**CHAPTER 166**

**SUBDIVISION REGULATIONS**

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| **166.01 Title** | **166.11 Council Action** |
| **166.02 Purpose** | **166.12 Fees** |
| **166.03 Jurisdiction** | **166.13 Final Plat** |
| **166.04 Definitions** | **166.14 Procedure for Final Plat** |
| **166.05 Variances** | **166.15 Certification of Approval** |
| **166.06 Compliance Required** | **166.16 Plats Outside Corporate Limit** |
| **166.07 Amendments** | **166.17 Professional Assistance** |
| **166.08 Penalty** | **166.18 Design Standards** |
| **166.09 Preliminary Plat Required** | **166.19 Improvement Required** |
| **166.10 Preliminary Plat to Commission** |  |

**166.01    TITLE.** This chapter shall be known and may be cited as “The Subdivision Regulations Ordinance of the City of Washington, Iowa.”

**166.02    PURPOSE.**  The purpose of this chapter is to provide for the harmonious development of the City and adjacent territory by establishing appropriate standards for streets, blocks, lots, utilities and other improvements, by promoting coordination with existing development, and by establishing procedures and conditions for the approval of subdivisions of land, all in the interest of the health, safety and general welfare of the community.

**166.03    JURISDICTION.** All plats, replats or subdivision of land into three (3) or more parts for the purpose of laying out a portion of the City, addition thereto or, pursuant to Section 354.9 of the Code of Iowa, suburban lots within two (2) miles of the corporate limits of the City, for other than agricultural purposes shall be submitted to the Council and Planning and Zoning Commission of the City in accordance with the provisions of this chapter and shall be subject to the requirements established by this chapter.

**166.04    DEFINITIONS.** For the purpose of this chapter, the following terms and words are defined. The word “building” as used herein includes the word “structure.”

1. “Alley” means a permanent service way providing a secondary means of access to abutting lands.

2. “Building line” means a line established on a plat as a restrictive covenant, beyond which no building may be placed. The building lines need not correspond to the front, side, or rear yard requirement established in the Zoning Regulations in Chapter 165 of this Code of Ordinances and where they do not, the most restrictive requirement will control.

3. “City datum” means the provisions defining and setting forth the datum plane and bench marks.

4. “Commission” means the Plan and Zoning Commission of the City.

5. “Division” means dividing a tract, lot or parcel of land into two (2) portions by conveyance or for tax purposes. The conveyance of an easement, other than a public highway easement, or a boundary line adjustment shall not be considered a division for the purpose of this chapter.

6. “Easement” – is that portion of a lot or lots reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement may be for use under, on or above said lot or lots.

7. “Final plat” means the map or drawing, on which the subdivision plan is presented in the form which, if approved by the Council and Planning Commission, will be filed and recorded with the County Recorder.

8. “Flood Plain” – Any land area susceptible to being inundated by floodwaters from any source.

9. “Plot Plan” – is a plat of a lot, drawn to scale, showing the actual measurements, size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

10. “Preliminary plat” means a study or drawings indicating the proposed manner or layout of the subdivision which is submitted to the Council and Commission for consideration.

11. “Replat”- The process of correcting or changing, by the proprietor, the map or plat, which changes, the boundaries of a recorded subdivision plat, or part thereof. The legal process of subdividing a large block, lot or outlot which is within a recorded subdivision plat, without changing the exterior boundaries of the block, lot or outlot, is not a replat.

12. “Resubdivision” – Any subdivision of land which has previously been included in a recorded plat. In appropriate context, it may be a verb referring to the act of preparing a plat of previously subdivided land.

13. “Separate tract” means a parcel of land or a group of contiguous parcels of land under one ownership on the effective date of this chapter.

14. “Street” – any vehicular way that: (1) is an existing state, county, or municipal roadway; (2) is shown upon a plat approved pursuant to law; (3) is approved by other official action; (4) is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to review plats.

15. “Street Classifications” – as per SUDAS (Statewide Urban Design and Specifications)

A. “Minor Arterial” – Streets intended to collect and distribute traffic in a manner that is designed to serve low intensity traffic generating areas such as neighborhood commercial areas, education facilities, churches or designed to carry traffic from collector streets to principal arterials with a degree of access control.

B. “Collector” – A street intended to move traffic from local streets to arterial streets-for low speeds and low intensity traffic volumes.

C. “Local Streets” - A street provides for the movement of traffic between collectors and residential and commercial areas. Providing direct access to abutting residential and commercial property and carries low traffic volumes at low speeds on relatively short trips.

D. “Cul-de-Sac” - A short minor street having on end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

E. “Dead-end” – A street with only one vehicular traffic outlet.

16. “Street Pavement” means the wearing or exposed surface of the street right-of-way used by vehicular traffic. The pavement width is measured from the back of the curb on one side to the back of the curb on the other side.

17. “Street Right-of-Way” – the area measured between property lines, dedicated to and accepted for public use and providing access to abutting properties.

18. “Subdivider” – any person who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either individually or for others.

19. “Subdivision” means the division of a separate tract of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land.

20. “Surveyor” means a surveyor currently licensed to practice in the state of Iowa.

**166.05    VARIANCES.** A deviation from the standards or requirements, established in this chapter, due to substantial hardships or unreasonable limitations, because of natural or physical conditions of the land, not created by the owner or developer. Such deviation from these standards or requirements may be recommended by the Planning and Zoning Commission after due consideration and then maybe granted by city council, allowing development of the land, while preserving the intent of this chapter.

**166.06    COMPLIANCE REQUIRED.** No plat or subdivision in the City or within two (2) miles thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of this chapter and has been approved by the Council as prescribed herein.

1. Not more than two (2) building permits shall be issued for each separate tract existing at the effective date of this chapter unless the tract shall have been platted in accordance with the provisions of this chapter.

2. No public improvements over which the Council has control shall be made with City funds, nor shall any City funds be expended for street maintenance, street improvements, or other services in any area that has been subdivided after February 26, 1968, unless such subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the Council as a public street.

3. Any division of a tract, lot or parcel shall be administratively reviewed and approved by the Building Official for compliance with the Zoning and Subdivision codes. A Plat of Survey shall be required. At the discretion of the Building Official, a lot division may be referred to Planning and Zoning for approval. Prior to recording with the County Recorder, a division shall be certified as approved by the Building Official.

4. No building permit and no certificate of occupancy shall be issued for any division unless such division has been approved as set forth in this chapter.

5. Flood Plain Development Permits – The Iowa Department of Natural Resources has authority to regulate construction on all floodplains and floodways in the state for the purpose of establishing and implementing a program to promote the protection of life and property from floods and to promote the orderly development and wise use of the flood plains of the state. Any person who desires to construct or maintain a structure, dam, obstruction, deposit or excavation, or allow the same in any flood plain or floodway has a responsibility to contact the department to determine whether approval is required from the department or a local government authorized to act for the department.

**166.07    AMENDMENTS.** The Council may be amended this chapter from time to time. Such amendments as may be proposed shall first be submitted to the Commission for study and recommendation. The Commission shall report within thirty (30) days, after which the Council shall give fifteen (15) days published notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

**166.08    PENALTY.** Any person who shall dispose of or lease any lots in the City, addition thereto, or within two (2) miles thereof, until the plat shall have been approved, acknowledged and recorded, as provided by this chapter and Chapter 354 of the Code of Iowa, shall forfeit and pay two hundred dollars ($200) for each lot or part thereof sold, disposed of or leased.

**166.09    PRELIMINARY PLAT REQUIRED.** The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared of the subdivision containing the information specified herein and shall file three (3) copies and a reproducible sepia or tracing of plat with the Clerk. The preliminary plat shall contain the following information and may be supplied on one or more drawings for clarity:

1. A small location map showing:

A. The proposed subdivision in relation to the City of Washington, Iowa.

B. An outline of the area to be subdivided.

C. Minimum of two existing streets with names showing exact location subdivision.

D. North arrow.

2. A preliminary plat of the subdivision drawn to the scale of one hundred feet (100') to one inch (1”), said preliminary plat to show:

A. Legal description, acreage and name of proposed subdivision.

B. Name and address of the owner and subdivider.

C. Name of licensed land surveyor or engineer who prepared the plat, and date thereof.

D. North point and graphic scale.

E. Minimum of two benchmarks tied into city datum.

F. Contours at two foot (2') intervals, based on City datum.

G. Location of city benchmark used for tying into city datum.

H. Location of existing lot lines, streets, public utilities, water mains, sewers, drain pipes, culverts, watercourses, bridges, railroad and buildings in the proposed subdivision, easements and designated wetlands.

I. Layout of proposed blocks and block number in numerical order if used.

J. Lots including dimensions, square footage and lot number numerical order.

K. Location and widths, other dimensions and names of the proposed streets, alleys, roads, utility and other easements, parks and other open spaces or reserved areas.

L. Names of adjacent property owners.

M. Grades of proposed streets and alleys.

N. A cross-section of the proposed streets showing the right-of-way, roadway location, and dimensions and type of curb and gutter, paving and sidewalks to be installed.

O. The layout of proposed water mains and sanitary sewers.

P. The drainage of the land including proposed storm sewers, ditches, culverts, bridges detention ponds and other structures.

Q. Setback lines established in the Zoning Regulations.

R. Location of any flood plains within the subdivision as mapped by USGS, Iowa Department of Natural Resources or Department of Housing and Urban Development.

S. 1. A list of all variances from zoning regulations that are being requested.

2. A table showing existing and /or proposed zoning along with required minimum lot areas, widths, depth, and setbacks.

T. Land not platted. When the land to be subdivided includes only part of the tract owned by the subdivider the commission may require topography and a master plan of the entire tract of land.

U. Utility statement. Written statements by the appropriate officials of the availability of gas and electricity.

**166.10    PRELIMINARY PLAT TO COMMISSION**. The Clerk shall immediately transmit two (2) copies of the preliminary plat to the Commission for study and recommendation. The Commission shall examine the preliminary plat as to its compliance with this chapter, and the comprehensive plan of the City and shall have forty-five (45) days within which to submit a recommendation to the Council, provided that the owner or developer may agree to an extension of time not to exceed sixty (60) days.

**166.11    COUNCIL ACTION**. The Council, upon receipt of the Commission's recommendation, or after the forty-five (45) days, or any extension thereof shall have passed, shall by resolution grant approval to or reject the preliminary plat, and such action shall be noted on all copies and tracings of the plat on file with the City. Approval of preliminary plat by the Council shall constitute approval to proceed with preparation of the final plat and detailed construction drawings and specifications for improvements required under these regulations but shall not be deemed approval of the subdivision.

**166.12    FEES**. Each preliminary plat submitted for approval shall be accompanied by a fee of two hundred dollars ($200 plus, $15.00 per lot), which shall be credited to the General Fund of the City.

**166.13    FINAL PLAT**. A final plat shall be submitted within twelve (12) months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat must be resubmitted for approval prior to preparation of a final plat. The final plat shall meet the following specifications:

1. It may include all or only part of the preliminary plat.

2. The plat shall be drawn to the scale of one hundred feet (100') to one inch (1”).

3. The final plat shall contain the following:

A. Accurate boundary lines, with dimensions and angles, which provide a survey of the tract, closing with an error of not more than one foot (1') in three thousand feet (3,000').

B. Accurate references to known or preliminary monuments, giving the bearing and distance from some corner of the congressional division of which the City or the addition thereto is a part.

C. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.

D. Accurate legal description of the boundary.

E. Street names.

F. Complete curve notes for all curves included in the plan.

G. Street lines with accurate dimensions in feet and hundredths of feet with angles to street, alley and lot lines.

H. Lot numbers and dimensions and bearing of all lot lines.

I. Block numbers, if used.

J. Building lines if different than yard requirements of the Zoning Regulations.

K. Accurate dimensions for any property to be dedicated or reserved for public, semipublic or community use.

L. Location, type, material and size of all property corner markers.

M. Name of the subdivision.

N. Name and address of owner and subdivider.

O. North point, scale and date.

P. Certification by a registered land surveyor of the State of Iowa.

Q. Certification of dedication of streets and other public property.

R. Resolution and certificate for approval by the Council and signatures of the Mayor and Clerk.

S. Location and dimensions of utility easements and certificate of utility easement dedication.

T. Location of any flood plains within the subdivision as mapped by USGS and Iowa Department of Natural Resources.

U. Subdivider shall furnish city with an electronic drawing of final plat and infrastructure improvements. Electronic drawing shall be compatible with city software and the city datum.

4. The final plat shall also be accompanied by the following items:

A. A certified statement from the owner and spouse, if any, that the subdivision as it appears on the plat is with their free consent and is in accordance with the desires of the proprietor and spouse.

B. One of the following:

(1) A certificate bearing the approval of the Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications; or

(2) A surety bond with the City which will insure to the City that the improvements will be completed by the subdivider or property owner within two (2) years after official acceptance of the plat. The City Attorney shall approve the form and type of bond and the amount of the bond shall not be less than the amount of the estimated cost of the improvements plus ten percent (10%), and the Council must approve the amount of the estimate. If the improvements are not completed within the specified time, the Council may use the bond or any necessary portion thereof to complete the same; or

(3) A petition to the Council to provide the necessary improvements and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations.

If option (2) or (3) above are chosen, the final plat shall state that the developer, its grantees, assignees, and successors in interest agree that public services including but not limited to street maintenance, snow and ice removal, rubbish, refuse and garbage collection will not be extended to this subdivision until the pavement is completed and accepted by the City.

C. Copy of restrictive covenants to be attached to the lots of the subdivision.

5. The final plat shall be accompanied by the following instruments at the time it is presented for filing to the County Recorder:

A. A complete abstract of title and an opinion from an attorney-at-law showing that the fee title is in the proprietor and that the land platted is free from encumbrance, or is free from encumbrance other than that secured by a bond.

B. If the land platted is encumbered there shall also be filed a certificate showing that an encumbrance bond in an amount double the amount of the encumbrance and approved by the Recorder and Clerk of the District Court and which runs to the County for the benefit of the purchasers of the land subdivided has been filed with the Recorder.

C. A certified statement from the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

D. A certified statement from the Clerk of District Court that the land platted is free from all judgments, attachments, mechanic's or other liens as appears by the record in that office.

E. The Council or Commission may request drafts or copies of any of the above instruments for examination at the time of processing the final plat if the review of such instrument is deemed necessary to properly evaluate the proposed subdivision. ***(Ord. 1003-2013 Supp)***

**166.14     PROCEDURE FOR FINAL PLAT.** Procedures for final plats shall be the same as set out for preliminary plats in this chapter.

**166.15    CERTIFICATION OF APPROVAL**. Upon approval of the final plat, a certification of approval signed by the Mayor and attested by the Clerk shall be affixed to the original tracing of the final plat and copies of the same filed with the Clerk, County Auditor, and County Recorder, along with such other certifications and instruments as may be required by law.

**166.16    PLATS OUTSIDE CORPORATE LIMITS**. Procedure for approval of preliminary and final plats of land within two (2) miles of the corporate limits shall be the same as set out in this chapter, except that five (5) copies of the plat shall be filed with the Clerk. The Clerk shall refer two copies to the County and request the County recommendations to be submitted to the Commission. The Commission shall not take action on the plat prior to receiving the recommendations of the County, provided that the County shall submit its recommendations within thirty (30) days after the referral of the plat to the County. The City of Washington and Washington County have a 28E Agreement defining the areas under the agreement and specific control of those areas. The 28E Agreement also provides for plat submittal and review.

**166.17    PROFESSIONAL ASSISTANCE**. The Council or the Commission may request such professional assistance as it deems necessary to properly evaluate the plats as submitted.

**166.18    DESIGN STANDARDS**.

1. Streets. New subdivisions shall make provisions for continuation and extension of arterial and collector streets.

A. Rights-of-way Shall Be Provided. Rights-of-way shall be provided as follows:

(1) Minor Arterial—seventy feet (70').

(2) Collector—sixty six feet (66').

(3) Minor residential or Local streets—sixty feet (60').

(4) Cul-de-sacs—under 700 feet in length will be one hundred ten feet (110’) in diameter and if over 700 feet to maximum of 1000 feet in length will be one hundred and twenty feet (120’) in diameter.

(5) Alleys, residential—sixteen feet (16').

(6) Alleys, commercial or industrial—twenty feet (20').

B. Pavement. Pavements shall be provided as follows:

(1) Minor Arterial—forty-one feet (41'). To serve three lanes of traffic with no parking.

(2) Collector—thirty-one feet (31'). To serve two lanes of traffic with parking on one side.

(3) Minor residential or Local streets—twenty-five feet (25'). To serve two lanes of traffic with no parking.

(4) Cul-de-sacs—Cul-de-sacs are discouraged however when unavoidable the use of “tear drop” style Cul-de-sacs is encouraged (refer to City specs). If installed, Cul-de-sacs under 700 feet in length will be ninety feet (90’) in diameter and if over 700 feet to a maximum of 1000 feet in length will be one hundred (100’) diameter. “Tear drop” style Cul-de-sacs shall be a maximum of 1000 feet in length.

(6) Alleys—sixteen feet (16').

(7) Sidewalks—five feet (5') on both sides of streets.

C. Grades. No street grade shall be less than one-half of one percent (½ of 1%). The preferred ADA maximum grade is five percent (5%), but shall not exceed the following limits:

(1) Minor Arterial—eight percent (8%).

(2) Collector streets—ten percent (10%).

(3) Residential streets—twelve percent (12%).

(4) All changes in grades on major roads or highways shall be connected by vertical curves of a minimum length equivalent to twenty (20) times the algebraic difference between the rates of grades, expressed in feet per hundred, or greater, if deemed necessary by the City Engineer; for secondary and minor street, fifteen (15) times. The grade alignment and resultant visibility especially at intersections shall be worked out in detail to meet the approval of the City Engineer.

D. General Considerations.

(1) Intersections of more than two (2) streets at a point shall not be permitted.

(2) Jogs at intersections of less than one hundred twenty-five feet (125') shall be avoided.

(3) Intersection of street center lines shall be between eighty degrees (80°) and one hundred degrees (100°).

(4) No dead-end streets and alleys will be permitted except at subdivision boundaries.

(5) Arterial and collector streets in a subdivision shall extend through to the boundaries thereof.

(6) Alleys may be allowed in commercial and industrial districts.

2. Street Names. Streets obviously in alignment with existing streets shall continue the names of existing streets. Names of other streets shall avoid duplication of or similarity to existing names of streets, or public and semi-public buildings and areas.

3. Crosswalks. Crosswalks may be required in blocks over eight hundred feet (800') long or in areas where curved streets require excessive out of distance travel. If required, the developer shall construct them.

4. Lengths and Widths of Blocks. The length of blocks shall be not less than six hundred feet (600') and not more than one thousand three hundred twenty feet (1,320'). The width of the block shall be sufficient to permit two (2) tiers of lots but in no case shall the width be less than two hundred twenty feet (220').

5. Lots.

A. Corner lots which abut on an arterial or collector street shall have a minimum radius of fifteen feet (15') at the intersection.

B. Lots with double frontage shall be avoided, except in specific locations where good platting indicates their use.

C. Side lines of lots shall approximate right angles to straight lines and radial angles to curved street lines except where a variation will provide better street and lot layout.

D. Corner lots shall not be less than eighty feet (80') in width, and interior lots shall not be less than seventy feet (70') in width at the building line.

E. Lot depth shall not exceed two and one-half (2½) times the width.

F. No lot shall have less area than required by the Zoning Regulations.

6. Easements.

A. Easements not less than seven and one-half feet (7½') in width shall be provided along each side of the front and rear lot lines of all lots, and along such other lot lines as may be required by public and private utility companies.

B. Easements of greater width may be required for trunk lines, pressure lines, open drainage courses or high voltage lines and shall be provided as determined by the utility or Council.

7. Parks, School Sites, and Public Areas. In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to conform to any recommendations of the City plan. Any provision for schools, parks, and playgrounds should be indicated on the preliminary plan in order that it may be determined when and in what manner such areas will be provided or acquired by an appropriate taxing agency.

8. Preserving Drainage Courses. Whenever any stream or important surface drainage course is located in an area which is being subdivided, the subdivider shall provide an adequate easement along each side of the stream for the purpose of widening, deepening, sloping, improving or protecting the stream or drainage course.

**166.19    IMPROVEMENTS REQUIRED.**

1. Subdivider’s Responsibility. The subdivider is responsible for the installation and/or construction of all improvements required by this ordinance and shall warrant the design, material and workmanship of such improvements, installation and/or construction for a period of two (2) years from and after acceptance.

2. Sanitary Sewers. The subdivider shall provide the subdivision with a complete sanitary sewer system including manholes, lift stations and services to each lot, which shall connect with a sanitary sewer outlet approved by the Council. The sewers shall extend to the subdivision boundaries as necessary to provide for the extension of the sewers by adjacent property.

3. Storm Sewer. The developer shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes, and manholes, to provide for the collection and the removal of all surface waters, and these improvements shall extend to boundaries of the subdivision so as to provide for extension by adjoining upstream properties. Storm sewers and storm intakes shall be sized to handle the peak flow from complete development as a result of a rainfall with intensity of 2.5 inches per hour. Provisions shall be made to convey and /or store the 100 year rainfall through the use of overland waterways and retention ponds. Developer is encouraged to incorporate Low Impact Development (L.I.D.) practices into the storm water management of the subdivision.

4. Stormwater Management. No development shall cause downstream property owners, water courses, channels, or conduits to receive stormwater runoff from the proposed development site at a higher peak flow rate, or at higher velocities than would have resulted from the same storm event occurring over the site of the proposed development with the land in its natural, pre-developed condition. Exceptions may be allowed if sufficient capacity to convey the water through downstream property owners, water courses, channels or conduits to receive stormwater runoff from the proposed development site is demonstrated and approved by Council. Chapter 2, section 8 of SUDAS shall be followed in the planning, design and construction of any stormwater facilities unless specifically modified in this ordinance.

5. Potable Water. The subdivider shall provide the subdivision with a complete water main supply system including hydrants, valves, and services to each lot which shall be connected to the City water system. The water mains shall extend to the subdivision boundaries as necessary to provide for the extension of the water main by adjacent property.

6. Markers. An iron or steel rod not less than one-half inch (½'') in diameter and twenty-four inches (24”) in length with a plastic cap identifying the licensed land surveyor shall be placed as follows:

A. At the intersection of all lines forming angles in the boundary of the subdivision.

B. At block and lot corners and changes in direction of block and lot boundaries.

7. Grading. All streets and alleys within the platted area which are dedicated for public use, shall be brought to the grade approved by the Council.

8. Curbs and Gutters. Curb and gutter shall be installed on all streets in the plat being dedicated for public use and shall be constructed of Portland cement concrete in accordance with designs and specifications approved by the Council and at grades approved by the Council.

9. Surfacing. All streets being dedicated for public use shall be surfaced from curb to curb. Surfacing shall be asphaltic concrete or Portland cement concrete and shall be constructed in accordance with designs and specifications approved by the Council at grades approved by the Council.

10. Driveway Approach. All driveway approaches shall be properly constructed of Portland Cement Concrete (PCC) from back of the curb to the property line.

11. Periodic inspection during the installation and construction of improvements will be made by a duly authorized City official in order to insure conformity with the approved plans and specifications. All improvements shall be inspected by subdivider’s engineer and a letter of certification from the engineer to the City shall be provided certifying all improvements have been constructed in accordance with the approved plans and specifications.

12. Improvements within the two-mile control area.

A. Improvements in the two-mile control area shall be the same as required above and provided for further that all road and drainage construction plans shall be approved by the County Engineer and that all private wells and septic tanks with drain fields be approved by the County Sanitarian.

B. Where the subdivision contains sanitary sewers, sewage treatment plants, water supply systems, park areas, street trees or other physical facilities necessary or desirable for the welfare of the area and which are of common use or benefit and are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made by trust agreement, made a part of the deed restrictions acceptable to any agency having jurisdiction over the location and improvement of such facilities, for the proper and continuous maintenance and supervision of such facilities.