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**Municipality:** City of Rogers  
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**Title:** City of Rogers Land Alteration Regulations  
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### ***Abstract***

This ordinance attempts to minimize the ecological disturbances resulting from development of land. In particular, this ordinance sets up guidelines and requirements for the use of such erosion/sedimentation control structures as stormwater screenings and silt fences. The ordinance requires that developers obtain a grading permit before beginning work on a site, and that they draw up grading and drainage plans certified by engineers, detailing how erosion will be controlled and how trees will be protected.

### ***Resource***

Chapter 110 SUBDIVISIONS\*

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\*Editor's note: Ord. No. 99-09, §§ 1.01--4.09, adopted Feb. 23, 1999, repealed the former Ch. 110, §§ 110-1--110-88, and enacted a new Ch. 110 as set out herein. The former Ch. 110 pertained to similar subject matter and derived from Ord. No. 97-38, §§ 1.01--4.09, adopted June 24, 1997.

Cross references: Buildings and building regulations, ch. 18; planning, ch. 94; zoning, ch. 130; planned unit developments, § 130-203.

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#### Sec. 110-1. Purpose.

The purpose of these regulations is to set forth the procedures, requirements and minimum standards governing the subdivision of land under the jurisdiction of the Rogers Planning Commission (hereinafter referred to as the "planning commission").

(Ord. No. 99-09, § 1.01, 2-23-99)

#### Sec. 110-2. Authority.

These subdivision regulations are adopted in accordance with the authority granted by Act 186 of the 1957 General Assembly of the State of Arkansas as amended.

(Ord. No. 99-09, § 1.02, 2-23-99)

#### Sec. 110-3. Jurisdiction.

The territorial jurisdiction of these regulations includes the land within the corporate limits of the City of Rogers and the surrounding area designated on the most recent growth comprehensive plan recommended by the planning commission, adopted by the city council and filed/recorded at the Benton County Circuit Clerks Office.

(Ord. No. 99-09, § 1.03, 2-23-99)

#### Sec. 110-4. Application of regulations.

(1) These regulations apply to the division of land into two or more lots, tracts or parcels of any size for the purpose of transferring interest in the land by sale or by contract.

(2) A preliminary and final plat is required for the division of land into two or more lots, tracts or parcels when there is a need for provision of street right-of-way and/or utility easements to lots, tracts or parcels.

(3) A preliminary and final plat is required for the division of land into three or more lots or parcels, all of which have access to existing public roads and utilities. Said plats shall indicate dedicated right-of-way as specified in the official road plan and shall be recorded with the county recorder.

(4) When a parcel, tract or lot is split into two or more parcels, tracts or lots of any size, a survey shall accompany each deed. Said survey shall provide a vicinity map, parcel, tract or lot description, utility easements, right-of-way or access and public dedication, if any. (See definition of "splits" in section 110-9.)

(5) When a parcel, tract or lot is to be transferred which would create a landlocked parcel, tract or lot the parcel, tract or lot to be transferred shall include detailed access to a public road or street to be indicated on the survey. The width of the access shall be a minimum of 50 feet. (See definition of "splits" in section 110-9.)

(Ord. No. 99-09, § 1.04, 2-23-99)

#### Sec. 110-5. Conformance to official plans.

All land developments in the City of Rogers and the planning area shall conform to the official plans, standards, requirements and regulations that are in effect.

(Ord. No. 99-09, § 1.05, 2-23-99)

#### Sec. 110-6. Lot, tract or parcel size.

Individual lots, tracts or parcels that require both a septic system and water well shall be of sufficient size to satisfy State Health Department requirements. A minimum frontage shall be 120 feet with a minimum lot, tract or parcel size of 1.5 acres.

#### Sec. 110-7. Metes and bounds.

No conveyance by metes and bounds of parcels, tracts or lots coming under the definition of a subdivision without compliance with the applicable provisions of these regulations or amendments thereto shall be permitted. This provision is aimed at preventing an attempt to circumvent these regulations by conveying by metes and bounds without taking the necessary steps for filing an approved plat.

#### Sec. 110-8. Flood hazard areas.

A flood hazard area is one subject to a base flood as determined by the Federal Emergency Management Agency (FEMA) identified on its flood insurance rate map (FIRM). See section 110-52(1).

(Ord. No. 99-09, § 1.08, 2-23-99)

Sec. 110-9. Definition of terms.

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

**Building setback lines.** A line beyond which no buildings or structures may be erected.

**Clearing** means the act of cutting, removing from the ground, burning, damaging or destroying trees, stumps, hedge, brush, roots, logs, or scalping existing vegetation.

**Construction plans and specifications.** Detailed design plans and specifications to be used in the construction of streets, curb and gutter, sidewalks, drives, alleys, public utilities, and other improvements.

**Contour intervals.** Topographic map lines connecting points of equal elevations.

**Dedication.** Land and improvements offered to the City, County or State and accepted by them for public use, control and maintenance.

**Developer.** A person, firm or corporation undertaking to develop a subdivision or any other type of land development as defined in the regulations.

**Development plan.** A drawing showing all proposed improvements to a piece of property, including, but not limited to, streets, parking lots, buildings, drives, signs, utilities, drainage, grading and planting by size and location.

**Easement.** A grant by the property owner to the public, a corporation or person, of the use of a strip of land for specific purposes.

**Engineer.** A registered professional engineer in the State of Arkansas engaged in the practice of civil engineering.

**Farm divisions.** (See "splits")

**Growth comprehensive plan.** The Comprehensive Plan of the City of Rogers whether in whole or in part, as adopted by the Rogers Planning Commission, approved by the city council, and duly recorded in the office of the Circuit Clerk of Benton County.

**Health department.** The county and state health department.

**Improvements.** Physical changes made to property to prepare it for development, such as but not limited to street grading, drainage structures, street surface, sidewalks, curbs, gutters, utility lines, bridges, buildings and similar items.

**Land alteration** means the process of grading, clearing, filling, excavating, quarrying, tunneling, trenching, construction or similar activities.

Land development. Development including, but not limited to, subdivisions, mobile home parks, mobile home subdivisions, large scale developments, tract splits, lot splits, farm divisions, streets, roads, bridges, storm drainage systems, water and sanitary sewer systems, offsite improvements, landfills, commercial farms, airports, public utilities, etc.

Land surveyor. A licensed land surveyor in the State of Arkansas.

Large-scale development. The development of a tract, lot or parcel, developed as a single improvement. The term 'development' shall include, but not be limited to, the construction of a new improvement, the construction of an addition to an existing improvement, or a revision of land use which results in the need for access and utilities.

Lot. A portion of a subdivision or other tract or parcel of land intended as a unit for transfer of ownership or for development.

Corner lot. A platted lot of which at least two adjacent sides abut on intersecting streets.

Lot splits. (See "splits").

Mobile home subdivision. The development or division of land into lots or parcels intended as a unit for transfer of ownership. (See zoning ordinance mobile homes)

Parcel. An area of land under one ownership.

Plat, concept. A generalized sketch of a proposed development containing sufficient information to allow the planning commission to assist the developer in complying with these regulations. See section 110-31.

Planning official. The person designated by the city council to have overall responsibility of the entire policy or particular portion(s) of the policy.

Preliminary plat. A formal plan, drawn to scale, indicating prominent existing features and its surrounding and the layout of the improvements of the proposed land development. See section 110-32.

Final plat. A complete and accurate plat of proposed land development, prepared for official recording as required by statute, to define property boundaries, street improvements, utilities and other improvements.

Right-of-way (ROW). The land opened, reserved or dedicated for a street, walk, drainage or other public purposes.

Splits.

Farm divisions. For two (2) or more tracts of farm land, all of which are 40-acres or more, or a single resident, with a 50' minimum access.

Lot splits. Division of lands adjacent to existing city streets and/or streets meeting county standards, and/or state or US Highways which are part of a platted land development.

Tract splits. Division of lands adjacent to existing city streets and/or streets meeting county standards and/or state or US Highways which are not a part of a platted land development and are less than 40 acres in size.

Street. A strip of land, including the entire right-of-way, intended primarily as a means of vehicular and pedestrian travel which may also be used to provide space for sewers, public utilities, trees and sidewalks.

Street classification. The City of Rogers Master Street Plan classifies streets and county roads into the following broad categories:

Alley. A minor public way dedicated to public use for utility easements and public access to the back or side of properties abutting a street. Alleys are not intended for use as private drives and will not be maintained as such.

Arterial. A street or road of considerable continuity which serves or is intended to serve as a principal traffic-way between separate areas, districts, communities or densely developed areas; and is the main means of access to the primary street system or expressway.

Collector. A street which, in addition to serving abutting properties, intercepts minor streets, connects with community facilities and carries neighborhood traffic to major arterial street systems.

Dead-end street. A street having one end open to traffic and being permanently

Private drives and driveways. A travel-way installed and maintained by others and not part of the city street system. They are intended to provide access to and from a residence, lot, parcel or tract of land, apartment complex or other private development approved by the city planning commission.

Residential. Minor streets used primarily to provide access to abutting properties.

Street superintendent. The person designated by the city council to have overall responsibility of the city streets.

Subdivisions. The subdivision of land into lots and blocks, resulting in the need for access or utilities, or the dividing of an existing lot, tract or parcel into two or more lots, tracts or parcels.

Tract splits. (See "splits")

(Ord. No. 99-09, § 1.09, 2-23-99; Ord. No. 02-63, § 1, 9-24-02)

Secs. 110-10--110-29. Reserved.

## ARTICLE II. APPROVAL PROCEDURES FOR LAND DEVELOPMENT PLANS AND PLATS

### Sec. 110-30. Procedures.

The procedures for land development approval involve the following steps:

Step 1 - Concept plat submittal;

Step 2 - Preliminary plat submission and approval, construction plans and specification submission and approval;

Step 3 - Final plat submission, approval and filing.

(Ord. No. 99-09, § 2.00, 2-23-99)

### Sec. 110-31. Concept plat submittal.

When a developer intends to develop a parcel of land within the city or its planning area, a concept plat may first be submitted to the planning administrator for review applicable to the planning requirements. This conference may be of assistance to the developer through the prevention of unnecessary expense in the plat preparation.

The concept plat may be a legible free-hand drawing superimposed upon a print of a site map or aerial photograph which shall provide the following data:

- (1) Name, address and telephone number of the owner, developer, engineer and/or surveyor.
- (2) Development name, date, north arrow and approximate acreage.
- (3) Topography (available USGS interval or better).
- (4) Proposed street pattern.
- (5) Proposed storm drainage, on-site and off-site, to an existing major channel.
- (6) Existing water courses and flood plains, if any.
- (7) Existing adjoining or abutting streets, roads and developments.
- (8) Existing water and sanitary sewer systems.
- (9) Any additional information the developer considers pertinent.



(10) While in concept form, the developer and/or engineer may consult with the planning official to get acquainted with the planning requirements. During this conference, the general features of the land development, its layout, facilities and required improvements, including off-site required improvements, shall be determined to the extent possible and necessary for preparation of the preliminary plat.

(11) A plat review committee meeting may be scheduled within 15 days following the receipt of the concept plat submission.

(Ord. No. 99-09, § 2.01, 2-23-99)

#### Sec. 110-32. Preliminary plat submission and approval.

When a land development is proposed, the first formal application for approval shall be the preliminary plat directed to the planning commission and submitted to the planning official.

(1) The preliminary plat submission shall consist of the following:

a. Payment of the preliminary plat fee.

b. Twenty copies of the preliminary plat of the proposed development along with 12 copies of a drainage report for the development. The plat shall include the information indicated for preliminary plat in section 110-35(3).

(2) Submission time and review schedule:

a. The above submission shall be received according to the TAC review schedule provided by the city planning office. Prior to the scheduled meeting of the planning commission in which the preliminary plat is to be considered.

b. Following submittal of the preliminary plat, the planning official shall distribute the plat to the plat review committee for its review and comments. The administrative officer shall schedule a meeting of the plat review committee with the developer's representatives to consolidate the review comments.

c. The planning commission shall consider the preliminary plat along with all reports and comments by the plat review committee, planning official, other city departments, officials, utility companies and others, which are of record at the time of the planning commission meeting. Within 30 days after the planning commission meeting described in subsection (2)a above, the planning commission shall indicate its approval, disapproval, or approval with conditions. Such approval, disapproval or approval with conditions shall be conveyed to the developer's representatives at a regular planning commission meeting.

(3) Preliminary plat approval. Approval of the preliminary plat shall be subject to the following stipulations:

a. Such approval does not constitute authorization to proceed with the construction until the construction plans and specifications have been approved by the street superintendent, nor authorization to sell lots until the final plat is approved and filed in the Benton County Circuit Clerk's office.

b. Receipt by the developer of the planning commission's written approval of the preliminary plat authorizes the developer to proceed with the following:

1. Preparation of the construction plans and specifications which shall include:

a. Detailed street plans, profiles and specifications accompanied by soil analysis and design calculations to be reviewed and approved by the street superintendent and/or city engineer;

b. Detailed storm drainage plans, profiles and specifications accompanied by soil analysis and design calculations to be reviewed and approved by the street superintendent and/or city engineer;

c. Detailed water and sewer plans, profiles and specifications to be submitted by the developer to the Arkansas Department of Health for review and approval. One informational copy shall be submitted to the planning official for his use and review only.

**\*\*Note\*\*** The developer is responsible for obtaining the Arkansas Department of Health's approval of the water and sewer or septic system plans and specifications.

2. The installation of the site improvements after the construction plans and specifications have been approved by the street superintendent and/or city engineer and written approval of the water and sewer plans have been received from the Arkansas Department of Health.

3. Preparation of the final plat in accordance with the final plat procedures.

c. The preliminary plat shall be effective for one year from date of approval to implement the following items:

1. Approval of construction plans and specifications.

2. Initiate and progressively continue construction improvements.

3. Approval and filing of the final plat.

d. Any preliminary plat not activated per (3)c above within 12 months from date of approval shall be null and void.

(4) Construction plans and specifications approval submission requirements and procedures:

a. Receipt by the developer of the planning commission's written approval of the preliminary plat authorizes the developer to proceed with the development of the detailed plans and specifications for the proposed improvements. The detailed construction plans

and specifications shall be developed by a professional engineer registered in the State of Arkansas and submitted to the appropriate agency for review and approval prior to the developer advertising for bids or beginning construction. Submission of construction plans and specifications for approval shall consist of the following.

b. One copy of the preliminary plat and approval letter from the planning commission.

c. Three complete sets of construction plans and specifications for the proposed improvements for review and approval by the street superintendent and/or city engineer. One approved copy will be returned to the developer. The plans and specifications shall include the following information:

1. Street classifications, soils analysis, street typical section and pavement section of each street or street classification in the proposed development in accordance with the requirements of this chapter.

2. Street plan and profile, design calculations, and specifications in accordance with the requirements of this chapter.

3. Storm drainage calculations, plan and profile and specifications in accordance with the requirements of this chapter.

4. As appropriate, design calculations, plan and profile and specifications for all required off-site improvements in accordance with the requirements of this chapter.

5. Storm water pollution prevention plans (SWPPP) in accordance with Arkansas general permit #ARR10A000 for sites containing disturbed areas greater than 5 acres.

6. One copy of the water line and sanitary sewer plan and profiles.

d. Two sets of the water and sanitary sewer plans and specifications shall be submitted to the Arkansas Department of Health for approval.

e. Review and approval by the street superintendent's and/or city engineer. Within 30 days the street superintendent and/or city engineer shall approve, disapprove, or approve with conditions the street and storm drainage plans and specifications in writing and return one copy to the developer. However, any approval action of the plans and specifications does not constitute approval of the final plat.

f. Inspections by the street superintendent and/or city engineer. All street and storm drainage and utility construction within the road right-of-way shall be subject to inspection at any time by the street superintendent and/or city engineer. The required phase inspections are contained in the latest revision of "Design Criteria and Construction Specifications for the Division, Development and Improvement of Land in the City of Rogers".

g. Time limitations and staged construction. After approval of the detailed plans and specifications of proposed improvements, construction work shall begin within one year and the construction completed within three years thereafter. If not, the original plans and specifications shall be subject to review and updating by the appropriate agencies. Any changes resulting from this review and updating shall be made at the developer's expense.

h. Staged construction. The following applies to land developments approved for staged construction:

1. If the detailed plans and specifications for the future stage(s) are submitted and approved as part of the original plans and specifications and construction has not started within three years after the approval date, or if construction work ceases for any 12 month period thereafter, the plans and specifications shall be re-submitted to the appropriate agencies for review and updating to meet the current standards and specifications. Any changes resulting from this review and updating shall be made at the developer's expense.

2. If the detailed plans and specifications for any future stage are developed at a later date, they shall be submitted to the appropriate agencies. The plans and specifications shall meet the current standards, regulations and specifications at that time.

i. Maintenance bond requirements. Upon completion of the work and final inspection by the appropriate agency, the developer shall furnish the following maintenance bonds:

1. Street and storm drainage improvements. An acceptable maintenance bond shall be provided in the amount of 50 percent of the actual construction cost against defects in workmanship and materials for a period of one year from the date of the final inspection. The bond shall be filed with the city clerk's office after the final inspection and prior to acceptance by the City.

2. Water and sanitary sewer improvements. All water and sanitary sewer work shall be done in accordance with Rogers Water Utilities requirements.

3. Staged construction. When staged construction is approved prior to future stage development, an inspection of the condition of the existing street system shall be made by the street superintendent and/or city engineer, developer, contractor and engineer to document the existing condition of the streets. The contractor shall make repairs to street damages as they occur during the construction of the next stage of development. An inspection of the existing street system shall be made as a part of the final inspection of the new stage of street improvements. All damages noted by the street superintendent and/or city engineer shall be satisfactorily corrected prior to acceptance of the new stage of improvement. Repair of all damage will be at the developer's expense.

4. Water, sanitary sewer, street and storm drainage in a new stage of construction shall carry the same maintenance bond as specified for the initial construction of improvements, as outlined in this subsection (4)i.

j. Conditions of acceptance. The city shall not have any responsibility with respect to any street, road or other improvement, notwithstanding the use of the same by the public, unless the street, road or improvement has been accepted by the city.

k. The city shall, within 30 days after the improvements have been offered for dedication to the city, accept the improvements provided the improvements have been constructed in accordance with the conditions and requirements of the city. City maintenance will begin when the required one year maintenance bond has expired.

l. Prior to requesting final acceptance of the improvements into the city system, the developer shall submit the following:

1. Two copies of the record drawing for street and storm drainage and two copies of the record drawing for water and sanitary sewer shall be submitted to the planning office.

2. The appropriately executed maintenance bonds shall be submitted to the city clerk.

3. Certified proof that all improvements are free of liens and debts shall be submitted to the planning office.

(Ord. No. 99-09, § 2.02, 2-23-99)

Sec. 110-33. Final plat submission, approval and filing.

After the planning commission approves the preliminary plat and all improvements have been approved by the appropriate agencies, the developer shall submit to the planning commission an application for approval of the final plat. If the developer wishes to submit the application for approval of the final plat before the improvements have been completed, the subsection (2), Guarantees in lieu of installed improvements, shall apply.

(1) The approval process for the final plat shall consist of the following:

a. Application for approval of final plat.

b. Payment of the final plat fee contained in section 110-34(1).

c. Twenty reproductions or copies of the final plat which shall require the information for final plats contained in section 110-35(3). The final plat shall be reviewed by the plat review committee prior to final action by the planning commission, if required by the planning official. If revisions are required, the developer shall make such revisions and resubmit 20 copies of the revised plat containing the revisions to the planning official for distribution to the planning commission.

d. Assurances that the improvements indicated in the final plat and/or required by these regulations have been installed or assurances they will be installed. Such assurances shall consist of:

1. A certification by the engineer of record that all improvements have been completed and accepted.

2. Individual letters of intent from public utility agencies that they shall or shall not provide service through the developer for the development.

(2) Guarantees in lieu of installed improvements. If the developer chooses to begin building construction or to sell lots within the land development prior to installing the required improvements, the planning commission may give conditional approval of the final plat under the procedures listed below. Drainage improvements are not eligible for guarantees in lieu of completion.

a. The terms of any such conditional final plat approval shall be noted on the final plat by the planning commission before the final plat is filed for record.

b. An acceptable surety performance bond or cash deposit or irrevocable letter of credit, filed with the city clerk in an amount equal to 100 percent of the engineer's estimate of the total cost of the improvements. The engineer's estimate of the total cost shall be approved by the street superintendent and/or city engineer. Upon satisfactory completion of the improvements, the developer may withdraw the cash deposit or performance bond.

c. If the developer fails to complete improvements within one year from the date of final plat approval, the city has the option to utilize the performance bond or cash deposit to complete the improvements. In the event the cash deposit is forfeited, all accrued interest shall revert to the city.

d. When the conditions have been met, a certificate of acceptance by the appropriate agencies shall be filed with the circuit clerk and noted on the original recorded plat.

(3) Planning commission action. Not less than 60 days after receipt of the final plat and other required information and certifications, the planning commission shall approve or disapprove the final plat. The approval or disapproval shall be provided to the developer in writing.

(4) Developer's final action. Upon approval by the planning commission, the developer shall:

a. Submit to the planning official two reproducible copies of the final plat with appropriate signatures of approval (use waterproof ink only).

- b. Obtain the planning official signature and submit both copies with covenants and certifications to the Benton County Circuit Clerk's office.
- c. Have the Benton County Circuit Clerk record one copy and note on the other copy the recording information such as date, time, book and page number.
- d. Take the recorded copy and run five additional copies.
- e. Return the original recorded copy plus the five additional copies to the planning official.

Approval of the final plat by the planning commission shall not be deemed acceptance by the city of any of the dedications shown on the plat. Such acceptance shall be made by the city council in the manner prescribed by law. When the city council accepts the improvements into the city street system, no maintenance will be performed by city forces until the maintenance bonds have expired.

(5) Signatures. The final plat shall be signed by the chairman of the planning commission, the mayor and city clerk.

(6) Number of plats. The planning official may request additional copies of the final plat, if the quantity required by subsection (1)c of this section is not sufficient for the necessary distribution.

(Ord. No. 99-09, § 2.03, 2-23-99)  
Sec. 110-34. Fees payable to planning office.

(1) To initiate planning office services, the developer shall remit the following fees:

Preliminary plat . . . \$1.00 per lot (minimum \$50.00)

Final plat . . . \$1.00 per lot (minimum \$50.00)

Lot splits . . . \$25.00

(2) Review, approval and inspection fees for water and sanitary sewer improvements shall be fixed by the Arkansas Department of Health and the Rogers Water Utilities.

(Ord. No. 99-09, § 2.04, 2-23-99)

Sec. 110-35. Plat requirements for land development.

(1) The original plat shall be drawn in waterproof ink on reproducible, stable base material at a scale which best suits the size of the property being platted. Preferably, the sheets should be standard print size and the scale should be one inch = 100 feet.

(2) Plats submitted to the planning office shall have the following information shown or made reference to and attached thereto. The planning official shall deliver the information

to the planning commission for review and consideration of concept, preliminary and final plats.

(3) Procedure for plat approval. The following information is required by the planning commission for a plat review and approval. Checklists are to be included with plat submittal.

(a) Plat information:

TABLE INSET:

Preliminary Plat Final Plat Lot Split  
Name and address of developer X X X

Subdivision name, date, graphic scale, north arrow and acreage X X X

Legal description of the property with dimensions and angles sufficient to locate all lines on the ground. X X X

Vicinity map showing zoning and surrounding zoning in proposed development. X X X

Location of all existing and proposed utility lines and drainage systems including street lights X X

(b) Information to supplement plat:

TABLE INSET:

Preliminary Plat Final Plat Lot Split  
Letter of transmittal X X X

Protective covenants X X X

Certificate of survey accuracy X X

Certificate of ownership and dedication X X

Certificate of approval by planning commission X X X

Certification of acceptance of dedication X X

Written approval of sewer and water systems by state health dept. and by water & sewer superintendent, check with Rogers Water & Sewer concerning special connection fee X

Certification of drainage improvements including Record Drawings of the system X

Check list required to be part of Preliminary Plat approval X



(c) Topographic data

TABLE INSET:

Preliminary Plat Final Plat Lot Split

Original topography 2 ft. contour intervals where slope is less than 10% or 5 ft. where slope exceeds 10% X

(d) Streets, easements, drainage and lot layout:

TABLE INSET:

Preliminary Plat Final Plat Lot Split

Location of existing streets, utility easements and drainage abutting the development X X X

Location of all prominent physical features, such as buildings, railroads and creeks X

Minimum finish floor elevation for each lot, at or above curb level except as waived by the planning commission. X

Drainage plan with all necessary calculations, design criteria, dated and signed by P.E. and other necessary information required to meet city code X

Location of all proposed property lines, lot and block numbers, building lines, easements, dedications, reservations X X X

Flood areas X X X

Street requirements included in plan and profile, cross section, right-of-way dedication, design criteria, and other information to meet city code X X X

(Ord. No. 99-09, § 2.05, 2-23-99)

Secs. 110-36--110-50. Reserved.

### ARTICLE III. DESIGN STANDARDS, REGULATIONS AND REQUIRED IMPROVEMENTS FOR LAND DEVELOPMENT

Sec. 110-51. Conformity.

The proposed land development shall meet the following regulations and required improvements for land development. Also, they shall meet the state health department requirements. Unless specified, the following standards, regulations and required improvements apply to all land development and new extensions.

(Ord. No. 99-09, § 3.01, 2-23-99)

Sec. 110-52. Fitness for development.

(1) Flood hazard areas. A flood hazard area is one subject to a base flood as defined by the Federal Insurance Administration and as identified on its "Flood Hazard Boundary Map" as provided by FEMA. A copy of the map shall be displayed in the city planning office. The following regulations apply to flood hazard areas:

a. No plat of a land development shall be approved that contains lots or building sites in a flood hazard area unless the finished floor elevation of the lowest livable floor is at least 2 feet above the level of the base flood.

b. When a portion of a land development contains portions of flood hazard areas, they shall be clearly delineated on the preliminary and final plats. No structures shall be constructed in the areas designated as floodway. Construction in floodplain areas shall be as described in subsection a above.

(2) Based on topographic maps, soil surveys prepared by the U.S. Department of Agriculture, and drainage information, the planning commission may require that steep grades, unstable soil and flood plains be set aside and not subdivided until corrections are made to protect life, health, and property.

(Ord. No. 99-09, § 3.02, 2-23-99)

Sec. 110-53. Residential lot and block standards for subdivisions.

(1) Individual lots that require both a septic system and water well shall be of sufficient size to satisfy State Health Department requirements for safe water wells and septic systems. Minimum frontage shall be 120 feet with a minimum lot size of 1.5 acres.

(2) Residential lot size and shape. The size and shape of the lots shall not be required to conform to any stipulated pattern, but insofar as practical, side lot lines should be at right angles to straight street lines or radial to curved street lines.

(3) Easements. Where required for drainage and utilities, easements shall be at least 15 feet wide. If there is an adjoining easement, the total combined width of both easements shall be at least 15 feet. Easements of adequate width in accordance with engineering or open space standards shall be provided for open drainage channels or scenic stream beds, where required.

(Ord. No. 99-09, § 3.03, 2-23-99)

Sec. 110-54. Lot and block standards for mobile home parks.

(1) Lot size and density. All standards contained in "Rules and Regulations Pertaining to Mobile Homes and Travel Trailer Parks" adopted by the state board of health shall apply.

(2) Boundary and buffer areas. Depending upon location, density of proposed mobile home park and other factors, the planning commission may require buffers where deemed necessary.

(3) Road and street maintenance. All roads and streets within the mobile home park or providing access to the mobile home park that will be dedicated to the city shall be designed and constructed in accordance with the design requirements and specifications contained in this chapter.

(4) Parking. At least two off-street designated parking spaces shall be provided for each mobile home.

(5) Tie downs. Tie downs, in accordance with state and federal regulations, shall be constructed and made available to the mobile home park tenants.

(6) Easements. Easements at least 15 feet wide shall be provided, where needed, for utilities. Easements of adequate width in accordance with engineering or open space standards shall be provided for open drainage channels or scenic stream beds, where required.

(Ord. No. 99-09, § 3.04, 2-23-99)

Sec. 110-55. Street design criteria for land development.

Design criteria for streets and roads in land developments are contained in the latest revision of "Design Criteria and Construction Specifications for the Division, Development and Improvement of Land in the City of Rogers" as follows: The traffic classification and soil types described in Article 3, and as follows, shall be used to determine the minimum pavement structure for each proposed street or road.

(1) Extensions. All street and road extensions shall meet all current design standards.

(2) Substandard widths. Land developments that adjoin substandard existing streets shall meet the requirements contained in section 110-57.

(3) Street names and numbers. Names and numbers of streets and roads shall be consistent with natural alignment and extensions of existing streets or roads. New street or road names must be used which will not duplicate or be easily confused with existing names and must be approved by the city fire department.

(4) Tangents. A straight tangent at least 100 feet long shall separate reverse curves.

(5) Temporary cul-de-sac. Temporary cul-de-sacs designed to provide future connections with adjoining undeveloped areas shall provide a temporary turn-around easement and shall be designed in a manner which will prevent excessive accumulations of run-off water at the dead end.

(6) Permanent cul-de-sac. Streets with permanent cul-de-sacs shall not exceed 600 feet in length, measured to the outer edge of the turnaround. All turnarounds shall have radii as follows:

a. Hard surface pavements. Paving radius with curb and gutter shall be 40 feet; without curb and gutter shall be 50 feet. Right-of-way with curb and gutter shall be 50 feet; without curb and gutter shall be 60 feet.

(7) Intersections. Streets shall be designed to intersect as nearly as possible at right angles, provided that no street shall intersect with any other street at less than 75 degrees.

a. Intersections of local streets shall have a minimum driving surface radius of 30 feet.

b. Intersections of collector or high density residential streets shall have a minimum driving surface radius of 40 feet.

c. All corner radii must be shown on the street improvement plan.

(8) Street grades. Street grades shall conform to the following:

a. Street grades for arterial highways and collector streets shall not exceed eight percent; grades for all other classifications of streets shall not exceed ten percent.

b. All changes in grade shall be connected by a vertical curve of a reasonable length to assure adequate sight distance for the design speed.

c. In approaching intersections, there shall be a suitable leveling of the street grade, generally not exceeding five percent, for a distance of not less than 50 feet from the nearest line of the intersecting street.

d. To the extent possible and practical, all minor streets and driveways should be sloped away from the major street or county road to prevent water and debris from being deposited on the major street or road.

e. The grade within the intersection should be as level as possible, and consistent with proper provisions for drainage.

(9) In platting lands abutting federal and state highway or other arterial traffic-ways, every effort shall be made:

a. To cushion the adverse impact of heavy or high-speed traffic on such lands, especially where used for residential purposes;

b. To minimize interference with through traffic operations; and to reduce vehicular and pedestrian accident hazards.

(Ord. No. 99-09, § 3.06, 2-23-99)

Sec. 110-56. Pavement section design for land developments.

(1) Street classifications for pavement design. The street classification contained below shall be used to select the street geometries contained in Table 1 of the "Design Criteria & Construction Specifications" and the pavement structure contained in Table 2 of "Design Criteria & Construction Specifications".

NOTE: In this chapter, the following street classifications by traffic and 18 kip equivalent axle loads are used primarily to determine the pavement structural sections. These street classifications should not be confused with the functional street classifications.

Pavement structural design based on equivalent axle loads (EALS) for each street shall be classified by function and/or traffic in one of the following classes:

(a) Class A - Light residential. This would be rural residential streets and drives which have light traffic and little or no truck traffic, short dead end streets, and possibly short cross streets with less than 50 vehicles per day and not more than 5 average 18 kip EALS per day, or not more than 36,500 total 18 kip EALS during the 20 year design period.

(b) Class B - Residential, minor residential collector and light commercial. This would include (a) residential subdivision streets with no through traffic; (b) cross streets in the established street system; (c) light commercial streets in a small commercial area. These streets would have an average of 50 to 150 vehicles per day and not more than 10 average 18 kip EALS per day, or not more than 73,000 total 18 kip EALS during the 20-year design period.

(c) Class C - Residential collector and commercial streets. This would include (a) the major streets in a residential subdivision used to get to the Class D and Class E streets and Class C streets will have the right-of-way over the above Class A and B streets; and (b) commercial streets. These streets would have an average of 150 to 400 vehicles per day and not more than 40 average 18 kip EALS per day, or not more than 292,000 total 18 kip EALS during the 20-year design period.

(d) Class D - Minor residential arterial, heavy commercial, and light industrial streets. These streets would include (a) Class C streets in a residential subdivision; (b) heavy commercial streets; and light industrial streets. They would have an average of 400 to 850 vehicles per day and not more than 80 average 18 kip EALS per day, or not more than 584,000 total 18 kip EALS during the 20-year design period.

(e) Class E. All higher class streets and highways, or when Class D design requirements are expected to be exceeded, formal design procedures shall be used for each individual Class E street. The PCA, The Asphalt Institute, AASHTO, or other recognized design procedures may be used. The design for each street or highway shall be approved by the street superintendent.

Average Daily Traffic (ADT) may be estimated at the rate of five to six round trips per resident or dwelling unit per day.

For Class A and B streets, the EALS are based on 100 percent of the one-way ADT times a load factor of 0.09 for single unit trucks, plus five percent of the one-way ADT times a load factor of 1.00 for multiple unit trucks.

For Class C and D streets, the EALS are based on 100 percent of the one-way ADT times a load factor of 0.09 for single unit trucks, plus ten percent of the one-way ADT times a load factor of 1.00 for multiple unit trucks.

(2) Soil classifications. The sub-grade soils shall be classified according to the AASHTO Group Index Classification into the following three major soil types:

(a) Sands and gravels. A-1, A-2, and A-3 Group Index. These are non-plastic materials with gravel and sand-size material.

(b) Silts. A-4 and A-6 Group Index. The A-4 soil is a minus-40 sieve size which has a LL less than 40 and a PI less than 10. The A-6 soil is a minus-40 sieve material with a LL less than 40 and a PI more than 10.

(c) Clays. A-5, A-7 and A-7-6 Group Index. These are the clays and have a LL greater than 40 and a PI greater than 10. The A-5 Group Index classification soils have a LL greater than 40 and a PI less than 10. A-7 Group Index soils are very poor soils which should be avoided if possible.

(3) Pavement section. The pavement sections for Class A, B, C, and D streets shall meet or exceed the following requirements:

(a) All streets shall be designed according to traffic and sub-grade soil type. The results of the sieve analysis and LL and PI test run during the construction of the sub-grade shall be used to verify the soil type used in the pavement design. If the soil type changes, the pavement structure shall be re-designed accordingly. It is strongly recommended that the engineer have preliminary sieve analysis and LL and PI tests performed before detailed plans and specifications for the streets are prepared. Copies of all test results shall be provided to the director of transportation and planning.

(b) Regardless of the design procedures used, the proposed pavement sections for Class A, B, C, and D streets shall be equal to or exceed the minimum pavement sections shown in Table 2, Minimum Pavement Sections, of the "Design Criteria and Construction Specifications for the Division, Development and Improvement of Land in the City of Rogers" for the particular street classification and soil type, with the following exceptions:

(c) Formal design procedures, such as the PCA, The Asphalt Institute, AASHTO, shall be used for all Class E and higher streets, or when the projected daily 18 kip EALS will exceed 80, or when the average 18 kip EALS exceeds 80, or when the total 18 kip EALS for the 20-year design period exceeds 584,000.

(Ord. No. 99-09, § 3.06, 2-23-99)

Sec. 110-57. Requirements for improving substandard streets.

When a proposed land development has direct access to or fronts on an existing substandard street, the developer shall be responsible for the following:

(1) In all cases, for the entire length of the proposed land development, the developer shall dedicate a minimum of 25 feet of right-of-way measured from the centerline of the existing street. The right-of-way shall be determined by the master street plan. For unusual alignment or terrain conditions, the planning commission and/or city council may require a greater width of right-of-way dedication. The required width of right-of-way dedication shall be determined during the preliminary plat review and approval stage.

When the proposed development is of a size and magnitude to show cause for additional street development, such access street shall have standard right-of-way easements and road construction that comply with appropriate city standards.

(2) If an off-site substandard street serves a proposed development the developer shall be responsible for the entire cost of improving the off-site section of street to the current city standards. The upgrading of said off-site section of street shall be included as a part of the development plan.

(3) The street improvement cost shall include, but not be limited to, the costs of right-of-way clearing, roadway excavation and embankment, bridges, pipe and box culverts, roadway shaping, drainage blankets, base, paving, utility adjustments, and miscellaneous items. The developer's proportionate share of the street improvement costs shall be 50 percent when the development abuts one side of the street, and 100 percent when the development abuts both sides of the street.

(4) The type of street improvement shall be based on the city master street plan and design standards. The developer's proportionate share of the cost of improving the street shall be determined by the director of transportation and planning.

(5) Depending on the road classification, surface type, surface width and condition, traffic, terrain, alignment, drainage and budget, one of the following types of improvements shall be made:

a. Patching and hot mix overlay within existing right-of-way with some possible drainage and alignment work.

b. Reconstruction involving right-of-way clearing, drainage structures, shaping roadway, drainage blankets, base, paving and miscellaneous items. The paving shall consist of asphalt hot mix surface course.

(6) The required off-site improvements and the developer's proportionate share of the cost shall be determined at the preliminary plat review and approval stage.

(7) Any monies paid into the city street fund may be used by the city for any purpose determined to be in the public interest of the city. The city may use the funds to improve said street, improve other streets, or for maintenance of city streets.

(Ord. No. 99-09, § 3.07, 2-23-99)

Sec. 110-58. Dedication of land for public park sites.

In all land developments, the developer must consider designating areas for parks, playgrounds, recreational areas and/or green spaces. If the developer proposes to dedicate any of these areas to the city, they must be consistent with the parks plan and they must have the approval of the park department at the preliminary plat review and approval stage. Otherwise, the developer shall make provisions for the maintenance of these areas by an escrow fund, property owner's association, or other such means.

(Ord. No. 99-09, § 3.08, 2-23-99)

Secs. 110-59--110-80. Reserved.

#### ARTICLE IV. ADMINISTRATION AND ENFORCEMENT

Sec. 110-81. Adoption, administration and enforcement.

It is the intent of these rules and regulations that the public interest be protected by a thorough review of all proposed plats and construction plans and specifications without undue delay to the developer. The primary responsibility for the adoption, amendment, interpretation, administration, review, approval and enforcement of these regulations shall be as follows:

(1) The city planning commission shall be responsible for the planning requirements and proposed development activities contained in this Ordinance with assistance from the Planning Department.

(2) The director of transportation and planning shall be responsible for the approval of proposed street and storm drainage plans and specifications; and the inspection, testing and acceptance of said improvements, including offsite improvements.

(3) The planning commission shall be responsible for maintaining, amending, modifying and updating these regulations with assistance from the planning official.



(Ord. No. 99-09, § 4.01, 2-23-99)

Sec. 110-82. Appeal procedures.

The following appeal procedures have been established:

(1) Planning commission decisions;

a. The developer or owner of any property adjacent to the proposed land development may appeal the decision of the planning commission to the city council by filing such a notice of appeal with the city clerk within ten days from the date of such decision.

b. The city council shall hear all persons desiring to be heard on the question of whether the findings and decisions of the planning commission were in error. Following such hearings, the city council may affirm, modify, or reverse any findings or decision of the planning commission or may refer the proposed development back to the planning commission for additional study. The city council may refuse to approve the proposed improvement for any of the reasons specified in this chapter.

(2) Planning official decisions:

a. The developer or owner or contractor of any proposed land development may appeal the decision of the planning official to the planning commission by filing such a notice of appeal with the administrative officer within ten days from the date of such decision.

b. The planning commission shall hear all persons desiring to be heard on the question of whether the findings and decisions of the planning official were in error. Following such hearings and review, the planning commission may affirm, modify, or reverse any finding or decision of the planning official.

(3) The planning commission's decision may be appealed to the city council following the process in subsection (1)a of this section.

(Ord. No. 99-09, § 4.02, 2-23-99)

Sec. 110-83. Variations.

(1) If the provisions of these standards are shown by the developer (by plan or written statement) to cause undue hardships as they apply to the proposed land development, depending on the nature of the hardship a variance from such provisions may be made by the planning commission so that substantial justice may be done and the public interest secured; provided that the variation will not have the effect of nullifying the intent and purpose of these regulations.

(2) In granting a variance and modifications, the planning commission may impose such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements so varied or modified.

(Ord. No. 99-09, § 4.03, 2-23-99)

Sec. 110-84. Amendment.

These regulations may be amended by the affirmative vote of a majority of the full membership of the planning commission, following the same procedures used in the original adoption. The planning commission may from time to time add to, delete, or modify the plat format information.

(Ord. No. 99-09, § 4.05, 2-23-99)

Sec. 110-85. Legal approval.

Prior to its consideration by the planning commission, the proposed amendment may be referred to the legal counsel for review and recommendations.

(Ord. No. 99-09, § 4.06, 2-23-99)

Sec. 110-86. Enforcement.

In order to carry out the purpose of these regulations and to assure an orderly program of land development after the effective date of this chapter:

(1) No plat of any tract or parcel of land within the planning area jurisdiction of the city shall be accepted by the county recorder for filing unless the plat has been approved by the planning commission.

(2) No conveyance by metes and bounds of tracts or parcels coming under the definition of land development without compliance with the applicable provisions of these regulations or amendments thereto shall be permitted. This provision is aimed at preventing any attempt to circumvent these regulations by conveying by metes and bounds without taking the necessary steps for filing an approved plat.

(3) No dedication of roads or streets shall be accepted by the city unless the use of the adjoining affected land is shown. If the purpose of opening the road or street is to make the affected land available for sale as a subdivision or mobile home park, the road or street shall not be accepted unless accompanied by the required plat.

(4) Suburban development in the planned growth area of the city shall be under the jurisdiction of these regulations. However, no dedications of land or streets to the county shall be accepted by the county until the city has approved the final plat and construction of improvements; and the county has received the appropriate maintenance bonds for the street and storm sewer improvement work.

(Ord. No. 99-09, § 4.07, 2-23-99)

#### Sec. 110-87. Inspection.

The mayor, members of the city council, members of the planning commission, planning official, or any of their authorized representatives may at any time review the records or enter the development to review and inspect the improvements and work for compliance with these regulations.

(Ord. No. 99-09, § 4.08, 2-23-99)

#### Sec. 110-88. Penalties

A violation of these regulations or failure to comply with the provisions herein specified shall subject the person, firm or corporation to the following penalties:

(1) Violations. Violations shall be subject to a fine in the maximum amount of \$200.00. Each day in which a violation continues, prior to instigation of appeal, shall constitute a separate offense.

(2) Civil action. The planning commission or any affected person may institute a civil suit to prevent or remove a violation of these regulations.

(3) The chairman of the planning commission shall instigate with the city council any such suit within 30 days of planning commission actions upon written notice by the planning official of known violations.

(Ord. No. 99-09, § 4.09, 2-23-99)

Secs. 110-89--110-210. Reserved.

### ARTICLE V. LAND ALTERATION REGULATIONS\*

\*Cross references: Buildings and building regulations, ch. 18; environment, ch. 42; large scale development, ch. 60; planning, ch. 94; sidewalks and other public places, ch. 106; vegetation, ch. 122; zoning, ch. 130.

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## DIVISION 1. GENERALLY

### Sec. 110-211. Penalty.

Any person convicted of a violation of any of the provisions of this article shall be punished as provided in section 110-88.

(Ord. No. 02-63, § 1, 9-24-02)

### Sec. 110-212. Findings.

The city has experienced development activity causing the displacement of large amounts of earth and the removal of tree cover. Significant problems resulting from such development include flooding, soil erosion and sedimentation, unstable slopes, and impaired quality of life. These problems are a concern because of their negative effects on the safety and general welfare of the community.

(Ord. No. 02-63, § 1, 9-24-02)

### Sec. 110-213. Purpose.

The purposes of this article are to:

- (1) Prohibit the indiscriminate clearing of property.
- (2) Prevent excessive grading, clearing, filling, cutting or similar activities.
- (3) Substantially reduce flooding, erosion and sediment damage within the city.
- (4) To safeguard the safety and welfare of citizens.
- (5) Establish reasonable standards and procedures for development, which prevent potential flooding, erosion and sediment damage.
- (6) Prevent the pollution of streams, ponds and other watercourses by sediment.
- (7) Minimize the danger of flood loss and property loss due to unstable slopes.
- (8) Preserve natural vegetation, which enhances the quality of life of the community.
- (9) To conceal hillside scars.

(Ord. No. 02-63, § 1, 9-24-02)

### Sec. 110-214. General requirements.

Persons engaged in land alteration activities regulated by this article shall take measures to protect neighboring public and private properties from damage by such activities. The requirements of this article, however, are not intended to prevent the reasonable use of properties.

(Ord. No. 02-63, § 1, 9-24-02)

Sec. 110-215. Violation, enforcement and penalties.

(a) Violations of any provisions of this article shall be punishable as provided in section 1-5 of this Code, except that the continuing violation provisions of section 1-5 shall not apply unless (1) an approved plan for correction of the violation(s) has not been implemented by the responsible party within the time specified in the plan, or (2) the responsible party fails to submit a required plan within the time specified by the director of transportation and planning or his assigns.

(b) The responsible party shall be liable for all fines levied or remedial action required under this article. Each qualifying tree illegally removed or improperly preserved or any other activity proscribed by this article shall be a separate violation. Each violation shall be considered a separate offense.

(c) Any person who engages in land alteration activities regulated by this article without obtaining a grading permit, shall be required to restore the land, to the maximum extent practicable to its original condition.

(d) When a violation of this article is determined to exist, the city official shall issue written notice of violation to the responsible party. The notice shall specify those sections of this article, which are determined to be violated and shall include the time and conditions under which the violation(s) shall be corrected. If the responsible party has been issued other written orders within the previous 12-month period, the notice may require the violation(s) to be corrected within 24 hours. If the city official determines the current season of the year is not conducive to sustaining life for trees, the time compliance with these provisions may be extended for not more than 120 days.

(e) The responsible party shall have a maximum of 30 days from the date of the written notice to appeal to the planning commission as provided in section 110-88(3).

(f) If the responsible party fails to comply with the written notice of violation the city official may issue a stop work order and citation and revoke all permits including the building permit and certificate of occupancy. Additionally, when the city official determines that an emergency exists, a stop work order to immediately cease and desist may be issued.

(g) The permit applicant shall have on the project site at all times an agent who is a competent superintendent capable of reading and thoroughly understanding the plans, specifications and requirements for areas of tree protection for the type of work being

performed. The superintendent shall have full authority to issue orders or direction to employees working on site, without delay and to promptly supply such materials, labor, equipment, tools, and incidentals as may be required to complete the work in a proper manner. If no superintendent is on site, the city official may issue the notice of violation and stop work order to the person conducting the violation.

(h) Removal of trees with a diameter of six inches or greater, that have been removed without a grading permit or trees required in an approved plan that have been removed or which die within 12 months, shall be considered a violation.

(i) If a land alteration activity causes damage to off-site property or water, the developer shall require mitigation by the responsible parties.

(Ord. No. 02-63, § 1, 9-24-02)

Sec. 110-216. Conflicts.

Where provisions of this article conflict with any other ordinance, regulation, or resolution of the city, the most stringent provision shall be enforced. The provisions of this article are considered minimum requirements.

(Ord. No. 02-63, § 1, 9-24-02)

Secs. 110-217--110-230. Reserved.

## DIVISION 2. GRADING PERMIT AND GRADING AND DRAINAGE PLAN

Sec. 110-231. Grading permit required.

(a) Any person proposing to engage in clearing, filling, cutting, quarrying, construction or similar activities regulated by this article shall apply to the director of transportation and planning or his assigns for a grading permit as specified in this article. A large scale development plan shall be obtained from the city before constructing or expanding a vehicular use area or when expanding or rehabilitating a building and landscaping is required as defined in Ordinance 98-41 or its latest revision. Except as otherwise provided in section 110-232, the responsible party shall not be allowed the removal of more than seven trees within any given 12-month period without first obtaining a grading permit. The city official may exempt the need for the permit on a limited case-by-case basis. No land shall be altered or cleared to the extent regulated in this article unless approved by a permit.

(b) No land alteration shall be permitted until all necessary city approval of all plans and permits, except building permit, have been issued and construction is imminent. Clearing and grading for streets and drainage improvements may be done on residential subdivisions provided the preliminary plat has been approved. In those cases where filling or cutting in areas with no trees is to be done, the area is to be graded suitable for mowing and shall be

re-vegetated. If building construction has not commenced and been diligently pursued within eight months of plans approval, then all landscaping and tree requirements in the buffers shall be installed, unless the city official determines that the existing buffers on the site meet the landscape planting requirement of Ordinance 98-41.

(c) A grading permit is required for land alteration activities specified in this section. However, all construction work shall include appropriate drainage and erosion control measures to protect neighboring properties. All land alteration in properties within the designated floodplain requires a grading permit without exception.

(d) Grading permits, which may be obtained as part of a building permit, shall be required for any of the following activities:

(1) A top of hill or hillside cut or fills greater than five feet vertical.

(2) Any construction activity where the total volume of cut or fill is equal to or greater than 1,000 cubic yards. Clearing or cutting of trees on property in the City of Rogers except properties fronting on an arterial or collector street of two acres or less zoned single or two-family districts (R1, R1-A, R1-B, R2, RMF-6A and RMF-6B) or residentially zoned properties fronting on a residential street of five acres or less.

(e) Prior to issuance of a grading permit, a grading and drainage plan shall be submitted to and approved by the city for activities specified in paragraphs (d)(1) and (2) of this section.

(f) When the application is for a planned unit development, conditional use permit, site plan review, subdivision, or multiple building site approval, a sketch grading and drainage plan shall be required in the application to the planning commission only if any of the activities specified in subsection (d) of this section are involved.

(g) Utility organizations may obtain a one-time approval from the city for all routine tree trimming and installation, maintenance, replacement and repair of fence and sign posts, telephone poles and other kinds of posts or poles and overhead or underground electric, water, sewer, natural gas, telephone or cable facilities. The approval will include a utility organization and its contractors, agents or assigns and will be permanent in nature as long as the original approved procedures are followed. However, large-scale utility projects involving clearing of areas over 25 feet in width shall not be authorized by one-time approval of all projects. In such cases, a separate grading permit must be obtained for each project.

(h) One-time approval may be obtained by public or private entities for the stockpiling of construction spoil material at particular locations for a limited time period, not to exceed six months. Grading and replanting of grassed areas is required upon removal of stockpile.

(Ord. No. 02-63, § 1, 9-24-02)

Sec. 110-232. Exemptions.

A grading permit shall not be required for:

- (1) Construction on properties of two acres or less fronting on a collector street and zoned single-family districts R1, R1-A, R1-B, R-2, RMF-6A and RMF-6B, or residentially zoned property fronting on a residential street of five acres or less.
- (2) Emergency work or repairs to protect health, safety and welfare of the public. Removal of damaged or diseased trees will be permitted by city transportation department staff upon certification by proper authority.

(Ord. No. 02-63, § 1, 9-24-02)

Sec. 110-233. Contents of grading and drainage plans.

- (a) The sketch grading and drainage plan shall identify the following:
  - (1) Acreage of the proposed project.
  - (2) Land areas to be disturbed.
  - (3) Stages of grading showing the limits of sections to be graded and indicating the approximate order of development.
  - (4) The height and slope of cuts and fills. Cross sections shall be required every 100 feet on property where the depth of excavation or fill exceeds five feet, showing original and final grades and will include visual aids to show how the final development, including planting and landscaping will look. A grading plan showing existing and proposed contours with a maximum two-foot contour interval for slopes less than ten percent and a maximum five-foot contour interval for slopes greater than ten percent can be shown as an alternate to cross-sections every 50 feet.
  - (5) Provisions for collecting and discharging surface water.
  - (6) Erosion and sediment measures, including structural and vegetative measures.
  - (7) Seal, certificate of authority and signature of a registered engineer qualified under state regulations to certify that the sketch grading and drainage plan complies with this article.
- (b) In addition to the requirements for a sketch grading and drainage plan, a final grading and drainage plan shall include the following information prior to issuance of any required permits:
  - (1) Seal of a registered engineer qualified under state regulations to certify that the grading and drainage plan complies with this article.



(2) A vicinity drawing showing location of property lines, location and names of all existing or platted streets or other public ways within or immediately adjacent to the tract on City of Rogers' topographic mapping or approved equal.

(3) Location of all known existing sewers, water mains, culverts and underground utilities within the tract and immediately adjacent thereto; location of existing permanent buildings on or immediately adjacent to the site if right of entry can be obtained to locate same.

(4) Identification of rights-of-way or easements affecting the property.

(5) A plan of the site at a minimum scale of one inch equals 100 feet or less, i.e. 1" = 50' or 1" = 30', etc.

(6) Such other information required by city official, including but not limited to:

a. Address and telephone number of owner, permit applicant and the designated agent responsible for maintenance of erosion and sediment control measures.

b. The approximate location and width of existing and proposed streets.

c. The locations and dimensions of all proposed or existing lots.

d. The locations and dimensions of all parcels of land proposed to be set aside for parks, playgrounds, natural condition perimeters, public use, or for the use of property owners in proposed development.

e. Existing and proposed topography at a maximum of two-foot contour intervals unless approved by the city.

f. An approximate timing schedule, indicating the anticipated starting and completion dates of the development; a timing schedule for the sequence of grading and application of erosion and sediment control measures.

g. Acreage of the proposed project.

h. Identification of unusual material or soils in land areas to be disturbed. If any surface indications of unusual materials or soils that would cause street or lot instability, such as non-vertical tree growth, old slides, seepage, or depressions in the soil are visible before grading, they should be noted and accompanied by the engineer's recommendation for correcting such problem areas.

i. Identification of suitable material to be used for fills shall be accomplished before actual filling begins. If there are any surface indications that local material is not suitable for fills, those areas to be filled with outside material should be identified and the type and source of the fill noted.

j. Specification of measures to control runoff, erosion and sedimentation during the process of construction, noting those areas where control of runoff will be required during construction and indicating what will be used, such as straw bales, sediment basins, silt dams, brush check dams, lateral hillside ditches, catch basins, etc.

k. Measures to protect neighboring built-up areas and city property during process of construction, noting work to be performed, such as cleaning existing ditches, storm culverts and catch basins or raising existing curbs in neighboring areas.

l. Provisions to stabilize soils and slopes after completion of streets, sewers and other improvements, noting on the grading plan when and where ground cover will be planted, also noting any other means to be used such as placement of stone embankments and riprap or construction of retaining walls.

m. All fill areas shall be compacted to 95 percent standard proctor density unless approved in writing by the director of transportation and planning or his assigns.

(7) The grading and drainage plan shall include areas of tree protection, erosion and sediment control provisions meeting standards established by the city in the stormwater management and drainage manual.

(Ord. No. 02-63, § 1, 9-24-02)

Sec. 110-234. Issuance procedure.

(a) The following procedure shall be implemented for the issuance of a grading permit:

(1) The director of transportation and planning shall approve, disapprove or recommend modification of the grading and drainage plan in writing within ten days after the date of submittal unless otherwise approved by the planning commission.

(2) Applications for which planning commission approval is required as determined by the director of transportation and planning or his assistant shall be placed on the next available planning commission agenda following city staff review. Sketch grading and drainage plans shall be reviewed by the city and a report prepared by the time of the applicable subdivision subcommittee meeting, if possible, but not later than the applicable planning commission meeting.

(3) Except for residential subdivision work, the approval of a sketch grading and drainage plan shall not eliminate the need to submit and have approved a final grading and drainage plan, prior to issuance of a building permit or the initiation of work.

(4) For residential subdivision work, only a sketch grading and drainage plan shall be required, and clearing and grading work may proceed upon approval of the preliminary plat.

The sketch plan for residential subdivisions shall indicate how runoff, erosion, sedimentation will be controlled.

(b) Upon approval of the final plan, the city shall issue a grading permit. A superintendent capable of understanding the plans and with authority to issue orders to employees performing the land alteration shall properly supervise the land alteration work.

(c) The city official may issue a stop work order if, upon inspection, it is determined that the work is not progressing in accordance with the approved plan.

(d) Groups of trees and individual trees that are not to be removed and required undisturbed buffer areas shall be protected during construction by protective fencing and shall not be used for material storage or for any other purpose. The fencing shall be placed and maintained by the owner until all exterior construction except landscaping has been completed. Individual trees to be preserved outside the protected area shall be fenced at the critical root zone and shall be flagged with bright orange vinyl tape wrapped around the main trunk at a height of four feet or more such that the tape is clearly visible to workers on foot or operating equipment.

(e) The city official may allow minor modifications of the plan to alleviate particular problems during the process of construction. In reviewing request for modifications, the city official may require from the applicant's engineer appropriate reports and data sufficient to make a decision on the request.

(f) Major changes to plans approved by the planning commission either in sketch or final form shall only be permitted by the planning commission. Examples of major changes are those that substantially increase the height of cuts, the area of clearing or grading, or impact on neighboring properties. More than 20 percent increase in height, area or impact will normally be considered a major change. Examples of increased impact include reductions in buffer area, increased runoff onto adjacent properties, and increased site area that is visible from adjacent properties or public streets.

(Ord. No. 02-63, § 1, 9-24-02)

Sec. 110-235. Grading and drainage plan requirements.

Preparation of grading and drainage plans shall follow the stormwater management and drainage manual and shall be designed on the basis of the following considerations:

(1) A maximum of 30 vertical feet of fill or excavation (three, ten-foot vertical terraces or two, 15-foot vertical terraces) is permitted, however additional development areas may be constructed a minimum of 150 in width and at a slope of no more than eight percent. The maximum of 30 feet of fill or excavation may again be utilized.

a. The depth of fill or excavation shall be measured from the finish grade elevation to the original ground line elevation.

b. No more than 200 feet of terrace can be in a straight line and a minimum of a ten feet curved section, jog, or offset is required for each additional 200 feet of terrace.

c. For excavations or fills constructed with slopes flatter than 3:1 (three horizontal to one vertical), terraces are not required nor is there a limit on the height of cut or fill. Planting requirements on these 3:1 slopes shall be the same as required for terraces and shall be spaced uniformly over the slope.

d. Cuts or fills shall be limited to ten feet in height or to 15 feet if architectural stone is included to protect the vertical face. A series of smaller cuts or fills with terraces, preserving portions of natural vegetation and providing areas for planting, shall be used in situations where more than ten feet of cut or fill is needed.

e. Terracing width shall be at a ratio of at least one foot of horizontal terrace for every one foot of vertical height, up to a maximum of ten feet. Terraces shall be landscaped with dense evergreen plantings sufficient to screen the cut or fill slope.

f. If the slope of the cut or fill is faced with an architectural stone wall, the terrace plantings shall be a minimum of two rows of trees four feet between the rows, staggered not more than 20 feet on centers.

g. Shrubs and ground cover shall be required per Ordinance 98-41 or latest revision.

(2) Development shall be planned to fit topography, soils, geology, hydrology, and other existing site conditions.

(3) Provisions shall be made for safety against unstable slopes or slopes subject to erosion and deterioration.

(4) Grading shall complement natural landforms.

(5) After grading, all paving, seeding, sodding, or mulching shall be performed in accordance with a reasonable schedule approved by the city official.

(6) Open areas not planned for immediate use shall be seeded or sodded. Soil which is exposed for more than 21 days with no construction activity shall be seeded, mulched or re-vegetated in accordance with this Code.

(7) Areas not well suited to development, as evidenced by existing incompetent soils, geology, hydrology investigations and reports, should be allocated to open space and recreational uses.

(8) The potential for soil loss shall be minimized by retaining natural vegetation wherever possible.

(9) Appropriate provisions such as those in the stormwater management and drainage manual shall be used to accommodate stormwater runoff and control soil loss occasioned by changed soil and surface conditions during and after development, including the use of vegetation and limitations on soil exposure. If staff determines upon visual inspection that excessive silt from the construction has migrated offsite, additional measures to reduce erosion may be required.

(10) Permanent improvements such as streets, storm sewers, curb and gutters, and other features for control of storm runoff shall be scheduled as soon as economically and physically feasible before removing vegetation cover from the area, so that large areas are not left bare and exposed for long periods of time beyond the capacity of temporary control measures.

(11) A temporary or permanent sediment basin, debris basin, desilting basin or silt trap shall be installed and maintained to substantially reduce sediment from water runoff. The volume of the sediment basin shall be 3,000 cubic feet per acre for property with average slope greater than five percent, or 1,500 cubic feet per acre for property with an average slope less than five percent. A properly sized sediment basin is required for each separate drainage area within the property being developed.

(12) Construction access shall be limited to locations as approved by the city official. Construction access points shall be graveled for a minimum length of 20 percent of the lot depth or 50 feet, whichever is greater, up to a maximum of 100 feet and of adequate thickness to minimize tracking onto the city street.

(13) Appropriate provisions shall be made to prevent excessive particulate matter from becoming airborne.

(14) A perimeter buffer strip shall be temporarily maintained around disturbed areas for erosion control purposes and shall be kept undisturbed except for reasonable access for maintenance. The width of the strip shall be six percent of the lot width and depth. The minimum width shall be 25 feet and the maximum shall be 40 feet. In no event shall these temporary strips be less than the width of the permanent buffers required for the development.

(15) A minimum strip 25 feet wide, undisturbed except for reasonable access, shall be provided along each side of streams having a peak ten-year storm flow rate of greater than 150 cubic feet per second. The 25-foot strip shall be measured from the top of the bank. An exception to this requirement is allowed where the only work being done on the site is public street construction.

(16) Care shall be exercised to minimize the risk of damage from or to pedestrian and vehicular traffic in the vicinity of a cut or fill by placement of handrails, guardrails, fencing or landscaping.

(Ord. No. 02-63, § 1, 9-24-02)

Sec. 110-236. Unified plan and permit.

One plan may be submitted incorporating all provisions for compliance with the applicable city zoning, landscaping, drainage detention, grading, clearing, filling, cutting, quarrying, and construction requirements.

(Ord. No. 02-63, § 1, 9-24-02)

Sec. 110-237. Grading plans.

Grading plans shall conform to the Phase II Stormwater Regulations as established by United States Environmental Protection Agency's regulations, Region VI published in the July 6, 1998 Federal Register or it's latest revisions.

(Ord. No. 02-63, § 1, 9-24-02)

Sec. 110-238. Fees.

A fee for each grading permit shall be paid to the city as follows:

TABLE INSET:

Total Project Area Fee
Less than 1/2 acre \$100.00
1/2 to 1 acre \$200.00
Greater than 1 acre \$500.00

(Ord. No. 02-63, § 1, 9-24-02)