

**SUBDIVISION AND LAND
DEVELOPMENT CODE**

MALVERN, ARKANSAS

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SECTION 1. PURPOSE, AUTHORITY AND JURISDICTION

- 1.1 These rules and regulations are intended to serve the following purpose:
- A. To assist orderly, efficient and integrated development within the City of Malvern's planning area boundary.
 - B. To promote the health, safety, morals, and general welfare of the residents of the City and environs.
 - C. To ensure conformance of subdivision plans with the public improvement plans including the Land Use Plan and the Master Street Plan of the City and environs.
 - D. To secure equitable handling of all subdivision plans by providing uniform procedures and standards for observance both by subdividers and the Commission.
- 1.2 Any subdivider of land within the territorial jurisdiction shall submit to the Commission plats of the subdivision and plans for indicated improvements according to these regulations. In considering the approval of a plat the Commission shall observe and enforce the requirements and procedures set forth herein. In the case of a plat constituting a replat of land into two or more lots, or adjustment of internal lot lines, all of which will be served by an existing street or streets and required utilities, the Commission shall have the power to vary the said requirements so that substantial justice may be done and the public interest served.
- 1.3 No subdivider proposing to make or have made a subdivision within the territorial jurisdiction shall proceed with any construction work on the proposed subdivision, including grading, before obtaining a Certificate of Preliminary Plat Approval and approval of construction drawings by the city's designated representative, and shall not record the Plat of the subdivision or any part thereof before obtaining from the Commission a Certification of Final Plat Approval and acceptance of the plat.
- 1.4 Authority
This regulation is adopted pursuant to the authority granted by A.C.A. 14.56.401 through 14.56.425 and other applicable laws. The Malvern Planning Commission shall exercise the power and authority to review, approve and disapprove plats for subdivisions and improvements in accordance with these regulations.
- 1.5 Jurisdiction and Application

It is hereby declared to be the policy of the City of Malvern to consider the

subdivision of land and the subsequent development of the subdivided plat as subject to the control of the City pursuant to the Comprehensive Land Use, Transportation, and Community Facilities Plan.

These regulations shall be applicable to all lands within the City and its planning jurisdiction, except lots of record prior to adoption of the ordinance. The planning area map is maintained in the City Planner's Office.

These regulations and development standards shall apply to the subdivision and development of land as follows:

- A. All divisions or platting of a tract or parcel or land into one or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale or building development, shall be considered a subdivision and subject to this ordinance.
- B. The dedication or vacation of any street or alley through any tract of land regardless of the area involved as may be desired by the owner or if necessary to achieve conformance with the Master Street Plan, shall be considered a subdivision and subject to this ordinance.
- C. Development involving the construction of one or more buildings, together with necessary drives and accessways, which is not subdivided into customary lots, blocks, and streets shall be considered a large scale development and subject to this ordinance when the parcel involved contains two (2) or more acres, includes multi-family development, includes manufacturing buildings, or when the aggregate size of the buildings proposed exceeds ten thousand (10,000) square feet. Plans for all such development shall be submitted to and approved by the Planning Commission and the Building Official, whether or not such plat is to be recorded, and no building permit shall be issued until such approval has been given.

1.6 Severability

If any section, paragraph, clause or part of this subdivision regulation is, for any reason, held void and invalid, such decision shall not affect the validity of the remaining provisions of these regulations. The City Council hereby declares that it would have enacted the remainder of these regulations even without such sections, paragraphs, clauses, parts or positions.

1.7 Amendments

These regulations may be amended at any time after the Planning Commission has held a public hearing on the proposed amendments. At, on, or after such public

hearing, the Planning Commission may recommend to the City Council the adoption of such amendments.

1.8

Types of Subdivisions

- A. General - Recognizing that subdivision regulations must be applied to various land development types, and because of the special conditions pertaining to each, this regulation hereby provides for the establishment of four subdivision types: Commercial/Office, Industrial, Manufactured Home Park/Subdivisions and Residential.
- B. Prior to the approval of any preliminary plat, the Planning Commission shall classify and evaluate each subdivision according to its planned future use, it being the responsibility of the applicant to identify the type of proposed plat. Where a proposed plat incorporates more than one use of the type specified in this Section, either the different land use types shall be clearly delineated on the submitted plat, or separate plats shall be filed for each land use type together with a scale drawing illustrating the proposed layout as a totality.
- C. The purpose and intent of each subdivision type shall be generally as follows:
1. Commercial/Office Subdivisions - Commercial/Office Subdivisions are intended to accommodate one or more commercial building sites on either single or multiple lots in a carefully planned configuration designed to protect and enhance the viability of each separate structure and ownership. Commercial and office uses shall be those defined by the Planning Commission.
 2. Industrial Subdivisions - Industrial subdivisions are intended to fulfill a two-fold objective; to provide both opportunity and flexibility for industrial activities to take place at appropriate locations in a compatible manner with adjacent nonmanufacturing areas; to acquire the application of sound design principles and the orderly development of industrial parcels involving the creation of one or more building sites or lots. Industrial uses shall be defined as such in the Malvern Zoning Ordinance.
 3. Manufactured Home Park/ Subdivisions - Manufactured home parks and subdivisions are intended to ensure proper layout and development of areas for manufactured home occupancy by establishing appropriate standards for density spacing and placement and ~~by requiring off-street parking, storage facilities and open space.~~

The regulations are also intended to facilitate location of manufactured homes within the jurisdiction of this subdivision ordinance by making available appropriate sites for such occupancy.

4. Residential Subdivisions - Residential subdivisions are intended to ensure efficient, aesthetic and convenient designs for single family, zero-lot-line, duplex and multi-family residential development, and to provide harmonious relationships with surrounding areas. Residential uses shall be those defined as such in the Malvern Zoning Ordinance.

1.9 Resubdivision of Land

- A. Procedure - Any change in an approved or recorded plat other than lot splits, lot line adjustments or recombinations shall be considered a resubdivision and subject to approval by the Planning Commission. For resubdivision, the same rules, regulations and procedures applicable to subdivisions shall apply.
- B. Future Resubdivisions - Whenever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than one acre of land, and there are indications of such lots eventually being resubdivided into small building sites the Planning Commission may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

1.10 Vacation of Plats

- A. Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot therein. Vacation of a plat shall be subject to the approval of the City Council. The City Council may reject any proposed plat vacation which abridges or destroys any public rights in any public use areas, improvements, streets or alleys.
- B. Upon recordation, such vacation shall have the effect of divesting the public of all rights in the streets, alleys, public areas, and dedications laid out for describing in such plat, except those reserved by such vacation.
- C. When lots have been sold, the plat may be vacated in the manner established therein, provided the owners of all lots join the plat vacation application.

1.11 Variances

A. General - The rules and regulations set forth in this regulation are the standard requirements of the City. Where the Planning Commission finds, however, that extraordinary hardships or practical difficulties may result from strict compliance with these regulations, or the purpose of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to the subdivision regulations so that substantial justice may be done and the public interest secured. Such variances, however, shall not have the effect of nullifying the intent and purpose of these regulations. The Planning Commission shall only approve variances where it finds that:

1. The granting of the variance will not be detrimental to the public safety, health, or welfare, or injurious to other property.
2. The conditions upon which the request for variance is based are unique to the property for which the variance is sought and are not applicable generally to other properties.
3. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, strict application of these regulations would deprive the owner of reasonable use of his property.
4. The variance will not in any manner vary the provisions of the Zoning Ordinance, the Master Street Plan, or the Municipal Plan.
5. The variance is not based solely on financial considerations, but has other overriding hardships.

B. Procedures and Conditions - No variance shall be granted except upon written petition by the subdivider when the preliminary plat is filed for consideration by the Planning Commission. The petition shall state fully the grounds for the application and all of the facts upon which the petition is made. In approving variances, the Planning Commission, may, at its option, require special conditions to ensure development in accordance with objectives, standards, and requirements of these regulations.

SECTION 2. DEFINITIONS

A. For the purpose of these regulations, certain terms used herein are defined as follows:

- (1) Alley. A minor public way used for utility easements and vehicular service access to the back or the side of properties abutting a street.
- (2) Building Set-back Line. A line parallel to the street right-of-way indicating the limit beyond which buildings or structures may not be erected. Building set-back requirements apply to all new construction both within and outside of recorded subdivisions.
- (3) City. The City of Malvern, Arkansas.
- (4) City Attorney, City Clerk, Director of Public Works. Any office referred to in this chapter by title, i.e., City Attorney, City Clerk, Director of Public Works, etc., shall be the person so retained in this position by the city, or his duly authorized representative.
- (5) Cul-de-sac. A street having one end open to the traffic and being terminated at the other end by a vehicular turnaround.
- (6) Easement. A grant by a property owner to the public, a corporation, or persons of the use of a strip of land for specific purposes.
- (7) Improvements. Street grading and surfacing, curbs and gutters, water mains and lines, sanitary and storm sewers, culverts and bridges, and other utilities and related items.
- (8) Large Scale Development. Development containing two (2) acres of land or more or proposed buildings containing an aggregate size of ten thousand (10,000) square feet or more.
- (9) Lot. A portion of a subdivision, or any parcel of land intended as a unit of transfer of ownership or for development.
- (10) Lot Split. A subdivision which involves the dividing or re-dividing of a land area within any recorded subdivision, and which does not involve the dedicating, vacating, widening, narrowing or change of alignment of any thoroughfare, street, alley, or easement.
- (11) Lot, Substandard. A lot or parcel of land that has less than the required minimum area or width as established by the zone in which it is located and provided that

such lot or parcel was of record as a legally created lot on the effective date of the ordinance codified in this title.

- (12) Plan, City. The plan made and recommended by the City Planning Commission and adopted by the city council indicating the general location recommended for such features as land uses, major streets, parks, public buildings, zoning districts, and other public improvements.
- (13) Plat. A map or drawing and accompanying material indicating the layout and design of a proposed subdivision or lot-split prepared by a developer for consideration and approval by the planning board. Such plats may be the sketch plat, the preliminary plat, or the final plat.
- (14) Highways, Roads, & Streets. A dedicated public right-of-way which provides vehicular and pedestrian access to adjacent properties.
- (15) Staff. The Building Official or his appointed designee.
- (16) Street. A dedicated public right of way which provides vehicular and pedestrian access to adjacent properties.
- (17) Street, Dead-end. A street, similar to a cul-de-sac, but providing no turnaround at its closed end.
- (18) Subdivider. A person, firm or corporation undertaking to develop a subdivision as defined in these regulations.
- (19) Subdivision. The division of a parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development. However, a division of land for agriculture purposes into lots or parcels of ten (10) acres or more not involving a new street is not a subdivision.

SECTION 3. TENATIVE PLANS APPLICATION CONSIDERATION

3.1 Procedural Requirements

- A. Whenever any subdivision of a tract of land is proposed to be made, the subdivider or his agent may submit to the Staff sketch plans and data concerning existing conditions within the site and in its vicinity, and which shall convey the intentions of the subdivider as to the proposed layout and type of development.
- B. No fees shall be collected for tentative plans consideration, the purpose being to acquaint the subdivider with city and county plans and policies in effect that would be significant to the proposed subdivision.

3.2 Plat Specifications

In conjunction with a tentative plan conference with the staff, whether optional or required, the subdivider shall provide the following information:

- A. Vicinity Map - The vicinity map, covering a radius of one-half (1/2) mile of the proposed plat at a scale of 1" = 2000' shall generally locate arterial streets and highways, section lines, railroads, schools, parks, and other significant community facilities. Where possible, the north direction of the vicinity map shall correspond to the north direction of the plat.
- B. Sketch Plan - The sketch plan, on a current topographic survey, (geodectic) shall show in simple sketch form the proposed layout of streets, lots, and other features and their relationship to the surrounding development patterns.
- C. Written Information - Written information, informally submitted, shall generally include the following: The applicant's name and address, the agent, acreage in the tract, area allocated to each land use, proposed bills of assurance, cultural and natural features of the site, and anticipated subdivision characteristics including the approximate number of lots, average lot size, location of street rights-of-way and easements and proposed infrastructure improvements.
- D. Fees and Forms - No application fees or special forms are required.

SECTION 4. PRELIMINARY PLAT REQUIREMENTS

4.1 Application for Certificate of Preliminary Plat Approval Whenever a subdivision or large scale development is proposed to be made and before any sale of lots located in said subdivision as a whole or any part thereof is made, or before building permits are approved, the subdivider shall first submit to the Staff an application for a Certificate of Preliminary Plat Approval which shall consist of:

- A. A letter of request, including requests for any variances from the regulations contained herein.
- B. Plats, plans and data as specified in Section 4.8, concerning existing conditions within the site and its vicinity and which shall convey the intentions of the subdivider as to the proposed layout and type of development.
- C. A filing fee as specified in Section 10.

4.2 Staff Review

The Staff and other appropriate City and public agency staff shall review the proposed subdivision for conformance with this regulation. In its review, Staff shall take into consideration the requirements of the community and the use of the land being subdivided and may offer suggestions concerning changes they feel would enable the project to meet the purpose and intent of this Subdivision Regulation. Particular attention shall be given to width, arrangement and location of streets, utility easements, drainage, lot sizes and arrangements and other facilities such as parks, playgrounds or school sites, public buildings, parking areas, and arterial streets, and the relationship of the proposed subdivision to adjoining, existing, proposed and possible subdivision of lands.

- A. The City Staff shall distribute copies of the preliminary plat to other City departments with the request that their recommendations for either approval or disapproval be provided in writing. Such recommendations shall be forwarded to the staff and thence to the Subdivision Committee along with the staff's own recommendation.

4.3 Subdivision Committee Review

- A. The Subdivision Committee of the Planning Commis-

sion shall review the preliminary plat along with the agencies and staff recommendations and then shall submit its recommendation accompanied by a copy of the staff's recommendation to the full Planning Commission for final action.

4.4 Planning Commission Action

- A. The Planning Commission shall review preliminary plats at its regularly scheduled monthly meeting at which time interested persons may appear and offer evidence in support of or against such preliminary plat. The Planning Commission shall then approve, conditionally approve, deny or defer the plat. Notification of decision and reason shall be provided in writing to the subdivider within five working days of the Planning Commission's meeting.

4.5 Approval of the Preliminary Plat

- A. A preliminary plat approved by the Planning Commission shall be effective and binding upon the Commission for a period not to exceed twelve (12) months or as long as work is actively progressing, at the end of which time the final plat application for the subdivision or an extension request must have been submitted to the Director of Public Works. Any plat not receiving final approval or an extension with the period of time set forth herein or otherwise not conforming to the requirements of this regulation, shall be null and void, and the developer shall be required to submit a new plat of the property for preliminary approval subject to all zoning restrictions and subdivision regulations.
- B. Approval of the preliminary plat shall be accompanied by a Certification of Preliminary Plat Approval executed by the Director of Public Works. Such approval authorizes the subdivider to proceed with preparation of an application for final plat approval.
- C. Receipt by the subdivider of the executed Certificate of Preliminary Plat Approval is authorization to proceed with the preparation of necessary construction plans and specifications and thence the installation of required public improvements. The subdivider shall build all public streets,

drainage, and other utility improvements to the specifications of the construction plans approved by the City's Department of Public Works. Construction work shall be subject to on-site inspections by the City to verify conformance with the approved construction plans.

4.6 Disapproval of the Preliminary Plat

- A. A disapproved Preliminary Plat may be resubmitted. The plat shall be submitted to the Director of Public Works for review as outlined in this regulation for an original preliminary plat submission.
- B. The Malvern Director of Public Works may forego those steps in the review process of a resubmitted plat found to be redundant but in each case the steps outlined in 4.3, 4.4, and 4.5 shall be adhered to.

4.7 Approval of a Preliminary Plat shall be governed by the following qualifications:

- A. At least one copy of the approved Preliminary Plat shall be retained in the Commission's files, one copy retained in the files of the Department of Public Works, and one copy endorsed with the Certificate of Preliminary Plat approval shall be returned to the subdivider.
- B. Approval of a Preliminary Plat is only tentative pending submission of the Final Plat. Building permits will not be issued until a Final Plat has been submitted and approved.

4.8 Preliminary Plat Application Requirements

Specific submission requirements include the following materials:

- A. Application Form - A subdivision application form providing the following information shall be completed by the applicant and submitted to the Malvern Public Works Office. The application form and preliminary plat shall be filed with the Public Works Department no later than 21 calendar days preceding the regularly scheduled Planning Commission meeting date at which the preliminary

plat is to be considered.

1. Proposed name of subdivision.
2. Proposed type of subdivision.
3. Name and address of owner of record.
4. Name and address of subdivider.
5. Linear feet of streets.
6. Average size of lots and minimum lot size.
7. Number of lots.
8. Location of the tract by legal description giving acreage to the nearest one-tenth of an acre, date of survey, and Surveying Certificate.
9. Existing and proposed covenants, restrictions, and zoning classifications.
10. Proposed open space.
11. Source of water supply and summary outline of water improvements.
12. Where wastewater disposal is to be accomplished by extending Wastewater Utility Facilities, this circumstance shall be indicated and a summary of improvements outlined.
13. Letter of certificates of approval or disapproval from City, County, or State agencies. Such material shall be obtained by the subdivider.
14. A summary outline of drainage improvements.
15. A summary outline of erosion control during construction.
16. ~~Such further information as the subdivider wishes to bring to the attention of the Planning Commission.~~

B. Vicinity Map - The vicinity map shall cover an

area within a radius of one-half (1/2) mile of the proposed subdivision at a scale of 1" = 2000'. The drawing shall generally locate arterial streets, highways, section lines, railroads, schools, parks, and other significant community facilities; and, if possible, shall be incorporated on the preliminary plat.

C. Preliminary Plat - Seventeen (17) black or blue line prints of the preliminary plat, clearly and legibly drawn, shall be submitted on white paper no larger than twenty-four (24) inches by thirty-six (36) inches and no smaller than eight and one-half (8-1/2) inches by eleven (11) inches. Extra large plats may be submitted on more than one conforming sheet. Plat scale shall be no less than 1" = 40' for plats up to and including ten acres and 1" = 100' for plats larger than ten acres, except where a smaller scale may be deemed appropriate by the staff. The preliminary plat shall be identified by the name of the subdivision, and shall include:

1. Contour intervals to sea level datum, of at least five (5) feet.
2. Proposed design including streets, alleys and sidewalks with proposed street names, lot lines with approximate dimensions, service easements, land to be reserved or dedicated for public uses, and land to be used for purposes other than residential.
3. Minimum building front yard setback lines for commercial/office, industrial, manufactured home park and residential subdivisions, and all setback lines for apartment and townhouse development.
4. Natural features within and immediately surrounding the proposed subdivision including drainage channels, bodies of water, existing wooded areas to be used as buffers, and other significant features. On all watercourses leaving the tract, the direction of flow shall be indicated, and for all watercourses entering the tract, the drainage area above the point of entry shall be noted.

5. Preliminary storm drainage analysis showing drainage data for all watercourses entering and leaving the plat boundaries. The storm drainage analysis shall be prepared in sufficient detail to illustrate the proposed system's capability of accommodating a not less than one in twenty-five year rainfall (except in the central business district where a one in fifty year rainfall design will be used). Preliminary storm drainage plan incorporating proposed easement dimensions and typical ditch sections.
6. Date of survey, north point and graphic scale.
7. Any portion of property within the 100 year flood plain, based upon the most recent available calculations of the U.S. Army Corps of Engineers, or appropriate federal agency. The Flood panel number and date shall be shown on the plat along with the 100 year flood plain and floodway elevation contours for identification of the flood plain and floodway limits within the plat.
8. Topographic features within and immediately surrounding the proposed subdivision including existing and platted streets, bridges, culverts, utility lines, pipelines, power transmission lines, all easements, park areas, structures, city and county lines, section lines and other significant information including established noise zones emanating from any general, commercial, or military air fields.
9. Names of recorded subdivisions abutting the proposed subdivision.
10. For residential plats, names of owners of unplatted tracts abutting the proposed subdivision and the names of all owners of platted tracts.

For commercial, office and industrial plats, names of owners of all lands contiguous to the proposed subdivision.

For both residential and commercial subdivisions, names of all owners of landlocked parcels contiguous to or within the plat boundaries.

11. Exact boundary lines of the tract indicated by a heavy line giving dimensions, angles and at least one (1) bearing.
12. Zoning classifications within the plat and abutting areas if applicable.
13. Municipal boundaries that pass through or abut the subdivision.

D. Engineering Analysis

1. Street profiles shall be included showing existing and proposed elevations along center lines of all roads drawn at a horizontal scale of 40' to the inch and a vertical scale of 4' to the inch, or as otherwise allowed by the Department of Public Works. Such profiles shall be prepared by an engineer registered to practice in the State of Arkansas.
2. At the option of the Director of Public Works, street cross sections of all proposed streets shall be included at a minimum of one hundred foot (100) stations as follows: On a line at right angles to the centerline of the street, said elevation points shall be at least at the centerline of the street, at each property line and at points twenty-five (25) feet inside each property line.
3. Flood plain Analysis - Where a portion of a plat is suspected to be flood prone, and the U.S. Army Corps of Engineers information is not available, an engineering analysis shall be required by the Planning Commission. Such analysis shall determine to the best of the engineer's ability a safe building line and shall be clearly and legibly drawn on the preliminary plat.
4. Soils Test - Soils test may be required by the Planning Commission where it is suspected

that soil conditions may affect structural or operational aspects of the facilities to be constructed. Such circumstances may include the stability of slopes, foundation conditions, and potential hazards created by deep cuts and fills required for street or utility construction and similar situations.

E. Certificates, Fees and Bills of Assurance

1. Preliminary Plat Certificates - Each preliminary plat submitted to the Planning Commission shall carry the following certificates as appropriate:

a. CERTIFICATE OF SURVEYING ACCURACY

I, _____
, hereby certify that this plat correctly represents a boundary survey made by me and all monuments shown herein actually exist and their location, size, type and material are correctly shown.

Signed

Date of Execution

Name, Professional Land Surveyor
No. _____, Arkansas

2. CERTIFICATION OF PRELIMINARY ENGINEERING ACCURACY

I, _____
, hereby certify that this plat correctly represents a plat made by me, and that engineering requirements of the Malvern Subdivision Rules and Regulations have been complied with.

Signed

Date of Execution

Name, Registered Engineer
No. _____, Arkansas

c. CERTIFICATE OF PRELIMINARY PLAT APPROVAL

All requirements of the Malvern Subdivision Rules and Regulations relative to the preparation and submittal of a Preliminary Plat having been fulfilled, approval of this plat is hereby granted, subject to further provisions of said Rules and Regulations.

This Certificate shall expire _____ Date.

Signed

Date of
Execution

Chairman, Malvern
Planning Commission

~~Director, Malvern~~
Dept. of Public Works

2. Fees - Filing fees for preliminary plats shall be those established by City Ordinance by the City Council of the City of Malvern, Arkansas.
3. Bill of Assurance - A draft of any Bill of Assurance proposed for the subdivision generally describing proposed covenants, restrictions and conditions applicable to a property shall be submitted for review at the time of preliminary plat review.
4. Site Construction - Site preparation, including clearing and grading, shall not commence on the development site prior to approval of the preliminary plat by the Planning Commission and approval of an erosion control plan by the Director of Public Works. ~~Construction of streets, drainage, utilities and other public improvements shall not commence prior to the approval of streets, drainage and utility plans by the Director of Public Works.~~

5. Home Owners' Association - The rules governing any proposed Homeowners' Association will be submitted along with any other private agreements governing the maintenance of detention ponds, street lights, or other common areas or fixtures.

6. ELECTRONIC DATA

In addition to physical drawings the applicant shall submit all preliminary plat information in electronic (digitized) formats unless otherwise stated by the Building Official, material shall be submitted in *Auto Cad* formation, Version 12 or higher.

SECTION 5. FINAL PLAT REQUIREMENTS

5.1 Application for Approval of the Final Plat

- A. Whenever the provisions of these rules and regulations have been complied with and while the Certificate of Preliminary Plat Approval is in effect, the subdivider may submit to the Malvern Public Works Department an application for review and approval of the Final Plat which shall consist of:
1. A letter of application requesting review and final approval of the plat.
 2. The Final Plat and other documents as specified in Section 4.8.

5.2 Approval of the Final Plat

- A. Whenever a final plat has been submitted to the Public Works Department which is in conformity with an approved preliminary plat and the provisions of Section 4.8, the Building Official shall be authorized to approve and take action on the plat. If there are significant variances from the preliminary plat or other significant matters of fact, the Building Official may elect to have the final plat considered for approval by the Planning Commission at its regular monthly meeting. The Building Official shall notify the Commission, at the regular meeting, of all subdivisions given final plat approval by the Staff.
- B. The Building Official need not take action on any application received less than twenty-one (21) days before the next regularly scheduled meeting of the Planning Commission.
- C. Failure of the Staff or Planning Commission to act within fifty-one (51) days of receipt of the application shall be deemed approval of the Final Plat and waives all further plat requirements of ~~these rules and regulations.~~ Such failure to act shall be so noted by the Staff on the Plat to be filed for record.
- D. ~~If a Final Plat is disapproved by the Planning~~

Commission, the applicant shall be so notified in writing within five (5) working days of the Commission action and the reasons therefor shall be enumerated.

- E. Final Approval of the Final Plat shall be indicated by the execution of a Certificate of Final Plat Approval on the Plat.
- F. The Commission or the Building Official may execute a Certificate of Final Plat Approval when the City Clerk or the Building Official has determined that the City has received one of the following:
 - 1. A certificate submitted by the subdivider and Registered Engineer of record and approved by the Building Official, stating that all improvements and installations to the subdivision required for its approval under the terms of these rules and regulations have been completed in accordance with these specifications; or upon completion of all utilities, curbs and gutters, and street subbase and a performance bond and/or irrevocable letter of credit approved by the Building Official and City Attorney. This bond and/or letter of credit shall:
 - a. Be submitted to the City.
 - b. Be in an amount determined by the Building Official to be 1-1/2 (one and one half) times sufficient to complete the improvements and installations for the subdivision in compliance with these rules and regulations,
 - c. Be with surety by a company entered and licensed to do business in the State of Arkansas, and
 - d. Specify the time for the completion of the improvements and installations or
 - 2. A cash deposit or a cash escrow deposited with an agent approved by the Commission in an amount, as determined by the Building Official, equal to 1-1/2 (one and one half)

times the amount necessary to complete the improvements and installations for the subdivision in compliance with these rules and regulations. Such cash deposit may be withdrawn in direct proportion to the amount of work completed as approved by the Commission.

- G. Approval of a Final Plat by the Commission or Staff shall not be deemed acceptance of any of the dedications shown on the plat.
- H. Upon completion of the installation of the improvements required by these rules and regulations, the subdivider shall present to the Building Official one complete set of the "as built" construction plans and drawings showing the subdivision and its improvements. This set of plans and drawings shall include:
 - 1. Plans of all streets and alleys showing the location of all utility lines.
 - 2. Centerline profiles of all streets.
 - 3. Profiles or invert elevations of all storm and sanitary sewerage lines as such improvements which have actually been installed by the subdivider.
 - 4. A letter submitted by a Professional Engineer certifying that all improvements and installations have been made in accordance with the submitted construction plans and drawings and the standards established by the City or the County, and said improvements and installations are functioning properly.

5.3 Staging

The subdivider may, with the permission of the Planning Commission, and in conformance with the provisions of Section 5 of this regulation, seek final approval for only a portion of the property for which the preliminary plat was approved. For residential plats such stages shall contain at least three (3) lots of the approved preliminary plat seeking final plat approval. The Planning Commission may require a performance bond for the public improvements (per

Paragraph 5.2.F.1) be in such amount as is commensurate with the stage of the plat being filed and may defer additional performance bond requirements until additional stages of the plat are offered for filing.

5.4 Final Plat Application Requirements

- A. General - Submission for certification of final plat approval shall consist of one reproducible print plus six (6) copies showing all certificates as specified in 5.4.D. below, and with the Certificate of Owner, Certificate of Engineering and Certificate of Surveying Accuracy being executed. The final plat shall be clearly and legibly drawn in black ink on suitable tracing material at the same scale and dimensions used for the approved preliminary plat. The Final Plat shall conform to the preliminary plat, and it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at any one time, provided that such portion conforms to the requirements of these rules and regulations.
- B. Final Plat - The final plat shall indicate the following information:
1. Name and address of owner of record and subdivider.
 2. Name of subdivision.
 3. Date of the plat, north point, and graphic scale.
 4. Name of all streets.
 5. Bearings and distances to the two nearest established section corners or other corners of record which shall accurately describe the location of the plat.
 6. Exact boundary lines of the tract indicated by a heavy line, or other acceptable control traverse, giving dimensions to the nearest tenth or hundredth of a foot and bearings to the nearest minute, or second in order to achieve an unbalanced error of closure of at least one in five thousand.

7. Streets and alleys within and abutting the subdivision, with street names indicated.
8. Street center lines showing angles of deflection or bearing, angles of intersection, and radii.
9. Source of title giving deed record book and page number or instrument number.
10. Lot lines with dimensions to the nearest tenth or hundredth of a foot, bearings and angles sufficient to reproduce the survey, and radii of rounded corners.
11. Building setback lines with dimensions. The lot width at the building line shall be shown when required by the Commission.
12. Lot and block numbers together with all street and/or 911 addresses.
13. Easements, buffer strips and public service utility rights-of-way lines giving dimensions, locations and purpose.
14. Accurate outlines and descriptions of any areas to be dedicated or reserved for public use or acquisition with the purpose indicated thereon; and of any areas to be reserved by deed covenant for common use of all property owners.
15. Accurate locations and descriptions of all monuments.
16. Key map where more than one sheet is required to present map.
17. Vicinity map.
18. Location of tract by legal description and giving acreage.

C. Written Information

1. ~~Certification of approval of water supply and~~

complied with.

Signed

Date of Execution Name, Professional

Engineer No. _____,
Arkansas

d. CERTIFICATE OF SURVEYING ACCURACY

I, _____
_____, hereby certify that this plat correctly
represents a boundary survey made by me and
boundary markers shown hereon actually exist and
their location, type and material are correctly
shown.

Signed

Date of Execution Name, Professional Land

Surveyor No. _____, Arkansas

e. CERTIFICATE OF FINAL APPROVAL

Pursuant to the Malvern Subdivision Rules and
Regulations, and all of the conditions of the
approval having been completed, this document is
hereby accepted. This Certificate is hereby
executed under the authority of said Rules and
Regulations.

Signed

Date of Execution Chairman, Malvern

Planning Commission

Malvern Dept. of Public Works

5. ELECTRONIC DATA

1. In addition to physical drawings the

applicant shall submit all preliminary plat information in electronic (digitized) formats unless otherwise stated by the Building Official, material shall be submitted in *Auto Cad* formation, Version 12 or higher.

2. Fees - Filing fees for final plat shall be those established by City Ordinance by the City Council of the City of Malvern.
3. Bill of Assurance - The Bill of Assurance shall be submitted to the Staff for review and approval with the final plat. Such document shall incorporate the same provisions as those filed with the preliminary plat, including but not necessarily limited to the following: offering dedications of streets and alleys, parks and other lands; establishing easements, setting forth privileges and conditions pertaining thereto, and setting forth the restrictions and covenants of the subdivision; and setting forth procedures by which amendments to the ~~Bill of Assurance can be made.~~ Said Bill of Assurance shall contain reference to the approval of the final plat.

Where minimum floor elevations are required to be placed on the final plat, the source of the information by which the elevation was obtained shall be shown on both the plat and contained in the Bill of Assurance.

SECTION 6. COMBINED PRELIMINARY AND FINAL PLAT PROCEDURE

6.1 Submission of Combined Application

Based upon the pre-application procedure, and for minor subdivisions and lot splits, where no public purpose would be served by separate steps, a combined preliminary and final plat procedure may be authorized in the following circumstances and in conformance with the requirements and standards specified herein.

A. Minor Subdivisions

1. Authorization - The Staff may authorize a combined preliminary and final review procedure for minor subdivisions. All plats submitted as minor subdivisions shall require review and approval by the Planning Commission.
2. Definition - In order to qualify as a minor subdivision, a proposed subdivision must meet the following requirements:
 - a. The proposed plat does not create more than six lots, tracts or parcels of land.
 - b. The proposed plat does not involve dedication of public street or access easement through rather than adjacent to the lot, tract or parcel proposed for subdivision.
 - c. All required public utilities are existing.
3. Review and Approval - Request for minor subdivision approval shall be made by the owner of the land to the Department of Public Works ~~twenty-one (21) days prior to the next~~ regularly scheduled Commission meeting date. Subdivision requirements shall be the same as those required for final plat. The Subdivision Committee and the Planning Commission shall review the plat at their next regularly scheduled monthly meeting. If the final plat is in conformance with the objectives and standards of this regulation and all required

information is contained thereon, the Planning Commission and the Building Official shall certify their approval of the plat, making proper notation on the original tracing of said plat, and permit recording the plat in the Office of the Circuit Clerk.

6.2 Lot Splits and Recombinations

- A. General Intent and Definition - The Planning Commission hereby delegates to and designates the Building Official the authority for approving or disapproving lot splits where a single lot, tract or parcel is being split into two lots meeting minimum lot requirements or where existing lot lines are proposed to be readjusted. Such authority shall be exercised in accordance with the following regulations.
- B. Application Procedure - Request for lot split approval shall be made by the owner of the land to the Department of Public Works. Eight copies of a drawing to scale of the lots involved if there are no structures thereon, or if the structures are located on any part of the lot being split, four copies of a survey of the lot(s) and the location of the structure(s) thereof, together with the precise nature, location and dimensions of the split, shall accompany the application.
- C. Approval Guidelines - Approval or disapproval of lot splits shall be given based on the following guidelines:
1. No new street or alley is required.
 2. No vacation of streets, alleys, setback lines, access control or easements is required or proposed.
 2. Such action will not result in any significant increases in public service requirements, nor will interfere with maintaining existing public service levels.
 4. There is adequate street right-of-way as required by these regulations and the Master

Street Plan.

5. All easement requirements have been satisfied.
 6. All lots created by such split or readjusted shall have direct access to a public street according to the provisions of this regulations.
 7. No substandard sized lots or parcels shall be created.
 8. Such action will not result in a lot being split into more than two (2) tracts.
- D. Approval - The Building Official shall, in writing, either approve, conditionally approve, or disapprove the proposed lot split within thirty (30) days of application. If approved, and after all conditions have been met, the Building Official shall sign and furnish a certified copy thereof and it shall be submitted by the application for recordation with the Circuit Clerk. Two copies of the final recorded plat shall be furnished by the applicant to the Department of Public Works.
- E. Plat Specifications - The final plat for minor subdivision or lot-splits shall be prepared on accepted tracing material or mylar film at a scale of 1" - 40' or larger and shall conform to all requirements for submission of a regular final plat as outlined in Section 5.
- F. Fees - The applicant shall submit all necessary fees and meet all submittal requirements at the time of the filing as described in Section 5 of this regulation.

SECTION 7. GENERAL PRINCIPLES

In addition to the specific requirements for improvements and their design, the following general principles, shall guide the Staff, the Subdivision Committee, and the Planning Commission in their review of proposed development and subdivision of land.

7.1 Suitability of the Land

- A. Adequacy of Public Facilities and Services - Land which is neither provided, nor programmed by the City within the corporate limits to have adequate water, sanitary sewer services or storm drainage facilities shall not be subdivided for purposes which require such services unless the developer provides such services.

- B. Subdivision and Street Names - The proposed name of subdivision and streets shall not duplicate, or too closely approximate phonetically, the name of any street or subdivision in the area covered by these regulations. The Malvern Fire Department shall review and have final authority to designate street and subdivision names.

- C. 911 Addresses - Provided by the Malvern Fire Department/911 Department

7.2 Access

Every subdivision shall be served by a publicly dedicated street, Every lot or parcel within a subdivision shall have direct access to a public street.

7.3 Conformance to Municipal Plans

- A. All proposed subdivisions shall conform to the Comprehensive Plan in effect at the time of submission to the Commission.

- B. All highways and street right-of-ways, and other features of the Master Street Plan, shall be platted by the subdivider in the location and the ~~dimension indicated on the Master Street Plan or~~

as approved with Section 9.1.A.2.a of these regulations.

- C. Where such features of the Municipal Plan other than streets are located in whole or in part in a proposed subdivision, such planned features shall be reserved by the subdivider for a period of ninety (90) days from the date of submission of the preliminary plat. At the end of ninety (90) days, if the public body responsible for acquisition of such area has not purchased, condemned or optioned the land, such reservation shall be automatically voided permitting the land to be developed in a manner suitable to the subdivider subject to the provisions of these rules and regulations.
- D. The Commission shall waive the above mentioned platting and reservation requirements of Section 7.3.B and 7.3.C whenever the public body responsible for land acquisition executes a written release stating that such planned feature is not to be acquired.
- E. The Commission may disapprove plats when such planned features, as specified by the Comprehensive Plan, are not incorporated into the plat.

7.4 Zoning or Other Regulations

- A. No Final Plat of land within the force and effect of an existing zoning ordinance shall be approved unless it conforms to such ordinance. Whenever there is a discrepancy between minimum standards or dimensions noted herein and those contained in zoning regulations, building code, or other official regulations or ordinance the most restrictive shall apply.
- B. When rezoning is required to bring a proposed subdivision into conformance with the authorized land use, such action shall be initiated by the applicant prior to or simultaneously with the request for subdivision approval.

7.5

Large Tracts or Parcels

- A. When land is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged and designed so as to allow for the opening of future streets and to provide access to those areas not presently served by streets.