

Sec. 122-30. Approval procedure.

(a) *Generally.* No building or occupancy permit shall be issued by the building department for the use of any parcel of land which has resulted from a division or partition, without the approvals required by this article, if the division or partition is accomplished after the effective date of the ordinance from which this article derives.

(b) *Review.* The assessing department shall refer the application to the various city departments for review and approval.

(c) *Referral to city council.* If it is determined by the building and/or assessing departments the division or partition of the resulting parcels would not be in accordance with the findings for approval set forth in subsection (c)(3) of this section, the building and/or assessing departments shall set forth, in writing, the findings reached that resulted in disapproval of the application. The application may be rejected or referred to the city council for review and final decision. **If any of the resulting parcels do not abut a public road or a private road constructed and approved in accordance with this article, the matter must be referred to the city council for approval.**

(1) *Final decision.* The city shall have the final decision as to any division or partition which is referred to it.

(2) *Planning commission review.* All matters referred to the city council for final decision under this article shall first be referred to the planning commission for review and recommendation before final decision.

a. *Public hearing.* The planning commission shall hold a public hearing before making its recommendation to the city council.

b. *Notice of hearing.* Notice of the public hearing shall be published in the Clarion Eccentric one time only, at least five days before the hearing and notice shall be sent by regular mail at least ten days before the hearing to all property owners owning property within 300 feet of any lands involved in the application for a division or partition.

(3) *Findings for approval.* The city council shall find in each case, before giving its approval:

a. The division or partition will result in lots or parcels of land having a size and shape consistent and harmonious with that of other parcels in the immediate area.

b. There has been compliance with the requirements of this article and the other applicable provisions, standards, rules and regulations of this Code.

c. The provisions for any private road shall be in compliance with section 122-31 and shall not be injurious to the public health, safety and welfare and shall be generally compatible with the surrounding land use and development.

d. The division or partition and the ability to develop buildable sites on resultant parcels will not unreasonably disturb wetlands, floodplains, or other natural features of the land or that any disturbance to these areas is permitted pursuant to a wetland and/or floodplain permit issued by the city.

e. The nature and location of vehicular ingress and egress will not unreasonably interfere with or hinder appropriate development and use of adjacent land or unreasonably impair the value thereof or cause a nuisance thereto.

f. The location, size, and layout of resultant parcels will not be unreasonably detrimental to nearby residences because of noise, fumes, lights, or other nuisances nor will it interfere with any adequate supply of light and air or otherwise endanger public health, welfare, and safety.

g. Adequate access to roads and utilities is provided for each resultant parcel which is otherwise a buildable site.

(d) *Approval.* If there is compliance with this article and the other applicable provisions, standards, rules and regulations of this Code, the assessing department may approve the division or partition and cause the instruments presented, along with a stamp of approval, to be recorded with the county register of deeds.

(e) *Appeal and review.* Any applicant who is aggrieved by any denial or other action may appeal to the city council. The council shall thereafter review the decision or action of any department and may reverse, modify, or affirm such decision in whole or in part.

(f) *Applicability of other sections.* Approval of a land division under this article shall not in any way constitute a waiver of any other section of this Code regarding the requirements for the development of land, nor shall it ensure that the parcels of land created by the approved division are buildable under this Code.

(Code 1976, § 4-02.05)

Sec. 122-31. Private road requirements.

(a) Any lot or parcel of land resulting from a division or partition of lands pursuant to this article which does not abut a public road shall abut a private road which shall comply with the following requirements:

(1) *Minimum specifications.* Minimum specifications shall be as follows:

a. *Single-family residential development.* All private roads in a single-family residential zoning district shall be a minimum of 60 feet in width and shall be designed and constructed by the applicant in accordance with at least the minimum requirements for class C roads as they are established by the county road commission as amended and supplemented by the adopted standards of the city.

b. *Multiple-family, commercial development.* All private roads in a multiple-family, office, or commercial development shall be a minimum of 60 feet in width and shall be designed and constructed in accordance with at least the minimum requirements for roads in the type of development under construction, as the requirements are established by the county road commission as amended and supplemented by the adopted standards of the city.

c. *Industrial development.* All private roads in an industrial development shall be a minimum of 70 feet in width and shall be designed and constructed in accordance with at least the minimum requirements for industrial subdivision roads as they are established by the county road commission as amended and supplemented by the adopted standards of the city.

d. *Multiple developments.* Private roads providing access to more than one type of development shall be designed and constructed in accordance with the minimum requirements of the type of development requiring the higher standard.

(2) *Construction prior to building.* The road shall be constructed and established before the issuance of a building permit for any structure which may be constructed on any lot, outlot, or parcel which will result from the division or partition and for which ingress and egress will be via the road.

(3) *Signs.* A new private road shall be named, which name shall be approved by the city council, and an appropriate sign shall indicate the name.

(4) *Utility easements.* For any parcel of land not fronting on an established public road, an easement for construction and operation of public utilities including natural gas, electric and telephone service shall be provided. No division of land shall take place or building permit approved by the city until written evidence of the availability of adequate utility easements has been submitted and approved.

(5) *Owners'/users' interests.*

a. *Part ownership.* Whenever possible, all property owners who will be using the private road for ingress and egress purposes shall retain or have a part ownership interest in the road, as opposed to one party retaining the title and the others only having easement rights.

b. *Maintenance agreement.* All persons owning lands which use or may use the private road for ingress and egress shall enter into a maintenance agreement, which shall be presented to the city in a form suitable for recording with the county register of deeds. The maintenance agreement shall include at least the following:

1. *Financing improvement and/or maintenance.* A method of initiating and financing whatever improvements and/or maintenance which may be needed from time to

time in order to keep the road in a reasonably good and usable condition.

2. *Method of apportioning costs.* A workable method of apportioning the cost of maintenance and improvements.

3. *Public easements.* Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.

4. *Noninterference provision.* A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guests, invitees, tradesmen, and others bound to or returning from any of the properties having a right to use the road.

(b) *Waiver by city council.* The city council may partially waive the requirements of this section to the extent it finds it necessary based upon a hardship or other similar circumstance, but any deviation shall only be after the council makes findings consistent with the findings as required by subsection 122-30(c).

(Code 1976, § 4-02.06)

Secs. 122-32--122-60. Reserved.