

**CHAPTER 13****SUBDIVISIONS****SECTION:****9-13-1: Definitions****9-13-2: Approval; Acceptance****9-13-2A: Subdivisions Located Wholly Or Partially Within Two Statute Miles Of The Corporate Boundaries Of The City****9-13-3: Information Required; Preliminary; Final Plat****9-13-4: Minimum Standards Of Design; Development****9-13-5: Enforcement****9-13-6: Miscellaneous Provisions****9-13-7: State Platting Requirements Adopted****9-13-8: Building Permit Prohibition****9-13-1: DEFINITIONS:**

For the purpose of this Chapter, certain terms and words are herewith defined as follows:

**LOT:** A portion of a subdivision or other parcel of land intended for transfer of ownership or for building development.

**METES AND BOUNDS:** The method used to describe a tract of land so that it can be recorded in the County Recorder's office, as contrasted with the description of a part of a properly approved and recorded subdivision plat by the lot and block number.

**PLAT:** A map, drawing or chart on which subdivider's plan of the subdivision is presented and which he submits for the approval and intends in final form to record.

**STREET WIDTH:** That horizontal distance between property lines.

**SUBDIVISION:** Shall mean any of the following:

- A. A division of any parcel of land of any area of more than one acre into two (2) or more lots for the purpose of transfer of ownership or building development.
- B. A division of any parcel of land into three (3) or more lots for the purpose of transfer of ownership or building development.
- C. The establishment or dedication of a road, street, alley or other dedication to the public. (Ord. 103, 7-16-1972; Ord. 361, 7-5-1988)

**9-13-2: APPROVAL; ACCEPTANCE:**

A. Preliminary Approval By City Planning And Zoning Commission: Whenever the owner of any tract or parcel of land wholly or partially within the corporate limits of the City desires or is required to make a subdivision of the tract, the owner shall cause to be prepared a preliminary plat of the proposed subdivision and shall submit four (4) copies of said preliminary plat which shall contain the data and information outlined in Section 9-13-3 of this Chapter and other pertinent information to the Planning and Zoning Commission for preliminary study and approval. The Planning and Zoning Commission shall study the preliminary plat to determine if it conforms with the minimum standards and requirements as outlined in this Chapter and shall approve or reject the preliminary plat within thirty (30) days after the date of submission.

B. Preliminary Plat Submitted: Following action by the Planning and Zoning Commission on the preliminary plat, the preliminary plat shall be submitted to the City Council for review.

C. Proposed Plan Of Entire Area: When a tract of land is proposed for subdivision that is a part of a larger logical subdivision unit in relation to the City as a whole, the Planning and Zoning Commission may cause to be prepared a proposed plan of the entire area, such plan to be used by the Commission and the Council as an aid in considering proposed subdivisions.

D. Submit Final Plat: The owner shall submit to the Planning and Zoning Commission four (4) copies of the final plat of the subdivision which shall contain all the information required in this Chapter. The Planning and Zoning Commission shall approve or reject the final plat within thirty (30) days of its submission.

E. Approval Of The City Council: After action by the Planning and Zoning Commission on the final plat, the final plat shall be submitted to the Council for consideration of final approval and for acceptance of all streets, alleyways, easements, parks or other areas preserved or dedicated to the public. The Council may either reject or approve the final plat, but if the final plat has not been approved by the Planning and Zoning Commission, the Council may approve the final plat only upon a three-fourths ( $\frac{3}{4}$ ) vote of all members of the Council. (Ord. 103, 7-16-1972; Ord. 361, 7-5-1988; 1991 Code)

**9-13-2A: SUBDIVISIONS LOCATED WHOLLY OR PARTIALLY WITHIN TWO STATUTE MILES OF THE CORPORATE BOUNDARIES OF THE CITY:**

Pursuant to the provisions of section 354.9 of the Iowa Code, the provisions of this Chapter apply to any subdivision, as defined herein, of property which is wholly or partially included in an area which is within two (2) statute miles of the corporate boundaries of the City.

Pursuant to this Section, and section 354.9 of the Iowa Code, whenever the owner of any tract or parcel of land which is wholly or partially within two (2) statute miles of the corporate limits of the City desires or is required to make a subdivision of the tract, the owner shall comply with all provisions of this Chapter. (Ord. 438, 3-15-1993; Ord. 471, 8-5-1996)

**9-13-3: INFORMATION REQUIRED; PRELIMINARY; FINAL PLAT:**

A. Preliminary Plat: In seeking to subdivide land, the owner shall submit four (4) copies of a preliminary plat to the Planning and Zoning Commission before the submission of the final plat. The preliminary plat shall be drawn to scale and shall show the proposed location and width of streets, lot lines, and dimensions of each proposed lot. The plat shall also show surrounding streets, lots, water sources, sewers, and water mains. The scale, of such preliminary plats shall not be less than one inch to one hundred feet (1" = 100'). The developer shall provide a topographical map of the property showing contour intervals of not more than five feet (5') or as the Commission may require. All elevations shall be referenced to City datum. Any plat not containing all information specified above shall not be considered by the Planning and Zoning Commission.

B. Final Plat: A final plat on polyester material and three (3) prints thereof, and the plat on electronic media compatible with the City's computer hardware and software, shall be submitted to the City. It shall show:

1. The boundaries of the property.
2. The lines of all proposed streets and alleyways, with their widths and names and any other areas intended to be dedicated to public use; the names of the streets shall be a continuation of the existing method of naming streets in the City.
3. The lines of adjoining streets and alleys, with their widths and names.
4. All lot lines and easements with dimensions, and all block corners properly monumented. Monuments shall be made of concrete or stone and shall be a minimum size of four inches by four inches by thirty six inches (4" x 4" x 36"), shall be placed vertically to a level of approximately thirty six inches (36"), level with the surface at finished grade. Monuments shall be cross-scored with a copper dowel or iron bar to mark the exact line or lines.
5. All dimensions, both linear and angular, necessary for locating boundaries of the subdivided area or of the lots, streets, alleys, easement, and any other similar public or private uses. The linear dimensions shall be expressed in feet and decimals of a foot.
6. Radii arcs and chords, points of tangency, central angles for all circular streets, and radii for all rounded corners.
7. All monuments, together with their description.
8. Title and description of property subdivided showing its location and extent, points of compass, scale of plat, classification of property under zoning law, and name of subdivider and of licensed land surveyor staking the lots.
9. Profiles of final street grades.

C. Additional Material: The subdivider shall also file with the final plat, for submission to the Planning and Zoning Commission, all the acknowledgements, certificates and opinions as required by law, as well as statement of all private restrictions. (Ord. 103, 7-16-1962; Ord. 226, 7-2-1979; Ord. 361, 7-5-1988; 1991 Code; Ord. 423, 8-17-1992; Ord. 471, 8-5-1996)

#### 9-13-4: MINIMUM STANDARDS OF DESIGN; DEVELOPMENT:

A. Approval: No preliminary or final plat of a subdivision shall be approved by either the Planning and Zoning Commission or by the Council unless it conforms with the minimum standards and requirements contained in this Chapter.

B. Acre Subdivision: Whenever the area is divided into lots containing one or more acres and there are indications that such lots will eventually be resubdivided into small building lots, consideration must be given to the street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit a logical arrangement of smaller lots.

C. Relation To Adjoining Street System: The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining additions (or their proper projections where adjoining property is not subdivided) insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street width established in this Code. The street and alley arrangement must also be such as to not cause hardship to owners of adjoining property when they plat their land and seek to provide for convenient access. Whenever there exists a dedicated half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be dedicated.

D. Street Width:

1. The widths for major street shall not be less than sixty six feet (66').
2. The minimum width for minor street shall be sixty feet (60').

E. Alleys: The minimum width of an alley in a residential block shall be sixteen feet (16'). (Alleys are not recommended for residential districts except under unusual condition.)

F. Easements: Public utility easements not less than ten feet (10') in width shall be provided along and adjacent to each street or alley included in the plat and all such utilities will be placed in these easements whenever practical. Such additional easements as may be necessary and appropriate shall also be included in a plat.

G. Length In Blocks: No block shall be longer than nine hundred feet (900') between street lines, except when special conditions make a longer block more desirable.

H. Width Of Blocks: The width of blocks shall not be more than three hundred feet (300'), except that when such requirements would entail unusual and substantial difficulties or hardships or when it is desired to provide a development containing large residential lots, the Planning and Zoning Commission and the Council may modify such requirements and allow the subdivider to plat blocks of other widths.

I. Terminal Streets: Terminal residential streets or cul-de-sacs may be established where necessary to afford access to all lots. No terminal street may be platted longer than five hundred feet (500') and all such terminal streets shall terminate in a circular open space having a minimum diameter of one hundred feet (100').

J. Lot Lines: All side lines of lots shall be at right angles to straight street lines, or radial to curved street lines, unless a variation of this rule will give a better street and lot plan. Lots with double frontage shall be avoided.

K. Size And Shape Of Lots: The minimum dimensions for rectangular lots shall be sixty six feet (66') in width, the minimum dimensions for a cul-de-sac or curved lots shall be sixty feet (60') in width at the building line, and in no case shall a lot that is to be used for residential purposes contain less than is required by the lot area regulation of the zoning district in which the property is located. A portion of each platted lot not less than sixty six feet (66') in dimension shall abut a public street or public way.

L. Corner Lots:

1. All corner lots shall have extra widths sufficient to permit the maintenance of building lines on both the front and side streets as required by the applicable zoning provisions.
2. Lots on major street intersections and at all other points likely to be dangerous shall have a radius of not less than fifteen feet (15') at the street corner; on business lots a chord may be substituted for the circular arc.

M. Easements Along Streams: Whenever any stream or important surface water course is located in an area that is being subdivided, the subdivider shall make adequate provision for straightening or widening the channel so that it will properly carry surface water and shall provide and dedicate to the City an easement along each side of the stream, which easement shall be for the purpose of widening, improving or protecting the stream. The width of such easement shall not be less than ten feet (10') from each bank of the stream, and the total width of the easement shall be adequate to provide any necessary channel relocations and straightenings.

N. Improvements: It is the determination of the City Council, in furtherance of the health, safety and general welfare of the citizens of Spencer, that all new subdivisions shall have the benefit, where feasible, of the following improvements: integral monolithic paved concrete street and curb, sanitary and storm sewers, water mains and fire hydrants, electric service and street lighting, and access to parks and green areas. Therefore, no final plat of any subdivision shall be finally approved until one or more of the following alternative methods of ensuring the construction of required improvements has been accomplished.

1. Construction of said improvements in accordance with City specifications prior to approval of the final plat.
2. In regard to integral monolithic paved concrete street and curb, sanitary and storm sewers, and water mains and fire hydrants, the developer may meet the requirements for final plat approval by posting with the City a surety bond or cash in a supervised escrow account conditioned upon construction of all required improvements by a date approved by the Council and stated in said surety bond or escrow agreement. The amount of the surety bond or escrow deposit shall not be less than one hundred ten percent (110%) of the estimated cost of the uncompleted improvements. If the improvements are not completed within the specified time, the City may require performance by the surety or use the funds deposited in escrow, or any necessary portion thereof, to complete construction of the improvements. The Council shall have the authority and discretion to establish different dates for the construction of each of the improvements.
3. Subject to the approval of the Council, in its discretion, the City and the developer may enter into a development agreement which may provide for the construction and installation of integral monolithic paved concrete street and curb, sanitary and storm sewers, and water mains and fire hydrants in the development by the City and which may provide for the collection of utility fees, connection fees, or the imposition of special assessments to recover or offset all or part of the cost of the improvements constructed or installed by the City.

In evaluating any such proposed development agreement, the City Council shall consider the following factors:

- a. The benefit to the City of the proposed development.
  - b. The apparent need or demand for the development proposed.
  - c. The cost and feasibility of extending sanitary sewer, storm sewer and water mains to serve the development.
  - d. The likelihood that the City will recover its costs or receive benefit from utility charges, connection fees, special assessments, or increased property tax revenue as the result of the development.
  - e. The quality and extent of security provided to the City that the costs to be incurred by the City will be recovered or that commensurate benefits will be received.
  - f. Any other relevant factors.
4. In regard to electrical service and street lighting, the developer may provide to the City the certification of the provider of electrical service to the subdivision establishing that appropriate arrangements have been made between the developer and the provider of electrical service such that the provider of electrical service to the subdivision guarantees and warrants that necessary electrical services and street lighting will be constructed in the subdivision by a date stated in the certification and approved by the Council.
  5. The regulations and standards for the improvements required herein shall be as follows:
    - a. Grading And Improvements Of Streets: Integral monolithic paved concrete street and curb constructed in any subdivision shall conform to the City's specifications throughout the subdivision.
    - b. Sewers: A lateral connection to the sanitary sewer main shall be extended to each lot line. Storm sewer inlets shall be designed and located as needed to serve the subdivision. Installations of sanitary and storm sewers shall be in accordance with the standards and specifications of the city. The certification of a licensed engineer that sewer improvements have been completed pursuant to city specifications shall be filed with the city upon completion of the improvements.
    - c. Water Mains And Fire Hydrants: The development shall cause water mains, fire hydrants and appurtenances to be installed. A lateral connection to the water main shall be extended to each lot line. Such installations shall be in accordance with the standards and specifications of the water department of the Spencer municipal utilities. The location of all fire hydrants shall be approved by the water department of the Spencer municipal utilities. The certification of a licensed engineer that water mains, service lines and hydrants have been completed pursuant to utilities' specifications shall be filed with the city upon completion of the improvements.
    - d. Electrical Service And Street Lighting: The developer shall install electrical service to each lot in the subdivision and shall provide for street lighting. Such electrical service and street lighting shall be designed, constructed and installed pursuant to the standards and regulations established by the board of trustees of the Spencer municipal utilities, or if electrical service is to be provided by an entity other than Spencer municipal utilities, according to the standards and regulations imposed by the superintendent of public works.

e. Inspection During Installation: Periodic inspection during the installation and construction of improvements shall be made by the superintendent of public works, or his duly authorized agent, in order to assure conformity with the approved plans and specifications. The developer shall notify the proper administrative officer when each phase of the installation is completed and ready for inspection.

6. Parks And Recreational Areas: As convenient access to parks and recreational areas and the preservation of "green" space is a significant benefit to owners and occupants of residential properties, each proprietor of a plat located in the A or B residential zoning district of the city shall consider including parks, recreational areas and green space in a proposed plat for the benefit of owners and occupants of property in the subdivision.

Such areas may be established and maintained by the proprietor, by an organization or association of property owners in the subdivision, or may, upon approval of the city park board, be dedicated to and accepted by the city.

O. Trails: The proprietor of a subdivision plat shall consult the current master plan maintained by the city for the development of trails in the city. If the master plan indicates the planned development of trails in the area to be platted, the plat shall include a ten foot (10') expansion of major street right of way to accommodate the future placement of a trail. The proprietor of a plat shall include, in the application for plat approval, a statement confirming that the city's master trail plans have been considered and that the plat includes additional right of way for trails, if required, consistent with the master plan.

P. Stormwater Management:

1. Definitions: For purposes of this subsection, the following new definitions are adopted:

**EROSION:** The detachment, transportation, and deposition of soil particles by water or wind. Sheet erosion, rill erosion, gully erosion, lake bank and stream bank erosion and streambed erosion are common types of erosion that create sediment laden runoff, which moves sediment to a point of deposition down gradient from its point of origin.

**IMPERVIOUS SURFACES:** Surfaces through which water cannot penetrate. Impervious surfaces are mainly constructed surfaces - rooftops, sidewalks, patios, roads and parking lots - covered by impenetrable materials such as asphalt, concrete, brick, and stone. These materials seal surfaces, repel water and prevent precipitation and meltwater from infiltrating soils. Soils compacted by urban development are also highly impervious.

**LAND DISTURBING ACTIVITY:** Any earth movements that alter the surface of the land that may result in soil erosion from wind and water and the movement of sediment and sediment related pollutants off site; including, but not limited to, grading, topsoil removal, road or bank cutting, waterway construction or enlargement, excavation, filling or stripping of vegetation, or creation of a new subdivision. The following activities are excluded from this definition:

- a. Excavation, filling or a combination thereof involving less than three (3) cubic yards and tilling, vegetation and/or tree cover removal from an area less than one thousand (1,000) square feet.
- b. Tilling, planting or harvesting of agricultural, horticultural or forest crops.
- c. Minor activities such as residential gardening, landscaping, repairs and maintenance work.
- d. Installation of public utility lines and connections, fence posts, signposts, telephone poles, electric poles and other kinds of posts or poles.
- e. Installing septic tanks and drainage fields, unless these are to serve a building whose construction is a land disturbing activity.
- f. Emergency work to protect life or property.
- g. Construction, relocation, alteration or maintenance of public improvements by a public body.

**LOW IMPACT DEVELOPMENT (LID):** Stormwater control strategies that combine resource conservation and a hydrologically functional site design with pollution prevention measures to reduce development impacts to better replicate natural watershed hydrology and water quality. Using several strategies, LID controls runoff discharge, volume, frequency and quality to mimic predevelopment runoff conditions. Stormwater best management practice (BMP) techniques and/or structures, as defined in the "Iowa Stormwater Management Manual", shall be incorporated to remove eighty percent (80%) of the total suspended solids (TSS). These development practices shall address water quality volume of 1.25 inches of rainfall in a twenty four (24) hour period. Examples of low impact development techniques include:

Better site design

Bioretention cells

Bioswales

Rain gardens

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES):** Section 402 of the U.S. clean water act contains the national pollutant discharge elimination system (NPDES) regulations. The key aspect of this section is that any land disturbing activity that impacts one acre or more is required to obtain an NPDES permit from DNR. The application process requires that the applicant certify that an adequate stormwater pollution prevention plan (SWPPP) has been developed for the site.

**PERMEABLE PAVEMENT:** A breathable pavement surface that allows water to flow freely through it, filtering water as it flows and draining into an underlying bedding of additional filters.

**PERVIOUS SURFACES:** A ground cover through which water can penetrate at a rate comparable to that of water through undisturbed soils. Examples include turf systems and pervious pavers:

- a. Concrete Pavers - Uni Eco-Stone: Interlocking concrete paving blocks separated by holes (pores) that are filled with gravel. This grid paving system is designed for commercial and residential vehicle load applications. Drainage openings in the paving surface allow stormwater to infiltrate.
- b. Concrete (Open Cell) Pavers - Turfgrid: The Turfgrid paving system offers an open cell concrete structure with forty percent (40%) open area designed to be planted with turf. The system protects turf roots and soil from compaction due to foot and vehicle traffic.
- c. Recycled Plastic Pavers - Grasspave: Grasspave is similar to the Turfgrid system (above) which provides for turf planting, but is manufactured with one hundred percent (100%) recycled plastic. This paving system offers load bearing strength while protecting vegetation root systems from compaction. Open cells enable root development and storage capacity for rainfall from storm events.

**SEDIMENT:** Detached particles of soil that move via an erosion process.

**SILT SCREEN:** A fencing screen material manufactured for the purpose of capturing and retaining soil, silt and sediment from water and gravity runoff from a land slope. Silt screen supported by posts to form a continuous soil, silt or sediment barrier is called a silt screen fence.

**SILTATION:** The deposition of sediment moving via the erosion process. Deposition is usually considered to occur off site from where the erosion that is generating the sediment is occurring.

2. Stormwater Management: For all new subdivisions which include property within zoning districts, CBD, C-1, C-2, D, E or MH, a stormwater management plan compliant with this subsection shall be required, implemented and followed. The following guidelines apply:

- a. The stormwater management plan shall include, but not be limited to, the following: proposed final grading conditions with explanation of how adjacent areas will be impacted by grading and compaction, current natural drainage and how it will be impacted after completion, vegetative map with existing vegetation before and after construction and stormwater management system to be used during and after construction.
- b. The plan shall provide for management of water quality for construction activities and for postconstruction conditions.
- c. The plan shall minimize the impact of stormwater on adjacent and downstream properties.
- d. The plan shall be developed to comply with the "Iowa Stormwater Management Manual" and shall use a design rainfall event of 1.25 inches in twenty four (24) hours for computing water quality volume (WQv).
- e. Low impact development is encouraged, and should be incorporated into the plan unless the site is not suitable in supporting low impact development practices.
- f. It is recommended that thirty percent (30%) of the original open space of the property be designed to manage stormwater.
- g. The use of impervious surfaces should be mitigated with low impact development designs to assist in stormwater management on the property. The use of pervious surfaces should be emphasized. The use of pervious surfaces for parking to enhance low impact development stormwater management is encouraged. For impervious parking areas, as a rule of thumb, an area equal to ten percent (10%) of the parking area is recommended, to incorporate rain gardens, bioretention cells or grass swale conveyances.
- h. This stormwater management plan shall be designed by a licensed engineer.

i. For lots exceeding three (3) acres, the postdevelopment runoff rate resulting from 1.25 inches of rain in a twenty four (24) hour period shall not exceed one hundred twenty five percent (125%) of the predevelopment runoff rate; for lots not exceeding three (3) acres, the postdevelopment runoff rate for rainfall not exceeding 1.25 inches of rain in a twenty four (24) hour period shall not exceed two hundred percent (200%) of the predevelopment runoff rate.

3. Consultant: The city of Spencer may contract with a qualified consulting engineer to review, comment, and advise the city as to any stormwater management plan that has been submitted for review. All costs associated with such a consultant shall be borne by the developer. (Ord. 97, 6-19-1961; Ord. 103, 7-16-1962; Ord. 206, 8-1-1977; Ord. 211, 11-7-1977; Ord. 218, 7-3-1978; Ord. 219, 8-21-1978; Ord. 226, 7-2-1979; Ord. 361, 7-5-1988; 1991 Code; Ord. 427, 9-8-1992; Ord. 471, 8-5-1996; Ord. 546, 3-19-2001; Ord. 572, 7-1-2002; Ord. 616, 12-6-2004; Ord. 734, 11-21-2011)

**9-13-5: ENFORCEMENT:**

A. Filing Of Plat: No plat of any subdivision shall be entitled to record in the county recorder's office or have any validity until it shall have been approved in the manner prescribed herein.

B. Public Improvements: The city council shall not permit any public improvements over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been platted unless such subdivision or street has been approved in accordance with the provisions contained herein.

C. Penalties: Any person violating any provision of this chapter, or failing to comply with the provisions thereon, shall be deemed guilty of a misdemeanor.

D. Proceedings To Prevent Violations: In case of any violation or attempted violation of the provisions of this chapter, the city council, in addition to other remedies, may institute any appropriate action or proceeding to prevent such violation or attempted violation, to refrain, correct or abate such violation or attempted violation or to prevent any act which would constitute such violation. (Ord. 103, 7-16-1962)

**9-13-6: MISCELLANEOUS PROVISIONS:**

A. Variations: Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the foregoing sections would result in real difficulties and substantial hardships, the city council may vary or modify such requirements so that the subdivider is allowed to develop his property in a reasonable manner, but at the same time the public welfare and interests of the city shall be protected and the general intent and spirit of this chapter shall be preserved. (Ord. 103, 7-16-1962; Ord. 226, 7-2-1979)

**9-13-7: STATE PLATTING REQUIREMENTS ADOPTED:**

The city hereby expressly adopts the restrictions and provisions of Iowa Code chapter 354 entitled "plating - division and subdivision of land". (Ord. 361, 7-5-1988; Ord. 471, 8-5-1996)

**9-13-8: BUILDING PERMIT PROHIBITION:**

No building permit or certificate of occupancy shall be issued for any lot created after July 1, 1988, which is required to be platted in accordance with the provisions of this chapter and which has not been so platted. (Ord. 361, 7-5-1988)