

CHAPTER 175

SUBDIVISION REGULATIONS

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175.01 GENERAL PROVISIONS.

1. Application. The regulations contained in this chapter shall apply to the subdivision of a lot, tract or parcel of land into two (2) or more lots, tracts or other divisions of land for the purpose of sale, transfer, or of building development, whether immediate or future, including the resubdivision or replatting of lots or land. They shall also apply to each situation where there is a dedication of streets, alleys, easements or land for other public use.

A. Any subdivision of land as described above shall not create substandard lots as defined or set out by any existing applicable ordinances.

B. The above provisions shall not be construed to limit the acceptance of deeds, right-of-way or other land by the Council when such acceptance is in the public interest.

C. These provisions shall not be construed to prohibit the sale of a portion of a legally platted lot by one owner to the owner of an adjoining legally platted lot provided: (a) the grantor's lot is not rendered substandard by being in violation of any of the provisions of the building, zoning, or subdivision ordinances of the City; and (b) the number of building parcels is not increased as a result of such conveyance.

D. The conveyance of an easement shall not be considered a subdivision for the purpose of this chapter.

2. Authority. These regulations are adopted pursuant to Chapter 354 of the Code of Iowa.

3. Extra-Territorial Jurisdiction. Pursuant to Section 354.9 of the Code of Iowa, the City hereby establishes its authority to review and approve subdivisions located within two (2) miles of its corporate boundaries.

4. Interpretation. The provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

5. Conflicts. These regulations are not intended to interfere with, abrogate, limit, repeal, or annul any other ordinance, rule or regulation, statute, provision of law, or easement, covenant, or other private agreement or restriction. Where any provision of these regulations imposes a restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, statute or other provision of law, whichever provisions are more restrictive or impose a higher standard shall control and prevail.

6. Variances. Where it can be shown that strict compliance with the requirements of this chapter will result in hardship to the applicant, the Council may vary, modify, or waive the requirements of this chapter so substantial justice may be done and the public interest secured. No such variance, modification, or waiver should have the effect of nullifying the intent and purpose of this chapter. In no case shall any variance or modification be more than minimum easing of the requirements as necessary to eliminate the hardship. In so granting a variance, the Council may impose such additional conditions as are necessary to substantially secure the objectives of the requirements so varied, modified, or waived. A request for a variance must be submitted in writing to the Council. The request shall state the grounds for the request and all the pertinent facts of the case.

7. Waivers for Subdivisions of Existing Platted Lots. The Council may waive the requirements of this chapter where existing platted lots are subdivided if all of the following conditions are satisfied:

A. The resulting lots are not substandard as defined or set out by existing applicable ordinance.

B. All public improvements are installed or will be installed as a condition of the waiver of said platting requirements.

C. All necessary public right-of-way or easements are provided.

D. A restrictive covenant is filed of record or other sufficient assurance is provided to deter or prohibit further re-subdivision without compliance with this chapter.

E. No more than two lots are created as a result of the subdivision.

8. Exceptions for Industrially Zoned Real Estate. The requirements of this chapter shall be inapplicable to industrially zoned real estate within the City when all of the following circumstances exist:

- A. The parcel to be divided is a lot within a subdivision previously approved by the Council and has not previously been subdivided.
- B. The proposed subdivision will divide such legal lot into no more than two parts.
- C. The proposed subdivision shall not create a substandard lot as defined or set out in this chapter.

9. Recording of Plat. No subdivision of land within the area of jurisdiction of these regulations shall be filed for record with the County Recorder until such subdivision has been reviewed and approved pursuant to this chapter. Upon the approval of a final plat by the Council, it shall be the duty of the subdivider to immediately file such plat with the County Recorder as provided by Chapter 354 of the Code of Iowa. Unless such plat has been duly recorded and evidence thereof filed with the Clerk within ninety (90) days of approval by the Council, such approval shall be revocable by the Council.

10. Enforcement, Violations and Penalties:

- A. No building permits or certificates of occupancy shall be issued for any parcel or plat of land divided contrary to the provisions of this chapter.
- B. The Planning and Development Director shall enforce these regulations and shall bring to the attention of the City Attorney any violations or lack of compliance herewith.
- C. No owner, or agent of an owner, of land shall transfer or sell any lot or parcel divided from a larger parcel except in compliance with these regulations.
- D. Any person who fails to comply with or violates this chapter shall be subject to penalties as provided in Section 1.10 and/or Chapter 4 of this Code of Ordinances.
- E. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this chapter.
- F. The Council shall establish, from time to time, by resolution, fees for the review of plats. No plat for any subdivision or resubdivision shall be considered filed with the Clerk until all fees applicable to the plat have been received.

G. Preliminary and final plats of owners may be rejected for processing under this chapter of the Code of Ordinances when the owner has another subdivision in process and with respect thereto is failing or refusing to meet the requirements of this chapter.

(Ord. 02-16 – Aug. 02 Supp.)

175.02 DEFINITIONS. Terms defined in other chapters of this Code of Ordinances, including the Zoning Ordinance, Storm Water Management and Erosion and Sediment Control chapters, also apply to this chapter unless they conflict with a specific definition contained herein. The following words are defined for use in this chapter and shall be interpreted as follows:

1. “Abutting” means having a common boundary.
2. “Addition” means subdivision.
3. “Adjacent” means nearby (may or may not be abutting).
4. “Aliquot part” means a one-half, one-quarter, one-half of one-quarter or one-quarter of one-quarter fractional part of a section within the United States public land survey system.
5. “Alley” means a minor right-of-way dedicated to the public use, which is primarily for vehicular access to the back or the side of properties otherwise abutting on a street.
6. “Auditor’s Plat” – See “Plat, Auditor’s.”
7. “Block” means a land area within a subdivision which is entirely surrounded by public streets, streams, railroad rights-of-way, etc., or a combination thereof.
8. “Buildable area” means the area of a lot remaining, which may be built upon, after requirements of the Zoning Ordinance and the Flood Plain regulations, any easements and site specific physical limitations have been observed.
9. “City Engineer” means the City Engineer of the City.
10. “Commission” means the Planning and Zoning Commission of the City.
11. “Comprehensive Development Plan” means the plan or series of plans made for the future development of the area as approved and adopted from time to time by the Council. Such plans may indicate the general locations recommended for major streets, parks, public facilities, land uses, and other public improvements. Such plans may also contain statements of

policy of the City with respect to the physical development of the community.

12. “Conveyance” means a legal instrument filed with the County Recorder as evidence of the transfer of title to land, including any form of deed or contract.

13. “Cul-de-sac” means a dead-end street having its closed end terminated in a vehicular turn-around or a circular paved area used for a vehicular turn-around at the end of a dead-end street.

14. “Days” means, unless otherwise specified, calendar days.

15. “Dedication” means a grant by the owner of title in fee simple of real property to the City for use as a public street, park, or other public facility.

16. “Design Standards Manual” means the latest edition of SUDAS as approved by the City Council.

(Ord. 15-24 – Feb. 16 Supp.)

17. “Developer” – See “Subdivider.”

18. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than a public highway or street easement, shall not be considered a division for the purpose of this chapter.

19. “Easement” means authorization by a property owner for the use by another of any designated part of said person’s property for a specified purpose.

20. “Engineering Department” means the Engineering Department of the City.

21. “Escrow” means a deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the Finance Director in a separate account.

22. “Final plat” means the map or plan or record of a subdivision and any accompanying material, as described in these regulations.

23. “Flood hazard area” means any land susceptible to being inundated by water as a result of a flood, and specifically, any land subject to flooding by a one percent (1%) probability flood, otherwise referred to as a one hundred (100) year flood; as designated by the Iowa Department of Natural Resources, the Federal Insurance Administration, or specific engineering studies conducted on behalf of the City.

24. “Flood hazard area regulations” means Section 176.39 of this Code of Ordinances.
25. “Flood plain” – See flood hazard area.
26. “Frontage” means that side of a lot abutting on a street and ordinarily regarded as the front of the lot.
27. “Grade” means the slope of a road, street, or other public way expressed in terms of the ratio of rise to run as a percent.
28. “Grading plan” means a drawing of a proposed subdivision on a contour or topographic map showing existing and proposed contours at a contour interval of not more than five (5) feet and a scale of not less than one hundred (100) feet to the inch.
29. “Improvements” means the furnishing of all materials, equipment, work and services, including plans and engineering services, staking and supervision necessary. Changes and additions to land necessary to prepare it for building sites, including but not limited to street paving and curbing, grading, monuments, drainage ways, sewers, fire hydrants, water mains, sidewalks, street trees, pedestrian ways and other public and private works and appurtenances.
30. “Improvements, plan of” means maps, engineering drawings, specifications, plans, and such other information as may be necessary to define and describe the location, design, capacity, materials, and other characteristics of a proposed subdivision improvement.
31. “Legal description” means a description defining land boundaries legally sufficient for the purpose of sale and conveyance, tax assessment and collection, and recording.
32. “Lot” means a tract of land represented and identified by a number or letter designation on an official plat.
33. “Lot, corner” means a lot with frontage on two intersecting streets.
34. “Lot, double frontage” means a lot which is not a corner lot with frontage on two streets.
35. “Lot of record” means a lot in a subdivision, the plat of which, or parcel of land, the deed of which was filed in the office of the County Recorder prior to March 24, 1962.
36. “Lot width” means the width of a platted lot measured at the front setback line and/or the front lot line.

37. “Lot, zoning” means an area of contiguous land which is designated by the owner or developer to be used, developed or built upon as a unit under single or unified ownership or control. A zoning lot may be a part of a single platted lot or a combination of several platted lots or parcels.
38. “Metes and bounds description” means a legal description of land, which describes the boundaries of the parcel by using distances and angles or bearings, or by reference to physical features of the land.
39. “Owner” means the legal entity holding title to or having proprietary interest in the land being subdivided or such representative or agent as is fully empowered to act on its behalf.
40. “Parcel” means a part of a tract of land.
41. “Performance bond” means a surety bond or cash deposit made out to the City in an amount equal to the full cost of the improvements which are required by these regulations for a final plat, said cost being estimated by the City Engineer, and said surety bond or cash deposit being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this chapter.
42. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the Code of Iowa.
43. “Planning and Development Director” means the Planning and Development Director of the City.
44. “Plat” means the map or other graphical representation and supporting documentation of the subdivider’s plan for division of land.
45. “Plat, auditor’s” means a subdivision plat required by either the auditor or the assessor, prepared by a registered land surveyor under the direction of the County Auditor in accordance with Section 354.13 through 354.17 of the Code of Iowa.
46. “Plat, final” means a subdivision plat map drawn to the standards of Section 355.8 of the Code of Iowa and satisfying the provisions of Sections 354.6 through 354.11 of the Code of Iowa which is presented for approval pursuant to this chapter prior to filing with the County Recorder, Auditor and Assessor.
47. “Plat, final bound copy” means a final plat with all required certificates and documents for filing with the County Recorder, Auditor and Assessor.

48. “Plat, official” means either an auditor’s plat or a subdivision plat, which has been filed for record in the offices of the County Recorder, Auditor and Assessor.

49. “Plat, preliminary” means a drawing and supportive information as required in Section 175.03 indicating the proposed manner of layout of the subdivision to be approved by the Commission and the Council upon finding conformance with the requirements and standards of this chapter, the Comprehensive Development Plan, and other City policies.

50. “Plat, sketch” means a sketch of a proposed layout of lots, blocks, streets, and public improvements prepared for a pre-subdivision conference prior to submittal of a preliminary plat.

51. “Plat, subdivision” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for each lot within the plat and a succinct name or title that is unique within Linn County.

52. “Plat of survey” means the graphical representation of a survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor. The plat of survey is limited under these regulations to use for conveyance of single parcels of land, unless the requirements to file a subdivision plat are waived by the Council.

53. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding a mortgage, easement, or lien contract.

54. “Replat, re-subdivision” means a subdivision plat representing land that has previously been included in an official plat.

55. “Right-of-way” means a parcel of land intended to be occupied for streets, sidewalks, utilities, and other public purposes. In a plat, rights-of-way are to be separate and distinct from other lots or parcels. Rights-of-way intended for public facilities shall be dedicated to public use and title transferred to the appropriate public agency.

56. “Street” means a right-of-way serving more than one parcel of land which provides principal vehicular and pedestrian access to adjacent properties. Also, the paved area for vehicular travel located within such a right-of-way.

57. “Street, dead-end” means a street having only one end open to traffic.

58. “Street, frontage/backage” means a street located parallel to an expressway, major arterial street, or railroad to provide access to abutting properties.

59. “Subdivider” means the owner or agent under legal authority of the owner who undertakes to cause a parcel of land to be designed, constructed, and recorded as a subdivision.

60. “Subdivision” means a division of a tract of land into two (2) or more lots or parcels.

61. “Subdivision, major” means any subdivision which is not a minor subdivision because it requires either the construction of any public improvements or proposes new public or private streets or contains more than four (4) lots. Unless otherwise specified, the term subdivision as used within this chapter shall be assumed to refer to a major subdivision.

62. “Subdivision, minor” means any subdivision in which no new streets, public or private, are proposed and which does not require the construction of any public improvements and which contains no more than four (4) lots.

63. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 355 of the Code of Iowa.

64. “Tract” means an aliquot part of a section, a lot within an official plat or a government lot.

65. “Utility” means the services and facilities required to provide for the physical functions and activities in developed real property. “Utilities” includes but is not limited to sanitary sewer, water, natural gas, electricity, telephone, cable television and other facilities and services. Utilities may either be provided by public or private agencies.

175.03 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS.

1. Classification of Plats and Subdivisions. Plats and subdivision shall be classified as minor subdivisions, major subdivisions and auditor’s plats, as those terms are defined in Section 175.02.

2. Pre-subdivision Conference. Whenever a major or minor subdivision is proposed within the platting jurisdiction of the City, the subdivider may request a pre-subdivision conference with City staff, utility company representatives, and the parties responsible for the development of platting documents. The purpose of the pre-subdivision conference is to acquaint the City staff and utility company

representatives with the proposed subdivision and to acquaint the subdivider with the procedures and standards of the City and utility companies with respect to the proposed subdivision.

3. Sketch Plat. The subdivider may provide a map or sketch plat showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area. The subdivider may request that the sketch plat be submitted to the Commission and/or the Council for review prior to preparation of preliminary and final plats in order to determine the acceptability of the concepts for development of the land contained therein.

4. Plats Required. In order to secure approval of any proposed subdivision, the subdivider shall submit plats and other information to the City as required by this chapter.

A. Major Subdivision Plats Required. The subdivider of any major subdivision shall comply with the submittal requirements for a preliminary plat and for a final plat.

B. Minor Subdivision Plats Required. The subdivider of any minor subdivision is not required to submit a preliminary plat. Specific portions of the documents required for a preliminary plat may be required as part of the final plat submission if requested by City staff, the Commission, or Council.

5. Requirements for a Preliminary Plat. The subdivider shall prepare the preliminary plat and supportive materials in accordance with the Linn County Regional Planning Area Submission Requirement for Preliminary Plats as adopted by resolution of the Marion City Council.

(Ord. 00-44 – Feb. 01 Supp.)

6. Procedure for Review of Preliminary Plats.

A. Filing. The subdivider shall file the appropriate number of copies of the preliminary plat materials with the Planning and Development Department in accordance with established administrative procedures.

(1) Filing Fee. The preliminary plat shall be accompanied by a filing fee in accordance with a schedule of filing fees as adopted by the Council.

(2) Deadline. The preliminary plat shall be filed in accordance with the filing schedule as may be established by the Commission and/or Council. Preliminary plats filed

without all required documentation or filed later than this deadline will not be placed on the Commission agenda.

B. Distribution. The Planning and Development Department shall distribute copies of the preliminary plat and supporting documentation to the Council, the Commission, and the appropriate City Departments, and shall schedule the plat for consideration by the Commission. The subdivider shall distribute copies of the preliminary plat and supporting documentation to the public utilities and such other persons as necessary to review the plat.

C. Staff Review. The appropriate City staff shall review the preliminary plat and prepare reports of their findings and comments to the Commission and the Council.

D. Commission Review. The Commission shall examine the plat and staff reports and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the ordinances of the City, the Comprehensive Development Plan and other duly adopted plans and policies of the City. The Commission shall, within sixty (60) days of filing of the preliminary plat and all required supportive documentation, forward a report and recommendation regarding the preliminary plat to the Council. If such recommendation is for disapproval of the plat, the reasons therefor shall be set forth in writing and a copy of the report and recommendation shall be provided to the subdivider.

E. Council Review.

(1) The Council shall examine the preliminary plat and the reports of the Commission, staff, and such other information, as it deems necessary or desirable. The Council shall ascertain whether the plat conforms to the Ordinances of the City, the Comprehensive Development Plan, and other duly adopted plans and policies of the City.

(2) The Council may approve, approve subject to conditions, or disapprove the plat. If the Council disapproves the plat, the reasons therefor shall be set forth in writing by the Council.

(3) The Council shall take action on the preliminary plat within forty-five (45) days of the recommendations of the Commission, unless the time period is extended by agreement

of the subdivider and the City. If information or modifications are required before an approval can be granted, the Council may table the matter until the conditions have been met or the necessary information provided.

F. Submittal of the Approved Preliminary Plat. Following Council approval of a preliminary plat but prior to the submittal of the plan of improvements to the City Engineer, the subdivider shall file the appropriate number of copies of the approved preliminary plat with the Planning and Development Department in accordance with established administrative procedures.

G. Distribution of the Approved Preliminary Plat. The approved preliminary plat shall be stamped and signed by the Planning and Development Director. The Planning and Development Department shall distribute the stamped and signed copies of the approved preliminary plat to the appropriate City Departments, the public utilities and such other persons as necessary.

H. Duration of Approval of Preliminary Plat. The approval of a preliminary plat by the Council shall be valid for a period of two (2) years from the date of such approval, except that every preliminary plat or portion thereof not final platted shall be subject to a requirement of being re-platted in order to comply with any municipal, state or federal laws or regulations that have taken effect after approval of the preliminary plat. After a period of two (2) years, such approval of the preliminary plat shall be void unless some portion of the preliminary plat is filed as a final plat or the Council approves an extension on the period of validity. If the preliminary plat expires, the subdivider shall be required to resubmit a new preliminary plat for approval subject to the then current subdivision and zoning regulations before any development of the subdivision will be allowed. *(Ord. 03-25 – Feb. 04 Supp.)*

7. Requirements for Final Platting. The subdivider shall prepare the final plat and supportive materials in accordance with the Linn County Regional Planning Area Submission Requirement for Final Plats as adopted by resolution of the Marion City Council. *(Ord. 00-44 – Feb. 01 Supp.)*

8. Procedure for Review and Approval of Final Plats.

A. Filing. To initiate consideration of a final plat, the subdivider shall file copies of the final plat map with the Planning and Development Department of the City in accordance with established administrative procedures. The final plat shall be accompanied by a filing fee in accordance with a schedule of filing fees as adopted by the Council. The final plat shall also be

accompanied by payment of the storm water management fee, as required by the Storm Water Management ordinance. The final plat shall be filed in accordance with the filing schedule as may be established by the Commission or Council. Final plats submitted without filing fees paid or filed later than the deadline or not in complete form will not be placed upon the Commission agenda.

B. Commission Review. The Planning and Development Department shall schedule the final plat for consideration by the Commission as required below. If the final plat is in conformance with an approved preliminary plat for the area, no review or recommendation by the Commission is required.

C. If there is no approved preliminary plat or the final plat is not substantially in conformance with the approved preliminary plat, the Commission shall examine the final plat and the reports of the City Engineer and the Planning and Development Director and such other information as it deems necessary or desirable, to ascertain whether the plat conforms to the approved preliminary plat, the Ordinances of the City, the Comprehensive Development Plan, and other duly adopted plans and policies of the City. The Commission shall, within sixty (60) days of filing of the final plat with the Planning and Development Department, forward a report and recommendation regarding the plat to the Council. If the recommendation is for disapproval of the plat, the reasons therefor shall be set forth in writing and a copy of the report and recommendation shall be provided to the subdivider.

D. Council Review. The Council shall examine the final plat, the reports of the Commission, the Planning and Development Director, the City Engineer and such other information as it deems necessary or desirable. Upon completion of such examination, the Council shall ascertain whether the final plat conforms with an approved preliminary plat, the ordinances of the City, the Comprehensive Development Plan, other duly adopted plans and policies of the City. If all findings are affirmative, the Council shall approve the final plat.

E. The Council may refuse to consider a final subdivision plat submitted by a subdivider if that subdivider is not in compliance with the terms and conditions of a previously approved final plat of the same subdivider.

F. The Council shall take action on the final plat within twenty-one (21) days following the most recent date of receipt of:

- (1) The report of the Commission,
- (2) The bound copies of the final plat as described in subsection 7 of this section, or
- (3) Evidence that all required public improvements associated with the subdivision have either been installed or assurance provided as required in Section 175.04(3).

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.

175.05 PARK AND OPEN SPACE DEDICATION. *(Reserved for future use.)*

175.06 STANDARDS FOR DESIGN OF SUBDIVISIONS.

1. Standards Prescribed. The standards set forth in this chapter shall be considered the minimum standards necessary to protect the public health, safety, and general welfare. General standards for layout of the subdivision are set out in this section. Specific standards for design and construction of public improvements are set out in the Design Standards Manual as most currently approved by the Council and are incorporated herein by reference.

2. Land Suitability. The Council shall not approve the subdivision of land which they find during the subdivision review and approval process to be unsuitable for development by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare. The Council may require engineering analysis of conditions to determine whether land proposed for subdivision is suitable for development. The cost of said engineering studies shall be borne by the developer. If a subdivision is proposed for land which contains land unsuitable for development, the subdivider may proceed if it is determined during the review and approval process that the proposed subdivision provides adequate developable land within each lot and that all services can be provided to each lot and that the public interest is served. If the Council finds that the land within a proposed subdivision is unsuitable for development, the reasons for the determination shall be stated in writing and the subdivider shall be afforded an opportunity to present data regarding such unsuitability. Thereafter, the Council may reaffirm, modify or withdraw its determination regarding such unsuitability. The City Engineer may require at the subdivider's cost any tests and information necessary to determine the suitability of the land for development including recommendations for corrective measures for any unsuitable conditions identified.

3. Land Subject to Flooding. The subdivision of any land subject to significant flood hazard shall conform to the provisions of Section 176.39 of this Code of Ordinances.
4. Conformity with the Plans and Ordinances of the City. The arrangement, character, extent, width, and location of all streets and other public improvements, and the general nature and extent of all lots and uses proposed shall conform with the Comprehensive Development Plan, any other plan officially adopted by the City and with this Code of Ordinances.
5. Street Standards. The following standards shall apply to all public streets to be located within a subdivision:
 - A. Where the subdivision encompasses the alignment for a major street as identified in either the Linn County Regional Planning Commission Major Street Plan, the Marion Comprehensive Development Plan, or the Marion Major Street Ordinance, the plat shall provide for such major street on an alignment and with a right-of-way width in conformance with said adopted plans.
 - B. Minor Streets. Minor streets (local service) should be planned so as to discourage through traffic and to conveniently channel traffic to the collector and arterial streets.
 - C. Street Connectivity. A connected street network is required within neighborhoods. Street classes below collectors shall not directly connect two or more arterial streets, or an arterial and collector street to avoid cut-through traffic.
 - D. Street Continuity. Streets shall provide for the continuation of street alignments and grades from adjoining platted areas, and for the extension of streets into adjacent unplatted areas. Street alignments and grades shall take into consideration access needed to develop adjoining properties.
 - E. Dead-end Streets. Dead-end streets are prohibited. However, if a street is planned to continue beyond the subdivision, a temporary dead end may be allowed. A temporary turn-around meeting the Design Standards Manual shall be provided and maintained until such time as the street is extended.
 - F. Cul-de-sacs. Streets which connect to other streets are preferred for maintenance, fire protection, and circulation, but cul-de-sacs may be permitted where topography, low traffic volumes, or other conditions justify their use. Cul-de-sac streets should not

exceed six hundred (600) feet in length and must terminate in a circular right-of-way of not less than one hundred twenty (120) feet in diameter.

G. Street Right-of-Way. Street right-of-way shall be required within all subdivision plats consistent with the Street Classification identified in the Marion Transportation Plan. Standard right-of-way requirements corresponding to Street Classification are set out below:

CLASSIFICATION	STANDARD RIGHT-OF-WAY
Expressway	IDOT Design Criteria
Major Arterial	100 feet
Minor Arterial	80 feet
Collector	80 feet
Local Street	60 feet

(1) Standard street right-of-way widths have been established within much of the built environment. Street right-of-way width of existing streets have been established and are included in the Major Streets Right-of-Way Guide. The Major Streets Right-of-Way Guide is adopted by resolution and maintained by the Engineering Department.

(2) The minimum width for street rights-of-way shall conform to this section provided that the applicable conditions are met.

a. Rights-of-way for residential streets shall be determined by the need for such rights-of-way to protect the City and to enable future revisions to the street system, which can reasonably be foreseen.

b. Rights-of-way requirements for all collector and arterial streets shall consider the need for future widening and may be greater if required by the City Engineer.

c. Additional rights-of-way for pedestrian access or landscaping adjacent to paved streets shall be granted where sidewalks or other aesthetic enhancements are deemed necessary in addition to the street.

- d. If future widening is indicated, the rights-of-way width shall be minimum, consistent with accommodating the increased pavement.
 - e. Slopes adjacent to roadways, natural or manmade, may be placed within easements on individual properties rather than acquired as rights-of-way.
 - f. The minimum width provided in this section may be reduced by Council action if such reduction in width is offset by the reduction of on-street parking.
- H. **Partial Width Streets.** Partial width streets shall not be allowed except as part of development of a major street with a planned alignment straddling a property line. In such cases, the portion of the street to be developed must be wide enough to accommodate two-way vehicular traffic. In most cases, it shall be the responsibility of the subdivider to coordinate development of any street along the boundary of his or her property with the development of adjacent property in order to accomplish development of a full width street. Where an existing platted partial width street abuts a subdivision, a complementary partial width street to complete the street shall be required.
- I. **Intersection Angles.** Streets shall intersect as nearly as possible to right angles. No streets shall intersect at an angle of less than sixty (60) degrees.
- J. **Offset Intersections.** Street intersections with centerline offsets of less than one hundred twenty-five (125) feet shall be prohibited except where topography or other physical limitations make such jogs unavoidable.
- K. **Street Grades.** Street grades shall conform with the overall drainage pattern of the locality of the subdivision and shall be in compliance with the Design Standards Manual. Street grades and alignments shall be set to achieve safe vertical and horizontal sight distances as specified in the Design Standards Manual.
- L. **Street Naming.** New street names shall not be the same or sound similar to existing street names. Streets which are or will become extensions of existing streets shall be given the same names as the existing streets. In general, new street name suffixes should suggest the type and orientation of the street. For example,

“circle” and “court” should identify cul-de-sacs, and “lane,” “way,” “road” and “drive” should be applied to curving or diagonal streets. “Avenue” should never be applied to a street with a north-south general direction, and “street” should not be used for an east-west oriented street. Streets with a numerical name lying south of First Avenue must include a “South” prefix in the name, and Avenues with a numerical name lying west of First Street must include a “West” prefix in the name.

M. Provision for Additional Streets. When a tract of land is subdivided into large lots, such lots shall be so arranged as to permit the logical location and development of future streets and appropriate resubdivision with provision for adequate utility connections for such resubdivision. Easements or dedications for the future openings and extensions of such streets or utilities may, at the discretion of the Council, be required for approval of the subdivision.

N. Private Streets and Access Easements.

(1) All platted streets within the City are for public use, the dedication to be by deed or other appropriate conveyance. Where, unusual conditions make a private street desirable, provided adequate covenants and agreements ensure that the City will not have or need to assume any maintenance or other responsibility for such street. The City may consider approval of private streets and access easements under the following circumstances:

- a. When the street is a cul-de-sac or loop street;
- b. When the street will serve a very limited group of people and is designed and situated so as to discourage use by the general public;
- c. When the street is proposed in a location for which adequate right-of-way does not exist to meet public street standards because of natural topographical conditions; or
- d. When the street will serve as access and/or required frontage for only one single family dwelling unit.

(2) Design Specification. Private streets and access easements shall meet all requirements of this section and the Design Standards Manual of public improvements with

the exception that private streets and access easements which serve as public access to or provide required frontage for only one single-family residence need not be terminated with a circular turnaround. All private streets and access easement streets shall be installed and constructed in accordance with plans, profiles, and cross sections submitted to and approved by the City Engineer.

(3) Maintenance and Liability. The owners and/or assigns of private streets and access easements shall be responsible for maintenance of said streets, and the City shall have no liability for injuries or damages sustained on the premises.

6. Block and Lot Standards. The following standards shall apply to the design of blocks and lots in all subdivisions and, to the extent possible, in all resubdivisions, and shall be observed except in special conditions where variations are warranted:

A. The width of a block shall normally be sufficient to allow for two tiers of lots with utility easements as needed. Blocks intended for business or industrial use shall be of such width as may be best suited for the contemplated use of the property.

B. No residential block shall be longer than thirteen hundred (1300) feet measured from street line to street line.

C. Lot arrangement and design shall provide satisfactory building sites properly related to topography and surrounding land uses.

D. The size and shape of all lots shall comply with all requirements of the Zoning Ordinance for the zoning district in which the lot is located, and shall be adequate to meet the setback, parking, loading, and other requirements for such uses contained in the Zoning Ordinance.

E. In no case shall a lot have a width of less than sixty (60) feet measured at the front yard setback line and less than thirty-five (35) feet measured at the front lot line.

F. Corner lots shall have sufficient extra width to permit the required corner side yard setbacks as specified in the Zoning Ordinance.

G. Double frontage lots and reversed frontage lots shall be avoided except where necessary to provide separation of

development access from high traffic arterial streets or to overcome specific topographic and/or orientation problems.

H. Dwelling units shall not be given direct driveway access to arterial or collector streets except:

(1) Where existing lots of record abut on arterial or collector streets.

(2) In special instances where the configuration of the tract prevents the construction of an access road or an interior roadway, after review and approval by the City Council.

I. All buildable lots shall have frontage on a public or private street or be served by an approved access easement.

J. All side lot lines should be as near as possible to right angles to straight street lines or radial to curved street lines, unless a variation will provide a better street or lot layout.

K. Any lot not to be served by a sanitary sewage system shall have sufficient area as determined by the Linn County Health Department to allow for satisfactory operation of an alternative septic system.

7. Easement Standards. The following standards shall apply to the provision of easements in all subdivisions:

A. Easements shall conform to the provisions of the Design Standards Manual.

B. An easement for public utilities and facilities shall be provided, where necessary, as prescribed for location and width by the benefiting utility operator to form a continuous easement through the service area.

C. In general, a minimum easement width along a side or rear lot line shall be eight (8) feet resulting in a combined easement sixteen (16) feet in width. Easements of greater width or across lots may be required and easements of lesser width may be approved if accepted by the utility operator(s) and the City.

D. Written approval of the easements by each utility operator shall be submitted to the City prior to approval of the final plat.

E. Sanitary sewer easements shall be required in those cases where the sanitary sewer must be located outside public rights-of-way or general utility and/or drainage easements.

F. Drainage easements for storm sewers and/or open channels shall be required where storm drainage can not be practically carried by street or other rights-of-way as determined by the Storm Water Design Manual. The location of drainage easements shall be based upon evidence of natural drainage patterns and/or grading and drainage plans submitted with the subdivision documentation in accordance with the Design Standards Manual and the Storm Water Management Design Manual. The width of drainage easements shall be determined based upon a combination of the design width of any open channel drainageway as determined by the Storm Water Design Manual and the Design Standards Manual and of the need to use large motorized equipment to maintain the storm sewer or open channel.

G. The easement rights provided pursuant to this section shall be granted by the developer to the City for the benefit of the appropriate utility operator.

H. No structures shall be placed or erected on or over any easement without a specific release from the benefiting utility operator and approved by the City.

I. Utility and drainage easements, as recorded on a subdivision plat, shall not thereafter be changed or vacated without the approval of the Council by resolution based upon releases from the benefiting utility operators and recommendations from the City Engineer.

8. New residential subdivisions submitted for final plat approval after July 1, 2007, that provide for on street parking of vehicles shall limit the parking of vehicles to only one side of each street. The City Engineer shall review the sides designated for vehicle parking and may direct revision if the engineer determines that the other side of any street is the side that should be designated for parking.

(Ord. 14-05 – May 14 Supp.)

175.07 MAINTENANCE BONDS. Maintenance bonds shall be provided as required by Chapter 1, Section 3.4(2) of the Design Standards Manual. In lieu thereof, at the option of the City Engineer, the owner, developer, or contractor, shall make a cash payment to the City's Construction Maintenance Self-Insurance Fund in the amount determined in Section 175.08 or by subsequent resolution of the City Council. The City Engineer will approve said cash payment in lieu of maintenance bond if the City Engineer is satisfied from past performance or other evidence that the construction work of the owner, developer, or contractor on a project will be such that acceptance of a cash

payment into the fund in lieu of a maintenance bond will not expose the fund to a significantly higher than normal risk of loss. The payment must be made prior to City Council acceptance of any public improvement.

(Ord. 02-16 – Aug. 02 Supp.)

175.08 CONSTRUCTION MAINTENANCE SELF-INSURANCE FUND.

1. Establishment.
 - A. There is hereby established in the office of the City Finance Director a Construction Maintenance Self-Insurance Fund.
 - B. Cash payments may be made to said fund in lieu of posting a maintenance bond under Chapter 1, Section 3.4(2) of the Design Standards Manual as provided in Section 175.07 of this Chapter.
 - C. The initial amount of the payment into this fund to relieve an owner, developer, and/or contractor of the responsibility of posting a maintenance bond shall be calculated by the City Engineer:

As \$12.00 per \$1,000.00 of the contract price of a street, storm or sanitary sewer improvement or improvements, or \$12.00 per \$1,000.00 of the City Engineer's estimate of the contract price of the storm or sanitary sewer improvement or improvements whichever is greater. Where a performance bond has been posted a credit of one year shall be allowed.
 - D. The amount of this payment may, from time to time, be revised by the City Council by adoption of a resolution revising the same.
 - E. Payment into this fund will relieve the owner, developer, and/or contractor of any further responsibility or liability to remedy any and all defects that may develop in said work by reason of bad workmanship or poor material used in the construction of said work or to keep the same in good repair after acceptance of the improvement except that payment into this fund shall not relieve any surety or principal of these obligations covered under the terms of a performance bond filed with the City for the same improvement.
 - F. This fund will be liable to the City General Fund for costs incurred to remedy any and all defects that may develop in said work by reason of bad workmanship or poor material used in the

construction of said work or to keep the same in good repair after acceptance of the improvement for a period of two years from the date of acceptance of a storm or sanitary sewer project and for a period of four years from the date of acceptance of a street construction project and for administrative and inspection costs relating to the fund and said projects and these costs shall be paid by the Finance Director by transfer when so directed by the City Manager.

2. Funding.

A. The City Finance Director is hereby authorized to consult with the City's auditors, actuaries and such other persons as the Finance Officer deems necessary to determine:

- (1) An adequate starting balance for the Construction Maintenance Self-Insurance Fund; and
- (2) The matters set forth in paragraph C below.

The City Finance Director is hereby authorized to recommend to the City Council a proposed amount to transfer from the City's unencumbered general fund cash balance, or other available funds, such funds as are necessary to fund an adequate starting balance. Said transfer shall be deemed a non-interest bearing loan which shall be repaid when and as the condition of the Construction Maintenance Self-Insurance Fund allows.

B. The City Finance Director shall provide the City Council with an annual report on the condition of the Construction Maintenance Self-Insurance Fund.

C. Not less than every five years from inception of the fund, the City Finance Director shall include in his annual report a recommendation as to whether or not:

- (1) The loan can be repaid in whole or part; and
- (2) The amount required to be paid into the Construction Maintenance Self-Insurance Fund in lieu of posting a maintenance bond can be reduced or eliminated without a significant detrimental impact on the fiscal soundness of the fund.

(Ord. 02-16 – Aug. 02 Supp.)

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