of this section.

E. Improvement Requirements for Extraterritorial Subdivisions. Whenever, pursuant to Section 175.01(3), the City reviews a subdivision located in its extraterritorial review jurisdiction, the City may require, in lieu of construction and installation of sanitary sewers, sidewalks, storm sewers, Portland cement concrete street paving, municipal water service, or any one or more of these public improvements, that the subdivider enter into an agreement to pay for said improvements or to allow for the installation and assessment of all the costs of said improvements at the time of or subsequent to voluntary or involuntary annexation.

2. Required Improvements.

A. Monuments. Monuments shall be made of a permanent material sensitive to a dip needle and shall be 5/8-inch in diameter or larger and shall extend at least 30 inches below the finished grade. Permanent monuments shall be placed at all section and quarter section corners within the subdivision and at each block corner, lot corner, point of curvature, and points of tangency of street lines and at each angle point. Deviations from and/or substitutions for these standards must have the prior approval of the City Engineer.

B. Grading of Lots. The subdivider shall grade any or all portions of the property subdivided with lots so that each lot will be suitable and usable for the erection of residential or other structures thereon and according to the approved Grading Plan.

C. Erosion and Sediment Control. All development shall comply with the applicable City, State, and Federal erosion and sediment control and storm water quality regulations. Storm sewers shall not outlet onto undeveloped property unless adequate erosion control measures are taken to assure compliance with the State Erosion Control Law and Chapter 155 of this Code of Ordinances. The subdivider shall execute an erosion control affidavit in the form prescribed by the Soil Conservation Service prior to any significant soil disturbing activity.

D. Sidewalks. Concrete sidewalks shall be constructed on both sides of the street in all subdivisions in conformance with the Design Standards

Manual. Construction of sidewalks adjacent to lots in subdivisions may be deferred until a Building Permit has been issued for the adjacent lot, however said deferral shall not include corner ramp improvements or exceed 5 years beyond approval of the final plat of which the lot is located. The deferral of sidewalks within a final plat beyond the established 5 years shall not be extended unless specifically approved by City Council. No Certificate of Occupancy shall be issued until such time as the sidewalks have been constructed.

Deferral of sidewalks as provided for in this section will require the subdivider to enter into an agreement to complete sidewalk improvements. The performance of such construction shall be secured consistent with Section 175.04(3), Guarantees of Performance.

Notwithstanding the above, the Council may defer the requirement for installation of required sidewalks at the time of construction of improvements for the subdivision in excess of the aforementioned timeframe if it is determined that there is no public need for sidewalks. If no public need has been determined to exist, the subdivider shall enter into an agreement to install sidewalks at such time in the future as the City Council may pass a resolution of necessity for said sidewalks. Additionally, the subdivider shall provide performance of such construction consistent with Section 175.04(3), Guarantees of Performance.

*(Ord. 14-11 – Aug. 14 Supp.)*

E. Street Construction. When the subdivision abuts an existing unimproved street, the owner may be required to provide assurance that such street will be graded and paved as required by the City's Major Street Plan and the Design Standards Manual. Such assurance shall be in the form as provided in subsection 3 of this section (Guarantees of Performance), except that the cash, cash escrow account or irrevocable letter of credit requirement of paragraph (A)(4) of said subsection will not be applicable. When the subdivision is to be bounded by a one-half width street right-of-way, the subdivider shall be required to grade and pave one-half of the street width required by the City's Major Street Plan and the Design Standards Manual. If the Design Standards Manual require construction of a full width street to assure two-way traffic capacity, the subdivider shall be required to secure agreements as necessary with the owner of the adjacent property to provide for construction of a full width street.

F. Extension of Improvements. The subdivider shall extend public improvements to include street paving, sanitary sewer, storm sewer, water main and sidewalk throughout the subdivision to assure availability to contiguous property, unless expressly waived by Council.

G. Sanitary Sewer. The subdivider shall install sanitary facilities as specified in the approved plan of improvements and in conformance with the Design Standards Manual. Sanitary facilities shall include sanitary sewer connection to the public sanitary sewer system unless an alternative sanitary system is approved by the Linn County Health Department and by the Council as part of the plan of improvements for the subdivision.

H. Water Supply. The subdivider shall install water supply facilities as specified in the approved plan of improvements and in conformance with the standards and specifications established by the Board of Trustees of the Marion Water Department. Installation shall be subject to the approval of the Water Department Administrator. If the approved water supply is from private wells, the plan of improvements and the lot layout must be approved by the Linn County Health Department and the Board of Trustees of the Marion Water Department. Fire hydrants shall be installed in conformance with the Standards and Specifications established by the Marion Water Department Board of Trustees subject to approval of the location thereof by the Fire Chief.

I. Off-Site Improvements. In the event that a subdivision is determined to require new or enhanced public improvements outside of the property being subdivided, it shall be the responsibility of the subdivider to provide such public improvements in a form as may be acceptable to the Council.

J. Public Utilities.

(1) Installation Required. In addition to sanitary sewer and water, other public utilities such as electricity, natural gas, telephone and cable television shall be installed to provide service to each building lot within the subdivision.

(2) Underground Public Utilities. Except in industrially zoned areas, and as provided in the following subsection, all utility transmission lines, including, but not limited to, electric, telephone, street lighting, cable television, and fiber optic systems shall be installed underground. Appurtenances and associated equipment, such as but not limited to surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts in an underground system may be placed above ground. Underground utilities need not be installed in the following instances:

a. Any relocation of a service on a lot when it does not necessitate any increase in the number of existing overhead lines and/or utility poles.

b. Any increase of service size including single phase to three phase conversion, if no additional overhead lines and/or utility poles are required.

c. For any new service when utility poles exist along abutting property lines which are not separated by any alley or public right-of-way and no additional utility poles are required.

d. Installation of new or replacement feeder lines and/or transmission lines provided that the location, physical appearance, and construction permits are specifically approved by the Council.

(3) The Council may grant waivers for underground utility installation in the following instances:

a. Remodeling or altering of a building or structure.

b. Enlarging an existing use.

c. Temporary uses, including directional signs, temporary stands, construction poles, water pumps, and similar uses. The City Engineer may approve underground utility waivers for temporary uses of less than six (6) months duration.

(4) The following criteria shall be considered by the Council prior to approving, conditionally approving, or denying requests for underground utility waivers:

a. The age and anticipated life of the existing structure.

b. The ratios of the cost of underground utilities to the cost of any remodeling or addition.

c. The existing utility service in the area.

d. Existing overhead utilities shall not be perpetuated or expanded to the detriment of the aesthetics of the City.

e. Such other factors as the Council deems necessary to maintain the intent of this section.

K. Street Lighting. Street lighting shall be installed by the electric utility company at the expense of the subdivider in compliance with the City's standards for street light location. The City Engineer shall approve of the type and location of street lighting fixtures as part of the plan of improvements.

L. Street Signs. Permanent street identification and traffic control signs and devices shall be installed at the subdivider's expense at the direction of the City Engineer.

M. Buffers and Screening. When the Council determines a need, the subdivider shall install landscaping features and plantings to provide a buffer or screening from high traffic capacity streets and intensive land uses.

N. Front Yard Trees. At a minimum, there shall be planted one tree at each single-family residential lot. For residential uses other than single-family residential in the R-3 and R-6A zone districts, street trees shall be planted at a ratio of one tree for every 60 feet of frontage. Front yard trees for all development in the R-4, R-5 and R-6 districts shall be in accordance with the applicable landscape standards adopted by resolution of the Council. Such trees may be located in either the required front yard or in the right-of-way adjacent to such lot, subject to the approval of the City Forester. Trees shall be nursery grown, straight stemmed, free from disease, balled burlapped and planted, staked and/or guyed in accordance with arborists' practices for the area. The height shall be at least six (6) feet after pruning. Varieties and locations of trees planted in accordance with this paragraph shall be subject to all other applicable City ordinances and regulations.

3. Guarantees of Performance.

A. Agreement. In lieu of the requirement that public improvements be completed prior to approval of the final plat, the subdivider may enter into an agreement to complete said public improvements. Such agreement shall provide for completion and acceptance of said improvements within a one-year period of time unless specifically extended by the Council. The performance of such construction shall be secured in one of the following manners as may be approved by the Council:

(1) The filing of cash with the Finance Director or in an escrow account at an acceptable financial institution in an amount equal to 120% of the cost of the improvements to be completed as estimated by the City Engineer. The subdivider may withdraw or reduce the amount of the security in amounts approved by the City Engineer as improvements are installed and inspected. Not more than ninety percent (90%) of said cash may be withdrawn prior to filing of the required maintenance bonds and acceptance of the improvements by the City. An escrow account at an approved financial institution wherein the City can withdraw funds by its Finance Director's signature alone, and the City Finance Director's signature along with the subdivider's signature is required for withdrawal by the subdivider, will satisfy this security requirement.

(2) The filing of a surety bond issued by an insurance company or bonding company acceptable to the Council upon which the subdivider is a principal and the City is the sole obligee. The bond shall be in an amount equal to the cost of the improvements as estimated by the City

Engineer. The assignment of subcontractor bonds by the subdivider will not satisfy the provisions of this paragraph.

(3) The filing of an irrevocable letter of credit from a bank or other financial institution acceptable to the Council in an amount equal to 120% of the cost of the improvements as estimated by the City Engineer. The letter of credit shall provide that if all required public improvements are not completed and accepted by the City prior to the expiration commitment, the City may draw sufficient funds from the letter of credit to finance the construction of the uncompleted public improvements.

(4) The filing of a petition, waiver of notice and consent to special assessment for installation by the City of the required improvements and an irrevocable guarantee by a bank or other acceptable financial institution that a bid will be submitted on special assessment bonds issued by the City to pay for the installation of said improvements. The filing of said petition shall be accompanied by the filing of cash, cash escrow account or irrevocable letter of credit in an amount of 10% of the cost of the improvements as estimated by the City Engineer.

B. Releases. The City Engineer may release specific lots within the subdivision from effect of any of the special conditions under this subsection, if, and only if, all public improvements needed to provide services to the lot have been accepted by the Council, with the exception of minor cleanup items.

C. (Repealed by Ord. 14-11 – Aug. 14 Supp.)

D. Form of Documents. All documents guaranteeing performance of the contract shall be in a form approved by the City Attorney. If improvements are not completed within the time specified, the Council may use the security or any necessary portion thereof to complete said improvements. The Council may allow an extension of time for completion of improvements consistent with the security provided. The subdivider may enter into a memorandum of agreement with the City with respect to any unusual circumstances relative to construction of, or cost sharing for any required public improvements.

4. Inspection and Testing of Improvements. The subdivider or his or her designee shall notify the City Engineer before construction of each public improvement in order to facilitate the inspection to assure that said improvements are constructed in accordance with the approved plans, profiles and specifications. It is the ultimate responsibility of the subdivider and his or her professional engineer to provide assurance that the required improvements are constructed in accordance with the approved plan of improvements for the subdivision, the Design Standards Manual and with any specific standards contained in this Code of Ordinances. The City Engineer may require testing by qualified professional

testing services of the capacity, durability and other factors regarding the installation of public improvements as he or she may deem necessary to assure that the public improvements meet the Design Standards Manual and any specific standards contained in this Code of Ordinances or the laws of the State of Iowa or the United States. The Council may establish a schedule of fees for City inspection of public improvements and/or to cover City expenses related to such testing. The developer shall pay all costs associated with geotechnical testing that is required by this section. *(Ord. 05-26 – Nov. 05 Supp.)*

5. Acceptance. Acceptance of completed public improvements by resolution of the Council shall be based upon favorable recommendation by the City Engineer following receipt of maintenance bonds as prescribed in the Design Standards Manual. The public improvements become the property of the City upon acceptance.