

CHAPTER 3

PROCEDURE

Sec. 3.01. SUBDIVISION, WHEN REQUIRED. It shall be unlawful for the owner, agent or person having control of any land within the subdivision, jurisdiction of the County of Lancaster, to subdivide land, except in accordance with Section 23-174.03 Reissue Revised Statutes of Nebraska 1943, and the provisions of this resolution, provided however, that any subdivision of land caused by the acquisition of land by the Federal Government, State of Nebraska, *any natural resource district, any county, city, or village, within the jurisdiction of the County, shall be deemed to have received approval as required by Neb. Rev. Stat. 23-184.03 (Cum. Supp. 1980). This proviso shall apply to all such subdivisions occurring both before and after the effective date of this section. (August 5, 1986, Resolution No. 4214)

Sec. 3. 02. this section was eliminated with Resolution No. R-12-0059, July 24, 2012

Sec. 3.03. FILING PRELIMINARY PLAT. Except as provided in Section 3.12 (c) and 9.03 of this chapter, a preliminary plat shall be required under this Resolution. A person proposing to subdivide land shall file with the Planning Director copies of the preliminary plat prepared in accordance with the specifications of Chapter 7 herein. The Planning Director shall determine the number of copies to be filed. (November 8, 2005, Resolution No. R-05-0142)

Sec. 3.04. DEPARTMENT REPORTS ON PRELIMINARY PLAT. The Planning Director shall distribute copies of the preliminary plat and owner's statement and accompanying data to other county departments and governmental agencies who are directly concerned with the proposed subdivision. Reports shall be returned to the Planning Department within 30 days.

Sec. 3.06. HEARING BY COMMISSION. Hearing on a preliminary plat shall be before the Commission, provided:

(a) that notice of the consideration of such plat and the time and place of hearing shall be given to all interested persons as hereinafter provided, and

(b) a report from the Planning Director, Health Department and the County Engineer has been received by the Commission.

Sec. 3.08. APPROVAL OF PRELIMINARY PLAT. If, upon hearing, the Commission shall find such proposed plat to satisfy the requirements of this resolution, it shall approve said plat.

If, upon hearing, the Commission shall find that such proposed plat does not satisfy the requirements of this resolution, it shall specify in writing in the minutes of the hearing such objections as are found to such plat and may recommend the disapproval of such proposed plat, or recommend approval conditioned upon specific changes in the proposed plat, and complying with this resolution.

The Commission's findings shall be filed with the County Clerk within seven (7) days of the Commission's findings. Any interested person may appeal to the County Board any action of the Commission by filing notice of appeal with the County Clerk within (7) days following the filing of such findings. One copy of the proposed plat and findings shall be retained by the Commission and one copy and findings given to the person offering the proposed plat. The approval of the preliminary plat shall not constitute authority for the subdivider to sell the individual lots. (Resolution R-07-0015, March 13, 2007)

Sec. 3.09. PRELIMINARY PLAT APPROVAL LIMITED. If any final plat on all or a portion of the approved preliminary plat is submitted five (5) years or more after the effective date of the preliminary plat, the Planning Director may require that a new preliminary plat be submitted, pursuant to all the provisions of the subdivision resolution. A new preliminary plat may be required if the Subdivision Resolution, the Design Standards, or the required improvements have been amended by the Board; and as a result, the preliminary plat as originally approved does not comply with the amended rules and regulations. Any aggrieved person may appeal any action of the Planning Director to the Planning Commission, and any decision of the Planning Commission to the County Board, by filing notice of appeal within fourteen (14) days following the action being appealed. The appeal of the Planning Director's action shall be filed with the Director, and the appeal of the Planning Commission's action shall be filed with the County Clerk. (Resolution R-07-0015, March 13, 2007)

Sec. 3.10. AUTHORITY TO PROCEED WITH FINAL PLANS AND INSTALLATION OF IMPROVEMENTS. Receipt by the subdivider of the copy of the approved preliminary plat, together with the approval of the Commission or the approval of the Board, if appealed, shall constitute authority for the subdivider to proceed with final plans and specifications for the installation of the required improvements and preparation of the final plat. Prior to the construction of any of the required improvements, the subdivider shall submit such final plans and specifications to the appropriate agency pursuant to Chapter 5 - Minimum Improvements for examination. If, upon examination, the appropriate agency shall find such plans and specifications to be in accordance with applicable policies and standards, construction shall be authorized. All construction of streets, roads and public ways within the subdivision shall be inspected by a person approved by the County Engineer. The County Engineer shall be notified at the beginning and end of each phase of construction. Certificates shall be issued by the inspector for all phases of construction showing compliance or non-compliance with the standards herein and submitted to the County Engineer. All costs of inspections and surveying shall be the responsibility of the subdivider.

The subdivider shall (a) post a surety in the amount of 5% of the estimated construction costs of the streets and roads, and (b) agree to pay the cost to repair any and all failures of the streets and roads. These terms shall remain in effect for two years from the date of final plat approval. (June 26, 1990; Resolution No. 4653)

Sec. 3.11. INSTALLATION OF IMPROVEMENTS. The owner of a tract may prepare and secure approval of a preliminary plat of an entire area and may install the required improvements only in a portion of such area, but all improvements except individual water well systems and individual wastewater systems must be installed in any portion of the area for which a final plat is approved for recording; provided, however, that the community wastewater system and community water system shall be designed and built to serve the entire area owned by the subdivider or designed and built in such a manner that each system can be easily expanded or extended to serve the entire area.

Sec. 3.12. FILING FINAL PLAT. (a) If the preliminary plat is still in effect as set out in Section 3.09, a final plat in accordance with the approved preliminary plat may be filed. The final plat shall be drawn in accordance with an accurate survey of the subdivision, the approved preliminary plat, and the design standards set out in Chapter 4 herein. The subdivider shall file with the Planning Department the final plat and in addition thereto the number of copies required by the Planning Director, together with the following documents:

* (1) Prior to the approval of the final plat by the Planning Director, the subdivider shall provide a statement from the County Treasurer's Office showing that, according to their records, there are no liens of taxes against said land within the proposed subdivision or any part thereof. The subdivider shall also provide a statement from the County Treasurer's Office showing that all special assessment installment payments are current as applied to said proposed subdivision or any part thereof. The County shall assume no responsibility for any tax or special assessment liability on the property to be subdivided, and approval of said final plat shall not be construed as either approval of or act as a waiver of the enforcement of all applicable statutes and resolutions with regard to the collection of taxes and special assessments on the proposed subdivided property or any part thereof. All taxes and special assessments must be paid in full on all real property dedicated in fee to a public use. (November 8, 2005, Resolution No. R-05-0142; Resolution #4852, March 31, 1992.)

(2) In the event of any proposed dedication for public use, a certificate of title or a title opinion issued to or for the benefit and protection of the County showing all parties whose consent is necessary to pass clear title for the land being subdivided and dedicated, together with the nature of their interests therein, shall be furnished. Such proof of title shall be in a form acceptable to the County Attorney. Any subsequent change affecting ownership of the proposed subdivision or any part thereof shall be made only upon the prompt notification and certification to the Planning Director of said changes in ownership. The County shall assume no responsibility for any title problem with said proposed subdivision or any part thereof, and approval of said final plat shall not be construed as approval of the title of the proposed subdivision or any part thereof. *

(3) Whenever property is subdivided with the intention that it will have a use other than permitted by the district in which such property is located as designated on the then existing Lancaster County zoning district maps, such use shall be stated. No final plat shall be approved unless or until it complies with the zoning resolution of the County.

(b) If the time period between the effective date of the approved preliminary plat and the date the final plat is submitted exceeds five (5) years and the required improvements have not been installed, the subdivider may, prior to preparing the final plat, request a written opinion from the Planning Director as to whether the conditions of approval and the approved preliminary plat are still in compliance with the subdivision resolution, design standards, and required improvements. The Planning Director shall submit to the subdivider a written response indicating whether the conditions of approval and the approved preliminary plat are still in compliance with the current subdivision resolution, design standards, and required improvements. If the preliminary plat is not in compliance, the Planning Director shall list the items of noncompliance and may require that a new preliminary plat be submitted by the subdivider pursuant to all of the provisions of the Subdivision Resolution.

(c) A subdivider may file a final plat without an approved preliminary plat and the Planning Director or his/her authorized representative may approve such a final plat under the following conditions:

- (1) No highway, road or street is accepted or needed within the area of the new lots. (Resolution #4852, March 31, 1992)
- (2) No more than four (4) lots shall be created from any lot, tract or parcel of land. If the remaining outlot of any one parcel of land is ten (10) acres or less, it shall be considered one of the four (4) lots.
- (3) Necessary easements for drainage, utilities and any other improvement required by this resolution shall be granted.
- (4) All improvements required by this resolution shall be completed before the Planning Director approves the subdivision except individual water well systems and individual wastewater systems. Then, the subdivider shall agree to install and construct such systems on each lot prior to or at the time improvements are erected on the lot.
- (5) The subdivider shall submit such information as set forth in this resolution when specified by the Planning Director.
- (6) The subdivision shall be in accordance with the Comprehensive Plan.
- (7) The subdivision shall comply with the Design Standards, Chapter 4, Minimum Improvements, Chapter 5, and Subdivision with Flood Plain, Chapter 6, in this resolution.
- (8) Where an individual water well system for each lot or a community water system is proposed, water quality and quantity tests, results and reports as required in Chapter 7 shall be submitted by the subdivider.
- (9) Where individual water or wastewater systems are proposed to serve any of the proposed lots, the Health Department must approve the system, and all plans and information required by the Health Department shall be provided by the subdivider.
- (10) Prior to the approval of the subdivision, the subdivider shall provide a statement from the County Treasurer's Office showing there are no liens of taxes against said land within the proposed subdivision or any part thereof. The subdivider shall also provide a statement from the County Treasurer's Office showing that all special assessment installment payments are current as applied to said proposed subdivision or any part thereof. All taxes shall be paid in full on all real property dedicated for public use.

(11) In the event of any proposed dedication for public use, a certificate of title or a title opinion issued to or for the benefit and protection of the County showing all parties whose consent is necessary to pass clear title for the land being subdivided and dedicated, together with the nature of their interests therein, shall be furnished. Such proof of title shall be in a form acceptable to the County Attorney. Any subsequent change affecting ownership of the proposed subdivision or any part thereof shall be made only upon the prompt notification and certification to the Planning Director of said change in ownership. The County shall assume no responsibility for any title problem with said proposed subdivision or any part there, and approval of said subdivision shall not be construed as approval of the title of the proposed subdivision or any part thereof (Resolution R-12-0059, July 24, 2012)

Sec. 3.13. DEPARTMENT REPORTS ON FINAL PLAT.

(a) The Planning Director shall distribute copies of the final plat and other accompanying data to other county departments and governmental agencies who are directly concerned with the proposed subdivision.

(b) Each department or governmental agency which is directly concerned with the proposed subdivision shall, within ten days from receipt of a copy of the final plat, file with the Planning Director its approval of said plat or a report indicating in what manner such final plat does not conform to the requirements of this resolution and all other rules, regulations, and standards adopted pursuant to this resolution over which such department has administrative responsibility.

(c) Within ten (10) days from receipt of all of the above reports, the Planning Director shall notify the subdivider in writing of the recommended approval, conditional approval or disapproval of the final plat based upon a review of the recommendations of the various departments and the Director's own review of the design of the subdivision. If the Director finds that the final plat should be conditionally approved, the notification shall set forth all conditions of approval. The Planning Director shall also furnish the subdivider a subdivision agreement to be executed by the subdivider and the County Board wherein the subdivider agrees to comply with all conditions of approval and further agrees to construct the required improvements as provided therein. (December 10, 2013, Resolution No. R-13-0070; November 8, 2005, Resolution No. R-05-0142)

Sec. 3.14. REQUISITES FOR FINAL PLAT APPROVAL. No final plat shall be approved by the Planning Director unless or until all the required minimum improvements as set out in the approval of the preliminary plat have been installed and constructed and such has been approved by the appropriate agency, except individual water well systems and individual wastewater systems. In those subdivisions where an individual water well system and individual wastewater system is allowed the subdivider shall agree to install and construct such systems on each lot prior to or at the time improvements are erected on the lot. (November 8, 2005, Resolution No. R-05-0142)

Sec. 3. 16. FINAL PLAT APPROVAL.

(a) When the final plat conforms to the approved preliminary plat and the requirements have been accomplished, or when the final plat meets the requirements of Section 3.12 (c), certification to this effect shall be endorsed on the final plat by the Planning Director. (Resolution R-12-0059, July 24, 2012; November 8, 2005, Resolution No. R-05-0142)

(B) Any aggrieved person may appeal any action of the Planning Director to the Planning Commission, and any decision of the Planning Commission to the County Board by filing notice of appeal within fourteen days following the action being appealed. The appeal of the Planning Director's action shall be filed with the Director, and the appeal of the Planning Commission's action shall be filed with the County Clerk. If the Planning Commission approves a final plat and its action is not appealed to the County Board, the final plat shall be signed by the Chairman of the Commission. If the County Board approves a final plat after the appeal of the denial of such a plat by the Commission, no further action shall be required by the Commission to approve such a plat. After approval thereof by the County Board, the plat shall be returned to the Planning Department for signing by the Chairman of the Commission. Thereafter, such plat shall be processed in accordance with the procedures set forth in Section 3.17. (November 8, 2005, Resolution No. R-05-0142)

Sec. 3.17. FINAL PLAT FILED WITH REGISTER OF DEEDS. No plat shall be filed for record or recorded in the Office of the Register of Deeds of Lancaster County, and no lot shall be sold from such plat unless and until:

(a) Such final plat has been approved by the Planning Director, or in the event of an appeal, by the Planning Commission or County Board;

(b) Provision for the installation and construction of all required minimum improvements have been fulfilled;

(c) The subdivider has submitted to the Planning Director the recording fee. Thereafter, the approved final plat and a copy of the accepting resolution certified by the County Clerk, along with the subdivision agreement and any other required agreements and an analysis of the quality and quantity of underground water when individual water well systems are to be used shall be filed and recorded in the Office of the Register of Deeds of Lancaster County, Nebraska. Thereupon, such final plat shall be equivalent to and operate as a deed in fee simple to Lancaster County or other applicable utility or governmental entity from the owner of all streets, alleys, public ways and grounds, and of such portions of land as herein set apart for public and County use. The Planning Director shall have the responsibility for transmitting to the Office of Register of Deeds the approved final plat, the subdivision agreement, any other required agreements and any other data that must be recorded. The planning Director shall ascertain the amount of the recording fees due to the Register of Deeds and notify the subdivider. (November 8, 2005, Resolution No. R-05-0142)

Sec. 3.18. SURVEY ERRORS. In the event that a survey error is found at any time after the filing of the final plat with the Register of Deeds, the subdivider shall be notified by the Planning Director. Thereafter, the subdivider shall immediately proceed to cause the survey error to be corrected. Building permits on any or all the lots within the subdivision may be withheld and the County may take such action it deems appropriate to obtain the correction of the survey error. The subdivider shall submit to the Planning Director a corrected final plat, and an explanation letter setting forth the corrections. The Planning Director shall transmit the corrected final plat and the letter of explanation to the County Engineer. The County Engineer shall review and return comments to the Planning Director. (November 8, 2005, Resolution No. R-05-0142; September 1, 2006, Resolution No. R-06-0071)

After the Planning Director has approved the corrected final plat, the Planning Director shall then file the approved corrected final plat in the Office of the Register of Deeds. The recording fee shall be paid in advance by the subdivider and submitted to the Planning Director. The name of the

corrected final plat shall be "A corrected plat of (the name of the said subdivision)." The word "replat" shall not be used. The corrected plat shall comply with this resolution and the conditions of the original plat as approved by the County. (November 8, 2005, Resolution No. R-05-0142)

Sec. 3.19. VACATION OF PLAT (VOIDING). The owner of any subdivision or plat may file a request to vacate all or a portion of such subdivision or plat with the Planning Department. A notice to adjacent owners of record shall be mailed at least ten (10) days before the Planning Commission's public hearing. Receipt of such notice is not mandatory or required as a condition precedent to any such public hearing. After notification of the proposed action has been mailed to the owners of record within one mile of the boundary of the proposed vacation, the board may then set forth conditions it deems appropriate and approve the vacation. After the vacation is approved by the Board, the Planning Director shall then file the resolution approving the vacation in the Office of the Register of Deeds. Thereupon, the previous subdivision or plat shall be voided. The recording fee shall be paid in advance by the owner and submitted to the Planning Director. (November 13, 1990, Resolution No. 4690; September 5, 2003, Resolution No. 03-0091; September 1, 2006, Resolution No. R-06-0071)

Sec. 3.20. This section rescinded on December 10, 2013, Resolution No. R-13-0070,

Sec. 3.21. EXPIRATION OF APPLICATION.

All applications for a final plat or administrative subdivision permit shall automatically expire and become null and void one (1) year after submission of the application, if the applicant by said date has failed to satisfy all the conditions of approval set forth in the Planning Director's letter. All applications which are placed on pending before the Planning Commission or County Board at the request of the applicant shall automatically expire and become null and void one (1) year after the application was placed on pending.

At least thirty (30) days before the date of expiration, the Planning Director shall cause notice of expiration to be sent to the applicant by regular United States mail, postage prepaid. Said notice shall advise the applicant that the matter shall automatically terminate unless prior to the expiration date the applicant has satisfied all the conditions of approval set forth in the Planning Director's letter or the Planning Director receives a request from the applicant to remove the application from pending and reschedule the matter on the Planning Commission or County Board agenda as appropriate. (Resolution R-07-0015, March 13, 2007; Resolution R-08-0024, April 15, 2008; Resolution No. R-08-0094, November 4, 2008).

Sec. 3.22. AMENDMENTS TO THE TEXT.

The County Board may from time to time on its own motion or on petition, amend, supplement, change, modify or repeal by resolution this resolution. Any proposed amendment, supplement, change, modification, or repeal shall first be submitted to the Lincoln-Lancaster County Planning Commission for its recommendations and report. After the recommendations and report of the Commission has been filed, the County Board shall, before enacting any proposed amendment, supplement, change, modification, or repeal, hold a public hearing in relation thereto, giving notice of the time and place of such hearing as provided in section 9.05(a). (Resolution No. R-08-0094, November 4, 2008).