

### ARTICLE 3. ADMINISTRATION, PERMITS, ENFORCEMENT, VIOLATIONS AND FEES

**100 Division of Administrative Responsibility.** The administration of these regulations is vested in the following governmental branches of the City:

- A. Subdivision Administrator.
- B. City Clerk.
- C. Subdivision Committee.
- D. Planning Commission.
- E. Governing Body.

Each of the above named governmental branches shall have the responsibilities hereinafter set forth.

**101 Duties of the Subdivision Administrator.** The Subdivision Administrator or designee shall administer the provisions of these regulations and in furtherance of such authority, shall:

- A. Serve as an assistant to the Planning Commission on (1) the review of sketch plans, plats and lot splits; and (2) the vacation of plats, rights of way, easements and other public reservations.
- B. Inform applicants of procedures required for subdivision approval and vacations, provide application forms and other administrative forms to facilitate the process, and convey to subdividers the decisions of the Planning Commission.
- C. Receive and establish files for all sketch plans, preliminary and final plats, replats, final plats for small tracts, lot splits and vacations together with applications therefor.
- D. After determining the adequacy of the information submitted as suitable for distribution, forward copies of the preliminary plat and final plats for small tracts, when deemed necessary, to other appropriate governmental agencies and public and private utilities providers for their comments and recommendations.
- E. Review and compile a list of comments on all preliminary plats to determine whether such plats comply with these regulations and similarly review and compile a list on all final plats to determine whether they comply with the preliminary plat, if any, and these regulations.
- F. Forward sketch plans, preliminary and final plats and lot splits to the Subdivision Committee and/or Planning Commission for their consideration, together with the list of comments and recommendations.

- G. Following approval by the Planning Commission and recommendations on vacations forward to the Governing Body all final plats, replats, final plats for small tracts as well as vacations after having checked and assembled all pertinent data and drawings.
- H. Make such other determinations and decisions as may be required by these regulations.

**102 Duties of the City Clerk.** The City Clerk shall:

- A. File at least three copies of these model regulations marked by the Clerk as "Official Copy as Incorporated by Ordinance No. \_\_\_\_\_", (i.e., the ordinance approved by the Governing Body) and all sections or portions thereof intended to be omitted clearly marked to show any such omissions or showing the sections, articles, parts or portions that are incorporated and to which shall be appended a copy of the incorporating ordinance. Such copies maintained by the Clerk shall be open to inspection and available to the public at all reasonable business hours.
- B. Distribute at cost to the City, official copies of these regulations similarly marked as described in Section 3-102A to the applicable police department, court, Subdivision Administrator, zoning administrator, building inspector, City Attorney and all administrative departments of the City charged with the enforcement of these regulations. Subsequent amendments to these regulations shall be appended to such copies.
- C. Process the required fees.
- D. Provide clerical assistance to the Governing Body so as to facilitate and record their actions in the exercise of their duties relating to these regulations.

**103 Duties of the Subdivision Committee.** The Planning Commission may create a Subdivision Committee composed of any three or more of its members. The Chairperson shall, with the concurrence of the Commission, appoint the members and designate the chairman and vice-chairman of the Committee for such period of time as deemed appropriate. The Subdivision Administrator and other non-commission members such as public and private officials engaged in public works, utilities, sanitation, safety and building and zoning administration may be asked to serve as ex officio Committee members. Township trustees will be invited to Committee meetings when plats or vacations are proposed in their township. The Subdivision Committee, among other assignments, may:

- A. Review sketch plans and forward comments to the potential subdivider.
- B. Review preliminary plats to determine compliance with these regulations, review final plats to determine whether they comply with the preliminary plat and these regulations, and forward such determinations and recommendations as may be appropriate to the Planning Commission.
- C. When deemed desirable, review proposed lot splits and vacations for recommendations to the Planning Commission.

Any person aggrieved by any comments, determinations or recommendations of the Subdivision Committee shall have a right to appeal to the Planning Commission.

**104 Duties of the Planning Commission.** The Planning Commission shall:

- A. Review the sketch plans, when submitted, and forward comments to the potential subdivider whenever this responsibility is not otherwise performed by a Subdivision Committee.
- B. Review and approve, approve conditionally or disapprove preliminary plats and lot splits.
- C. Review and approve, approve conditionally or disapprove final plats and transmit the same to the Governing Body for their acceptance of dedications of streets, alleys and other public ways and sites.
- D. Make recommendations to the Governing Body on vacations of recorded plats, rights of way, easements and other public reservations.
- E. Make such other determinations and decisions as may be required of the Commission from time to time by these regulations or applicable sections of the Kansas Statutes Annotated.

**105 Duties of the Governing Body.** The Governing Body shall:

- A. Accept or not accept dedications of streets, alleys and other public ways and sites shown on final plats and, in cases of disapproval or modification, inform the subdivider in writing of the reasons.
- B. Approve or not approve vacations of recorded plats, rights of way, easements and other public reservations and, in the unincorporated area, to recommend or protest such vacations to be considered by the Board of County Commissioners.

**106 Building and Zoning Permits.** No building or zoning permit or occupancy certificate except those involving repairs, maintenance, continuation of an existing use or occupancy or accessory structures, shall be issued for a principal building or structure or use on any lot, tract or parcel of any subdivision that is subject to the provisions of these regulations until a copy of the recorded plat is available for examination by the applicable official charged with issuing such permits or certificates. Furthermore, no such building or zoning occupancy certificates shall be issued for the use of any building or structure within a subdivision approved for platting, replatting or lot splitting until required utility facilities have been installed and made ready to service the property; roadways providing access to the subject lot or lots have been constructed or are in the course of construction; or guarantees have been provided to ensure the installation of such utilities and roadways. If platting is not required, dedications in lieu of platting may be required to obtain easements and access control and to widen rights of way as well as to provide necessary public improvements during the process of issuing permits. (See Section 2-100E for Vesting of Development Rights and Section 1-105 for Exemptions from platting.)

**107 Enforcement.** No plat shall be approved which does not comply with the provisions of these regulations or be entitled to record at the County Register of Deeds or have any validity until it shall have been approved in the manner prescribed in these regulations. It shall be the duty of the Subdivision Administrator and the applicable official charged with issuing building and zoning permits and occupancy certificates in conjunction with the City Attorney or their designees to enforce these regulations. The following actions are specifically prohibited:

- A. The transfer or sale by metes and bounds description of any land subject to the applicability of Section 1-104 which is not otherwise exempted by Section 1-105.
- B. Approval of a plat by the Planning Commission which does not comply with the provisions of these regulations.
- C. The transfer or sales of any lot, tract or parcel of land located in a plat accepted for dedications by the Governing Body which has not been recorded with the Register of Deeds.
- D. The recording of any plats or replats of land laid out with building lots, roads or streets, alleys, utility or other easements and dedications to the public unless the plat or replat bears the signatures of the Planning Commission and the Governing Body.

**108 Violations.**

- A. Penalties. Pursuant to K.S.A. 12-761, as amended, any violations of these regulations shall be deemed to be a misdemeanor. Any person, firm, association, partnership, or corporation convicted thereof, shall be punished by a fine not to exceed \$500 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.
- B. Remedies. The City shall further have the authority to maintain suits or actions in any court of competent jurisdiction for the purpose of enforcing any provisions of these regulations and to abate nuisances maintained in violation thereof; and in addition to other remedies, the appropriate authorities of the City of Burlington may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such buildings, structures or land.
- C. Floodplain Violations. Any person, company, corporation, institution, municipality or agency of the state who violates any provision of the floodplain provisions of these regulations shall be subject to the penalties and remedies as provided in Sections 3-108A and B above. Such remedies may also be instituted by the Attorney General and the Chief Engineer of the Division of Water Resources of the Kansas State Board of Agriculture.

- 109 **Fees.** For purposes of wholly or partially defraying the costs of the administrative and enforcement provisions described in these regulations, including the cost of engineering and inspection services and recording legal documents, the applicant upon filing an application for a preliminary or final plat, plat for small tracts, lot split or vacation, shall pay the Clerk a fee according to the fee schedule approved by the Governing Body. No part of such fee shall thereafter be refunded.
- 110 **Reports.** The Subdivision Administrator shall periodically report verbally or in writing to the Governing Body and the Planning Commission a summary of all subdivisions and the number of lots recorded on final plats during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for sketch plans, preliminary and final plats, lot splits and vacations. Such a report shall include comments on any problems encountered in the administration or enforcement of these regulations which may especially be of use at the annual review established by Section 12-101.