

**TITLE XV**  
**SUBDIVISION REGULATIONS**

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**CHAPTER 15.02**  
**GENERAL PROVISIONS**

- SECTIONS:** 15.02.01 Purpose  
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**Section 15.02.01 Purpose**

These regulations are adopted for the following purposes:

- A. To protect and provide for the public health, safety and general welfare of the city;
- B. To guide the future growth and development of the Planning Area in accordance with the Master Street Plan;
- C. To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population;
- D. To protect the character and the social and economic stability of all parts of the city and to encourage the orderly and beneficial development of the city through appropriate growth management techniques assuring the timing and sequencing of development, promotion of infill development in existing neighborhoods and non-residential areas with adequate public facilities, to assure proper urban form and open space separation of urban areas, to protect environmentally critical areas and areas premature for urban development;
- E. To protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings;

- F. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation and other public requirements and facilities;
- G. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the city, having particular regard for the avoidance of congestion in the streets and highways and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines;
- H. To establish reasonable standards of design and procedures for subdivisions and re-subdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and surveying of subdivided land;
- I. To ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision and that the community will be required to bear no more than its fair share of the cost of providing the facilities and services through requiring the developer to pay fees, furnish land, or establish the mitigation measures to ensure that the development provides its fair share of capital facilities needs generated by the development;
- J. To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table and to encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability and beauty of the community and the value of the land;
- K. To preserve the natural beauty and topography of the municipality and to ensure appropriate development with regard to these natural features;
- L. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of development as established in the zoning code of the city;
- M. To ensure that land is subdivided only when subdivision is necessary to provide for uses of land for which market demand exists and which are in the public interest; and
- N. To remedy the problems associated with inappropriately subdivided lands, including premature subdivision, excess subdivision, partial or incomplete subdivision, scattered and low-grade subdivision.

**Section 15.02.02 Authority**

This Land Subdivision and Development Code is promulgated in accordance with the authority cited in Arkansas Code Annotated §14-56-401 through §14-56-426.

**Section 15.02.03 Jurisdiction**

These regulations shall be applicable to all lands within the city and its Planning Boundary.

**Section 15.02.04 Amendments**

These subdivision amendments shall not be amended except by ordinance of the City Council upon recommendations of the Planning Commission based on a public hearing before the Planning Commission for which fifteen (15) days notice has been published in a newspaper of general local distribution.

**Section 15.02.05 Severability**

If any section, paragraph, clause, phrase or part of this title is for any reason declared to be invalid, such decision shall not affect the validity of other provisions which can be given effect without the invalid provision.

CROSS REFERENCE: Ordinance 924; Section 1; November 15, 2011

## **CHAPTER 15.04 DEFINITIONS**

### **SECTIONS: 15.04.01 Application of Definitions 15.04.02 Definition of Terms**

#### **Section 15.04.01 Application of Definitions**

The definitions of Section 15.04.02 shall apply to the provisions of Title XIV and Title XV of the Berryville Municipal Code.

#### **Section 15.04.02 Definition of Terms**

- A. Alley: a minor right-of-way, dedicated to public use, which affords a secondary means of vehicular access to the back or side of properties otherwise abutting the street, and which may be used for public utility purposes.
- B. Area: the amount of land surface in a lot or parcel of land.
- C. Bench Mark: a definite point of known elevation and location, and of more or less permanent character.
- D. Block: an area of land surrounded by public highways, streets, streams, railroad rights-of-way, parks or other similar areas or facilities.
- E. Building: any structure intended for shelter, housing or enclosure for persons or animals. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.
- F. Building Line: a line on a plat between which line and the street right-of-way, no portion of the building may be erected, excluding landings, open balconies and roof overhangs, subject, however, to the further requirements of the Zoning and Subdivision Code.
- G. Building Inspector: a person appointed by the City Council to administer and enforce these regulations.
- H. City Plan: the comprehensive development plan made and adopted by the Planning Commission and accepted by ordinance of the City Council to indicate the general locations recommended for the various land uses, major streets, parks, public buildings, zoning districts and other public improvements.
- I. Coverage Area: the lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.
- J. Dedication of Land: a conveyance of land by a private property owner as a gift or grant to the public.
- K. Developer: that person, firm or corporation by whom a tract will be subdivided and improved pursuant to the requirements of this Chapter.

- L. Easement: an agreement, granted by a property owner, which allows the public, a corporation or other persons the right to use a specified area of land for specific purposes.
- M. Engineer: a registered professional engineer in good standing in the State of Arkansas whose seal shall appear on all construction drawings and plans for improvements.
- N. Final Plat: a finished drawing showing complete and accurate legal and engineering information, including the Bill of Assurance and certification necessary for recording.
- O. Flood Plain: a geographic area susceptible to periodic inundation from overflow of natural waterways and determined as to extent by the US Army Corps of Engineers.
- P. Frontage: that edge of a lot bordering a street.
- Q. Frontage Road: a street, parallel to and adjacent to a major highway or thoroughfare, which provides access to abutting properties.
- R. Improvements: street pavement, sidewalk pavement, pedestrian way pavement, water mains, storm sewers, sanitary sewers, signs, monuments, landscaping, street lights, drainage facilities and other similar items.
- S. Improvement Plans: the engineering drawings showing types of materials and construction details for the physical structures and facilities excluding dwelling units to be installed in conjunction with the development of the subdivision.
- T. Lot: any parcel of land intended as a unit for transfer of ownership or for development, and intended to be occupied by one main building, or a group of main buildings, and other accessory buildings and uses, including such open spaces as are required by this code and other laws or ordinances, and having its principal frontage on a street.
- U. Lot Area: the total horizontal area within the boundaries of a lot exclusive of any area designated for street purposes.
- V. Lot, Corner: a lot abutting upon two or more streets at their intersection.
- W. Lot, Double Frontage: a lot having frontage on two non-intersecting streets, as distinguished from a corner lot.
- X. Lot of Record: a lot or parcel of land, the deed to which has been recorded in the office of the County Recorder prior to the adoption of this Code.
- Y. Open Space: any unoccupied space on a lot that is vacant and unobstructed, and is not occupied by any structure or portions of structures whatsoever.
- Z. Parking Space: an area a minimum of 200 square feet of usable and accessible space which is designated for storage of an automotive vehicle.
- AA. Performance Guarantee: any security which may be accepted in lieu of a requirement that certain improvements be made before the Planning Commission or other approving body approves a final plat; including performance bonds posted by a subdivider or improvement contractors, escrow agreements and other similar collateral or surety agreements.

- BB. Plat: a map or chart indicating the subdivision or re-subdivision of land, intended to be filed for record.
- CC. Preliminary Plat: a drawing which shows the proposed layout of a subdivision in sufficient detail to indicate unquestionably its workability in all aspects, but is not in final form for recording and the details are not completely computed.
- DD. Principle Use: the chief or main recognized use of a structure or of land.
- EE. Property Line: the line bounding a lot as defined herein.
- FF. Roadway or Surfaced Width: roadway or surfaced width means that portion of the street available for vehicular traffic.
- GG. Slope: the rate of deviation of the ground surface from the horizontal surface, as expressed in percentages.
- HH. Street: any public or private thoroughfare which affords the principle means of access to abutting property.
- II. Street, Arterial: a street or road of considerable continuity which serves as the principle traffic-way between separated areas and serves as the main means of access to the primary street system.
- JJ. Street, Collector: a feeder route which carries vehicles from local and residential streets to a major arterial street system.
- KK. Street, Cul-de-Sac: a street having one end open to traffic and being terminated at the other end by a vehicular turnaround.
- LL. Street, Dead-End: a street having one end open to traffic and being terminated at the other end without a vehicular turnaround.
- MM. Street, Intersecting: any street which joins another street at an angle, whether or not it crosses the other.
- NN. Street, Local or Residential: a non-through street that is used mainly for access to properties in neighborhoods or other areas.
- OO. Structure: anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground.
- PP. Subdivider: any person, firm, partnership, corporation or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision as herein defined, and includes any agent of the subdivider.
- QQ. Subdivision: a subdivision shall include all division of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or a change in existing streets and shall include mobile home parks and multi-structure apartment developments provided, however, that the following shall not be included within this definition nor be subject to the subdivision rules and regulations of this municipality:

- a. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards or ordinances of the municipality.
  - b. The public acquisition by purchase or dedication of parcels of land for the widening or opening of streets or other improvements.
  - c. The subdivision of land into parcels of three (3) acres or greater, where no street right-of-way dedication is involved, shall be subject to the platting process; however, certain infrastructure improvements may be exempted upon appeal to the Planning Commission.
- RR. Surveyor: a Licensed State Land Surveyor or a Registered Public Surveyor as authorized by state statutes to practice the profession of surveying in the State of Arkansas.
- SS. Yard: a horizontal distance from a lot line to a parallel designated line. A yard is an open space extending the full distance of the lot.

CROSS REFERENCE: Ordinance 924; Section 1; November 15, 2011

**CHAPTER 15.06  
PROCEDURE FOR PLAT APPROVAL**

- SECTIONS:**
- 15.06.01 Authority**
  - 15.06.02 Pre-Platting Preparation**
  - 15.06.03 Preliminary Plat Approval**
  - 15.06.04 Final Plat Approval**
  - 15.06.05 Plat Requirements**

**Section 15.06.01 Authority**

According to the Arkansas Planning Law (Act 186 of 1957, A.C.A. Sections 14-56-402 thru 14-56-404 and 14-56-415), municipal subdivision and land development regulations “shall establish the procedure to be followed to secure plat approval by the Planning Commission.”

**Section 15.06.02 Pre-Platting Preparation**

The plat approval process involves the subdivider’s preparation of a preliminary plat of the proposed land development for consideration and approval by the Berryville Planning Commission and, after installation of all required improvements, the preparation of a final plat for the Commission’s final approval. Prior to the preparation of a preliminary plat, the developer should consult with the Planning Commission or its representative. In connection with such consultations, the developer should present a plan sketch of the subdivision proposal and should request procedural check lists and plat preparation instructions. The developer should also become familiar with the subdivision regulations, the comprehensive development plan, the master street plan and with other official plans and policies.

**Section 15.06.03 Preliminary Plat Approval**

- A. Preliminary Plat Fee: Prior to submission of the preliminary plat for approval by the Commission, the subdivider shall pay a preliminary plat fee of \$25.00 payable to the City of Berryville and submitted to the Berryville Treasurer’s Office. A copy of the receipt for payment of this fee must be presented to the Planning Commission when the preliminary plat is submitted for consideration and approval.
- B. Submission of Plat: The developer shall submit six (6) copies of the preliminary plat to the Planning Commission or its representative at least ten (10) working days prior to the meeting at which the plat is to be considered.
- C. Action by the Planning Commission: Within forty (40) days after submission of the plat, the Commission shall indicate its approval, disapproval or conditional approval. The reasons for disapproval shall be stated in writing. Failure of the Commission to act within forty (40) days after submission shall be deemed approval of the preliminary plat.
- D. Expiration of Approval: Unless the developer has been working continuously to install required improvements, approval of the preliminary plat shall lapse if a final plat of the subdivision is not submitted within one (1) year of the preliminary plat



approval date. An extension of this deadline may be granted by the Commission upon a showing of just cause by the developer.

- E. Authorization to Install Improvements: Approval of the preliminary plat constitutes authorization for the subdivider to proceed with the installation of improvements and does not constitute final approval of the subdivision plan nor does it authorize the issuance of building permits for lots within the subdivision.
- F. Development in Phases: If the subdivider desires to develop only a portion of a larger area of planned development, a preliminary plat and a final plat must be submitted for each portion or phase of the subdivision.

#### **Section 15.06.04 Final Plat Approval**

- A. Final Plat Fee: Prior to submission of the final plat for approval by the Commission, the subdivider shall pay a final plat fee of \$50.00 payable to the City of Berryville and submitted to the Berryville Treasurer's Office. A copy of the receipt for payment of this fee must be presented to the Planning Commission when the final plat is submitted for consideration and approval.
- B. Submission of Plat: After installation of all required subdivision improvements as authorized by preliminary plat approval, the subdivider shall submit six (6) copies of the final plat with certification and other supporting information to the Planning Commission or its representative at least five (5) working days prior to the meeting at which the plat is to be considered.
- C. Action by the Planning Commission: Within sixty (60) days after receipt of the final plat and other required information, the Planning Commission shall approve or disapprove the final plat, such approval or disapproval shall be communicated to the applicant developer in writing. Failure to act on a final plat application within sixty (60) days shall be deemed approval of the plat.
- D. Development in Phases: If the subdivider is developing only a portion of a larger area of planned development, a preliminary plat and a final plat must be submitted and approved for each portion or phase of the subdivision.
- E. Action by the City Council: After the Planning Commission has approved and signed a final plat of a subdivision located within the corporate limits of the city, the plat and dedication of streets and other public easements shall be transmitted to the Berryville City Council for acceptance of the streets into the city street system by ordinance of the council. Approval of a final plat by the Planning Commission shall not be deemed acceptance of any of the dedications shown on the plat. Such acceptance shall be made by the City Council in the manner prescribed by law.
- F. Recording of the Final Plat: Two (2) copies of the approve final plat, along with the property owner's signed dedication of the streets and other public easements (and the city ordinance accepting dedication of streets if the subdivision is located within the city limits), shall be filed with the County Recorder. The County Recorder shall not accept any plat for record without the Planning Commission's approval.

**Section 15.06.05 Plat Requirements**

- A. Plat Size and Scale: All plats that are submitted to the Planning Commission for review shall be prepared on 18x23 inch sheets at a scale of one inch equals 100 feet. (One inch equals 200 feet is acceptable for larger areas.)
- B. Right of Survey: To determine whether the subdivision’s legal description is correct, the Commission shall require, at the developer’s expense, a survey of the area.
- C. Plat Information: Plats should include the following information as indicated below:

	<b><u>Preliminary Plat</u></b>	<b><u>Final Plat</u></b>
1) Name of Subdivision	X	X
2) Boundary, legal description and acreage of the tract.	X	X
3) Names and addresses of owner(s), developer(s) and engineer(s).	X	X
4) Vicinity map of sufficient size to include and identify all adjacent permanent features.	X	X
5) Topography with 20 foot contour intervals.	X	N/A
6) Date, scale and north arrow	X	X
7) Location and legal description of all streets, alleys and easements within the bordering tract.	X	X
8) Names of all streets.	X	X
9) Dimensions of all streets, alleys, easements, blocks and lots.	X	X
10) Numbers or letters for all lots and blocks.	X	X
11) Square footage for all lots.	X	X
12) Bearing on all lot, block or street lines which are not 90 degree angles.	N/A	X
13) Location of monuments.	N/A	X
14) Location of building lines.	X	X
15) Location and dimensions of any non-residential property.	X	X
16) Certifications to include the following:	X	X
• Accuracy by licensed civil engineer.		
• Signature line for public works director to certify State Health Department approval of water and sewer plans.		

- Signature line for building inspector to certify compliance with subdivision and zoning regulations.
- Signature line for public works director to approve streets, sidewalks, streetlights, easements, grading and drainage.
- Signature line for ownership, title and dedication of all streets, alleys, parks and other lands for public use.
- Establishment of easements.
- Provision that the plat as filed for record cannot be changed unless vacated.
- Signature line for Planning Commission chairman.
- Signature line for Mayor to certify acceptance of streets and public easements by City Council.

CROSS REFERENCE: Ordinance 924; Section 1; November 15, 2011

**CHAPTER 15.08  
DESIGN AND LAYOUT**

- SECTIONS:**
- 15.08.01 Conformance to Official Plans**
  - 15.08.02 Streets**
  - 15.08.03 Blocks**
  - 15.08.04 Lots**
  - 15.08.05 Driveways**
  - 15.08.06 Water Supply and Distribution System**
  - 15.08.07 Wastewater Collection System**
  - 15.08.08 Drainage**
  - 15.08.09 General Provisions**

**Section 15.08.01 Conformance to Official Plans**

- A. Subdivisions within the territorial jurisdiction of the Berryville Planning Commission shall conform to all official plans and regulations that are in effect.
- B. If an area within a proposed subdivision has been identified by an adopted official plan as a site for public use, the Planning Commission may require the subdivider to reserve the site for a period of twelve (12) months after submitting the preliminary plat to give the City Council an opportunity to acquire the site for public use.

**Section 15.08.02 Streets**

- A. Conformance to City Specifications: the allocation of rights-of-way for and the location and widths of all streets shall conform to the City's official specifications.
- B. Intersections: intersections shall be, insofar as practical, set at right angles. The intersection of more than two (2) streets at one (1) common point shall be avoided, except where it is impractical to secure a proper street system otherwise. Where jogs cannot be avoided at street intersections, the streets should be off-set at least 125 feet. Property line radii at street intersections shall not be less than 25 feet, and where the street intersection occurs at an angle other than 90 degrees the Commission may require a greater radius. Curb line radii at street intersections shall be at least 25 feet, and where the street intersection occurs at an angle other than 90 degrees the Commission may require a greater radius.
- C. Maximum Grades: street grades shall be provided to ensure adequate drainage and shall not exceed the following maximums:

Arterial Streets	5%
Collector Streets	7%
Local or Residential Streets	10%
- D. Curves: Curves in streets shall be ample to permit sight distances that are adequate for drivers moving at the posted speed.

- E. Minimum Street Widths: right-of-way and pavement widths shall not be less than the following for each classification of street:

	<u>Right-of-Way</u>	<u>Pavement</u>
Arterial Streets	80'	60' BOC
Collector Streets	60'	38' BOC
Local or Residential Streets	50'	28' BOC

- F. Dead-End Streets: Cul-de-Sacs or turnarounds are required for any street that has one end closed if the street is more than two lots in length. Dead-end streets shall not be over 900 feet long. There shall be provided at the closed end, a turnaround having an outside right-of-way diameter of at least 100 feet.
- G. Location of Local Streets: local streets shall be located and aligned in a manner that will not encourage “short cuts” between major arterial streets.
- H. Alleys: the minimum width of an alley shall be twelve (12) feet, and the maximum width shall be sixteen (16) feet. Alleys must be paved in accordance with City street specifications. As with streets, alleys that are dedicated to and accepted by the City as a public way will be maintained by the City Street Department.
- I. Relation to Adjoining Street System: Subdivisions that adjoin existing streets shall dedicate additional right-of-way to meet the above minimum street width requirements from each side of the centerline. When the subdivision is located on only one side of the centerline of an existing street, one-half (1/2) of the required right-of-way, in no case less than 25 feet nor more than 50 feet, measured from the centerline of the existing right-of-way, shall be provided. The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets into the adjoining area where practical. When a tract fronts on streets other than local or collector streets, the Commission may require affected lots fronting on such major arterial streets to be provided with frontage roads.
- J. Projection of Streets: Where adjoining areas are not subdivided or developed, the arrangement of streets in new subdivisions shall make provision for the proper continuation and projection of streets. When a new subdivision adjoins undeveloped land susceptible of being subdivided, the new streets shall be projected to the boundaries of the tract proposed to be subdivided, unless the entire new subdivision consists of a single cul-de-sac street. At least one (1) new street shall be projected to the boundaries of adjacent tracts susceptible of being subdivided on each side of new subdivisions, unless technically or topographically impracticable. Additional projection of new streets within a new subdivision may be required by the Commission, if deemed necessary. Permanent dead-end streets shall terminate in a cul-de-sac. Temporary dead-end streets, designated for eventual continuation into undeveloped land, shall terminate in either a temporary cul-de-sac, an alternate configuration such as a tee, or other approved design.

### **Section 15.08.03    Blocks**

- A. Rectangular Shape: in the interest of conformity, rectangular blocks are encouraged, preferably to accommodate two tiers of lots.
- B. Width and Length: at a minimum, the width and length of blocks shall be of sufficient dimensions to accommodate minimum size lots, necessary street widths, necessary utility easements, and a customary street grid as the terrain or topography allows. The Planning Commission shall have the authority to approve, reject or modify the size, shape and/or orientation of blocks within a proposed subdivision, if deemed necessary for the public's health, safety or welfare, or for the conformity to the City's land use plan.

### **Section 15.08.04    Lots**

- A. General Requirements: In so far as practical, side lot lines shall be perpendicular or radial to street lines. Each lot shall abut upon a public street or road. The size, shape and orientation of every lot shall be as the Commission deems appropriate for the type of development and use contemplated.
- B. Size and Area: The minimum area for a residential lot served by a public sewage system shall be no less than 7,500 square feet, unless otherwise specified by the City's zoning regulations. Specific lot sizes shall be set by the minimum area requirements for each respective zoning district. For residential lots not served by a public or community sanitary sewage system, lot sizes shall be determined as follows:
  - A subdivider shall conduct a percolation test on each proposed lot in a subdivision and indicate the location and result of each test on the preliminary plat; the dimensions and area of each lot may be established at the levels necessary to fulfill the requirements of the Arkansas Health Department and the Arkansas Pollution Control and Ecology Commission.
- C. Width: The minimum width of a residential lot shall not be less than sixty (60) feet wide at the building line, unless otherwise specified by the City's zoning regulations.
- D. Building Lines: Building lines for residential lots shall be at least 30 feet from each street property line. Corner lots shall be at least 75 feet wide at the building line to allow for side street building lines.
- E. Off-Street Parking: Residential lots shall have a minimum off-street parking area large enough to accommodate two (2) vehicles.

### **Section 15.08.05    Driveways**

- A. Construction Materials: Construction of driveways within new subdivisions shall be with reinforced concrete that is at least four (4) inches thick. On older or unimproved city streets, driveways may be constructed of concrete, asphalt or no less than two (2) inches of crushed limestone. Any entrance must compliment the street.
- B. Width: The minimum width for a single driveway shall be ten (10) feet wide. A double driveway shall be a minimum of eighteen (18) feet wide.

### **Section 15.08.06 Water Supply and Distribution System**

- A. All subdivisions shall be provided with water supply and water distribution systems approved by and meeting the requirements of the Arkansas Department of Health.
- B. The water supply and distribution system shall be designed to provide the anticipated water consumption within the subdivision, including fire protection. Recognized engineering design criteria shall be used to design the system. The minimum size water main for the entire urban area shall be six (6) inches in diameter.
- C. Fire hydrants shall be located so that every building within the subdivision will be within 500 feet of a fire hydrant. The water distribution system and the location of fire hydrants shall be in accordance with the requirements of the Arkansas State Fire Code and the City Water Department. Additional fire hydrants that are desired by the City shall be paid for by the City.
- D. The City may require larger water mains than are necessary to serve the subdivision in order to provide for future development within the area. In the event that larger lines are required, then the developer shall be entitled to participating aid from the City for said oversized lines.
- E. Water service connections shall be provided for every lot within the subdivision and the City Water Department shall govern the size and material.

### **Section 15.08.07 Wastewater Collection System**

- A. All subdivisions shall be provided with a wastewater collection and disposal system approved by and meeting the requirements of the Arkansas Department of Health.
- B. The wastewater collection and disposal system shall be designed to provide the anticipated wastewater loading within the subdivision. Recognized engineering design criteria shall be used to design the system.
- C. The City may require larger sewer mains than are necessary to serve the subdivision in order to provide for future development within the area. In the event that larger lines are required, then the developer shall be entitled to participating aid from the City for said oversized lines.
- D. Wastewater service connections shall be provided for every lot within the subdivision and the City Sewer Department shall govern the size and material.

### **Section 15.08.08 Drainage**

- A. Storm drainage for residential areas shall be designed for a 5 year frequency rainfall, shopping centers and industrial developments for a 10 year frequency, and downtown and central business district for a 25 year frequency rainfall.
- B. The drainage system shall be designed and constructed to handle rainfall runoff that originates in or traverses the subdivision.
- C. Streets shall be crowned and designed in a manner which prevents a concentrated flow of water and/or pooling effect.

- D. In general, rainfall runoff that cannot be handled in streets shall be put into pipe or line channels, except major outfall channels which handle water from drainage area beyond the subdivision being constructed.

**Section 15.08.09    General Provisions**

- A. Easements no less than ten (10) feet wide may be required by the Commission for drainage and utility lines.
- B. The developer shall make arrangements with the appropriate private utility companies for the extension of their respective utility services to and within the subdivision.
- C. After completion of the streets and utilities, the site shall be cleaned up and graded to drain properly.

CROSS REFERENCE: Ordinance 924; Section 1; November 15, 2011



## CHAPTER 15.10 IMPROVEMENTS

- SECTIONS:**
- 15.10.01 Required Improvements**
  - 15.10.02 Construction Plans**
  - 15.10.03 Final Inspection**
  - 15.10.04 Formal Acceptance**
  - 15.10.05 Special Provisions**

### **Section 15.10.01 Required Improvements**

- A. The subdivider shall install all required improvements at their own expense before requesting final plat approval.
- B. The following improvements shall be required for all subdivisions:
  - 1. Water: Where public water is available, each lot shall be provided water service in accordance with City Water Department regulations. Where public water is not available, the water supply shall be approved by the proper health authorities.
  - 2. Sanitary Sewers: Where a public sanitary sewer system is available, each lot shall be provided sanitary sewer service in accordance with City Sewer Department regulations. Where public sanitary sewer service is not available, sewage disposal shall be provided in accordance with the standards required by the County and State health authorities.
  - 3. Drainage: All streets shall connect with storm sewers or natural drainage channels for adequate handling of surface water.
  - 4. Street Improvements: Streets shall be improved by the subdivider in accordance with the standards established by the City. For details on street specifications and street lighting, consult with the Public Works Director and/or Building Inspector offices.
  - 5. Monuments: All quarter section corners and subdivision corners shall be marked with reinforced concrete monuments in the following dimensions: 4"x4"x30".
  - 6. Sidewalks: Sidewalks are required on one side of the street and are recommended on both sides, and shall be built in accordance with City and ADA specifications. Sidewalks may abut and attach to the back of the curb of Local or Residential Streets; however, a minimum setback of two (2) feet is recommended. The minimum width of a Local or Residential Street sidewalk shall be four (4) feet. Sidewalks shall be set back from the edge of the curb a minimum of four (4) feet and shall be a minimum of four (4) feet in width on Collector Streets. Sidewalks shall be set back from the edge of the curb a minimum of five (5) feet and shall be a minimum of five (5) feet in width on Arterial Streets.
  - 7. Utility Lines: All utility lines (including water, sewer, telecommunications, natural gas, etc.) to be installed in a subdivision shall be located outside of the curb lines unless unavoidable or impracticable. Utility plans shall be designed in a manner which minimizes street crossings. Stubs to the property lines are

required so that connections between the lots and the utility lines shall be made without excavating the wearing surface of the street.

8. Fire Hydrants: Fire hydrants shall be placed so that no lot in a residential subdivision is more than 500 feet from a hydrant located on the same street. The Commission may require other spacing in commercial or industrial subdivisions.
9. Street Names: Street name signs shall be placed on diagonally opposite corners of each street intersection in conformance with City specifications.
10. Exceptions: The Commission, upon request of the subdivider, shall permit special exceptions to be made to the improvements and procedures required by these regulations when, in the opinion of the Commission, such exceptions are in keeping with the intent of these regulations and when exceptions will provide for a development, the character of which will be in conformance with existing platting and development within close proximity of the proposed subdivision. The subdivider may be required to furnish additional information in order to aid the Commission in its determinations.

#### **Section 15.10.02 Construction Plans**

- A. Prior to the construction of any streets or utilities, the developer shall furnish two (2) complete sets of plans and specifications for said construction to the Planning Commission. These documents shall be transmitted in writing.
- B. These plans and specifications will be reviewed for conformity with these regulations and any existing City standards. The plans and specifications shall be approved in writing prior to any construction.
- C. The Public Works Director and Building Inspector shall be notified prior to the beginning of construction so that they may inspect the work.
- D. The plans shall be securely bound and shall consist of a title sheet and such plan-profile and detail sheets as are required to meet the requirements of these regulations and to properly define the proposed work.
- E. The title sheet shall show the name of the subdivision, name and contact information of the engineer, date and an index of drawings.
- F. Each plan-profile and detail sheet shall contain the minimum general information, engineer's seal and signature, north arrow and a title block showing the name of the subdivision, scale, date and sheet number.
- G. The plan-profile will generally be drawn to a horizontal scale of no greater than one inch to 100 feet, and a vertical scale of one inch to 10 feet.

### **Section 15.10.03 Final Inspection**

Upon completion of construction, the developer shall arrange a final inspection of all streets utilities. This inspection may be attended by the developer, his engineer, the contractor, the Building Inspector and/or the Public Works Director. If the Building Inspector determines that the streets and utilities are complete and in accordance with the approved plans and specifications, he shall so inform the developer in writing. The developer shall then transmit in writing to the City a "Notice of Completion", the required bonds and the as-built drawings.

### **Section 15.10.04 Formal Acceptance**

After the Building Inspector and/or the Public Works Director has inspected the work and indicated to the developer that the streets and utilities conform to approved plans, the developer shall give a formal "Notice of Completion" to the City. Upon receipt of the preceding, the Building Inspector shall issue a "Notice of Acceptance" of the streets and utilities and will present the final plat to the Planning Commission for approval.

### **Section 15.10.05 Special Provisions**

- A. No building permits shall be issued by the City for any structure on a lot in a subdivision for which a Final Plat has not been approved and filed for record, nor for any structure on a lot within a subdivision in which the standards contained herein or referred to herein have not been complied with in full.
- B. The City shall not repair, maintain, install or provide any streets or public utility service in any subdivision for which a Final Plat has not been approved and filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.
- C. The City shall not sell or supply any water service within a subdivision for which a Final Plat has not been approved or filed for record, nor in which the standards contained herein or referred to herein have not been complied with in full.
- D. When directed by the City Council, the City Attorney shall institute appropriate legal action to enforce the provisions of these regulations, or the standards referred to herein, with respect to any violation thereof which occurs within the City, within the territorial jurisdiction of the City or within any area subject to all or a part of the provisions of these regulations.
- E. If any subdivision exists for which a Final Plat has not been approved, or in which the standards contained herein or referred to herein have not been complied with in full, the City Council shall pass a resolution reciting the fact of such noncompliance or failure to secure Final Plat approval. After passage of such resolution and reciting the fact that the provisions of paragraphs A-C of this Section will apply to the subdivision and the lots therein, the City Clerk shall, when directed by the City Council, cause a certified copy of such resolution to be filed with the County Recorder's Office. If full compliance and Final Plat approval are secured after the aforesaid filing, paragraphs A-C of this Section shall no longer apply.

- F. The provisions of this Section shall not be construed to prohibit the issuance of permits for any lots upon which a residential building exists and which was in existence prior to passage of the initial subdivision. Nor shall they prohibit the repair, maintenance or installation of any street or public utility services for, to or abutting any lot of which the last recorded conveyance was by metes and bounds prior to passage of these regulations and/or upon any lot of record within a subdivision which was in existence prior to the passage of these regulations.
- G. Deferment of final street improvements will be accepted only under the following conditions:
1. The property is adequately served by all-weather facilities for ingress and egress for pedestrian and vehicular traffic, including fire apparatus.
  2. The property is served by all essential permanent utilities; such as water, sewer, electricity and gas.
  3. The reason for non-completion at this time is beyond the control of the developer and is one which makes it impossible and/or impractical to proceed.
  4. The work can be completed in 12 months or less.
  5. The occupancy of the deferred properties shall not be seriously handicapped in the use of the properties by the deferment of the work, nor will postponement endanger or destroy work previously completed (such as provision of adequate drainage outfall, for example).

CROSS REFERENCE: Ordinance 924; Section 1; November 15, 2011

**CHAPTER 15.12  
COSTS OF INSTALLATION**

- SECTIONS:**
- 15.12.01 Streets**
  - 15.12.02 Sidewalks**
  - 15.12.03 Water Distribution System**
  - 15.12.04 Wastewater Collection System**
  - 15.12.05 Drainage**
  - 15.12.06 Engineering and Surveying**
  - 15.12.07 All Other Costs**

**Section 15.12.01 Streets**

- A. The developer shall pay the entire cost of constructing all Local/Residential and Collector streets within the proposed subdivision.
- B. If any security other than cash is put in escrow to cover the future paving assessment, as is hereinafter required, the security shall contain a provision for increasing the amount of the security at a rate of four percent (4%) per annum. This increase shall be for the purpose of offsetting any increase in construction costs that occurs prior to the time that the improvements are actually constructed.
- C. Boundary Streets: The following shall govern instances where proposed subdivisions abut existing streets.
  - 1. Existing Streets: When the proposed subdivision abuts upon an existing paved street that does not have curb and gutter, or an existing undeveloped street or road, the developer shall put a cash deposit or other security satisfactory to the City in escrow with the City to cover the future paving assessment program. This deposit shall amount to the cost of curb and gutter and one-half of the cost of paving a standard width street for that portion of the street which abuts the proposed subdivision. If the subdivision abuts both sides of the street, a deposit shall be made in the total amount of the costs to improve the street up to City specifications for that portion which abuts. The actual unit prices to determine the amount placed on deposit shall be according to the most recent unit prices accepted by the local construction industry for comparable work.
  - 2. New Streets: New boundary streets that are platted for the primary purpose of providing traffic routes into and through the subdivision shall be constructed by the developer as part of the subdivision development.
- D. Arterial Streets: All arterial street design and construction will be handled by the City. The developer shall put a cash deposit or other security satisfactory to the City in escrow with the City to cover the future paving assessment program. This deposit shall amount to the cost of curb and gutter and one-half of the cost of paving a standard width street; however, if both sides of the arterial street will be within the proposed subdivision, the amount shall be doubled. The actual unit prices to determine the amount placed on deposit shall be according to the most recent unit prices accepted by the local construction industry for comparable work.

**Section 15.12.02 Sidewalks**

The developer shall incur all costs associated with sidewalk construction as required by the Planning Commission.

**Section 15.12.03 Water Distribution System**

All water lines, and other necessary appurtenances, shall be installed at the developer's expense to the size and extent necessary to serve the subdivision. Lines of a larger size than required by the subdivision may be eligible for participating aid from the City.

**Section 15.12.04 Wastewater Collection System**

All sewer lines, lift pump stations, force mains and other necessary appurtenances shall be installed at the developer's expense to the size and extent necessary to serve the subdivision. Lift pump stations shall be designed according to City specifications. Lines of a larger size or facilities requested to handle additional capacities or capabilities than required by the subdivision may be eligible for participating aid from the City.

**Section 15.12.05 Drainage**

The developer shall incur all costs associated with the drainage system of a subdivision.

**Section 15.12.06 Engineering and Surveying**

The developer shall pay all fees and charges engineering and surveying services as required by these regulations.

**Section 15.12.07 All Other Costs**

The developer shall incur all other costs that are not specifically covered by this section.

CROSS REFERENCE: Ordinance 924; Section 1; November 15, 2011

## CHAPTER 15.14 ADMINISTRATION

- SECTIONS:**   **15.14.01 Enforcement**  
                  **15.14.02 Variances**  
                  **15.14.03 Appeals**  
                  **15.14.04 Penalty for Violations**

### **Section 15.14.01   **Enforcement****

In order to achieve the purposes of these regulations and to ensure an orderly program of land development after the effective date of these regulations, the following enforcement provisions shall apply.

- A. Building Permits: Preliminary plat approval must be obtained and all required subdivision improvements must be completed before a building permit for a new structure will be issued, with the following exceptions:
1. A permit may be issued to construct a home in a residentially zoned area that is not part of an existing subdivision if the lot faces a dedicated street where site improvements are in existence, provided that a site plan is filed showing the location of the building site. The driveway accessing the home must meet the minimum requirements herein defined and must exit onto the dedicated street. If more than two lots are proposed to be developed, a plat must be filed showing lot dimensions, setback lines, utility easements, etc.
  2. A permit may be issued to a landowner to build a single residence or commercial structure in a non-subdivided area, provided that a site plan is filed showing the location of the building site and the proposed means of access. If and when a second home or commercial structure is proposed to be built in this area, the plat or lot split approval process must be initiated and all necessary requirements met before the second building permit will be issued.
- B. Recording of Plat: No plat of any tract of land within the planning area jurisdiction of the Berryville Planning Commission shall be accepted by the County Recorder for filing of record unless the plat has been approved by the Planning Commission.
- C. Conveyance by Metes and Bounds: A tract, parcel or lot falling under the definition of a subdivision may not be conveyed by metes and bounds unless the applicable subdivision regulations have been met. This provision is aimed at preventing an attempt to circumvent these regulations by conveyance by metes and bounds without taking the necessary steps for filing an approved plat.
- D. Dedication of Streets: Dedication of streets, by itself, shall not be accepted by the City unless the usage of the adjoining affected land is shown. If the purpose of opening the street is to make the affected land available for sale as a subdivision, the street may not be accepted until the dedication is accompanied by the required plat.

- E. Authority to Inspect: The city's Public Works Director, or his representative, shall have the authority to inspect any and all improvements to ensure that they are in conformance with all plans, specifications and any written agreements which have been approved by the Planning Commission. Further authority is given to require the removal and/or replacement, at the expense of the developer, of any phase of the work which is not in accordance with the requirements of the approved plans.

#### **Section 15.14.02    Variances**

If a proposed subdivision tract is of such unusual size, shape or topography; or is otherwise situated in such a way that strict enforcement of these subdivision regulations would result in substantial hardship on the developer, the Planning Commission may vary or modify the regulations in a manner that allows the subdivision to be developed consistent with the concerns for public welfare and safety.

#### **Section 15.14.03    Appeals**

If a plat is disapproved by the Planning Commission, the applicant may petition the Berryville City Council for a review of the plat vote. The Council may sustain the decision of the Commission or may refer the plat back to the Planning Commission for reconsideration and for such action as may be consistent with the requirements of these regulations.

#### **Section 15.14.04    Penalty for Violations**

Any person, firm or corporation which violates any provision of these regulations, or amendment thereto, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred dollars (\$100.00) per offense. Each day that a violation of these regulations is in effect shall constitute a separate offense.

CROSS REFERENCE: Ordinance 924; Section 1; November 15, 2011



## **CHAPTER 15.16 BUILDING SITE PLAN REVIEW**

- SECTIONS:**
- 15.16.01 General Provisions**
  - 15.16.02 Enforcement**
  - 15.16.03 Submittal Procedure**
  - 15.16.04 Amendments and Modifications**
  - 15.16.05 Screening and Landscaping**
  - 15.16.06 Appeals**
  - 15.16.07 Terms of Approval**

### **Section 15.16.01 General Provisions**

The purpose of this chapter is to set forth procedures for processing commercial, industrial or multiple-residential building site plans, and to establish the standards for development of such sites. The herein described building site plan review is a development review process that provides for case by case consideration of project particulars; including, the provisions for parking, landscaping, building locations and the relationship with adjoining properties.

### **Section 15.16.02 Enforcement**

Large-scale development involving the construction of commercial, industrial or multiple-residential buildings, together with the necessary drives and access ways, and which is not subdivided into customary lots, blocks and streets, shall be subject to the provision of this section. This provision shall also be deemed to include single principal structures proposed for addition to an existing site development. This provision shall not be deemed to include developments where the addition of a single building or structure serves as an accessory building to a principal use on the same site. Plans for all such developments shall be submitted to, and approved by, the Planning Commission, whether or not such plan is to be recorded. No building permit shall be issued until such approval has been given.

### **Section 15.16.03 Submittal Procedure**

In addition to the special requirements of this section, the Planning Commission may impose on a site plan such additional requirements as are necessary to safeguard the public health, safety and general welfare. These may include, but not limited to, utility easements, street dedication and floodway dedication. In those instances where a variance is required as part of the submittal request, the Planning Commission may modify or waive certain standards. A variance may be allowed only after the developer has successfully demonstrated a hardship unique to the plan submittal. Pecuniary difficulties shall not be deemed to constitute a hardship.

The submittal requirements for the review of any tract, lot or parcel of land as required herein shall be as follows:

- A. A site plan to be submitted on paper no larger than 24 inches by 36 inches and no smaller than 12 inches by 24 inches, and including the following information.
  1. Graphic scale and north arrow.
  2. Location map.
  3. Proposed lot lines.
  4. Existing and proposed vehicular and pedestrian circulation systems; including, streets, alleys, walkways, service areas and loading areas, the location and arrangement of off-street parking areas and all points of vehicular access.
  5. Proposed perimeter treatment of the property, indicating screening materials to be used; including, fences, walls and plant materials, together with a description of uses, setbacks and the proposed development's relationship to surrounding areas.
  6. Schematic landscape plan showing proposed treatment of the areas designated as either buffers or private common open space.
  7. Locations and dimensions of all existing and proposed utility and street easements, and all existing public improvements within the site.
  8. Proposed location of structures, structural dimensions, distances between buildings and distances from structures to property lines.
- B. Quantitative data including the following information:
  1. Proposed coverage area of principal and accessory buildings.
  2. Parcel size.
  3. Proposed floor area of principal and accessory buildings.
  4. Proposed number of parking spaces.
- C. A land survey showing the exact property or boundary lines, including a legal description of the total site(s) proposed for development, and also including a statement of present and proposed use and ownership.

#### **Section 15.16.04 Amendments and Modifications**

The holder of an approved site plan may request modification of the plan, or the conditions of approval, by submitting an amended site plan, which shall be filed and processed in the same manner as the original application. However, the Building Inspector may approve such minor changes in the approved site plan as will not cause any of the following circumstances to occur:

- A. Any change in the allowable use of the development.
- B. Any increase of greater than five percent (5%) in the number of residential dwelling units, but not to exceed the total allowable dwelling units in the respective zoning classification.
- C. Any modification compounding the problems of vehicular circulation, safety or provision of public utilities.
- D. Any modification having an adverse measurable impact on adjacent property.

- E. Any reduction of the approved building setback lines.
- F. Any reduction of the off-street parking or loading requirements.
- G. Any change in the allowable size or orientation of signs.

If the Building Inspector finds that any proposed construction or occupancy will not, in their opinion, comply with the approved site plan, he or she shall refer the question to the Planning Commission for review.

#### **Section 15.16.05 Screening and Landscaping**

In order to enhance the integrity and attractiveness of the development, and when deemed necessary to protect adjacent properties, the Planning Commission may require landscaping and screening as a part of a site plan review under this section. The nature and extent of screening and landscaping required shall be determined by the Planning Commission in relation to the overall character of the development and its specific location.

#### **Section 15.16.06 Appeals**

Any applicant aggrieved by a decision of the Planning Commission as it relates to the site plan review process shall have the right to appeal to the Berryville City Council.

#### **Section 15.06.07 Terms of Approval**

Any applicant receiving approval of a site plan shall be limited to a maximum of 24 months from the date of approval to obtain all required permits. Failure to perform will result in the expiration of the approved plan and a “Notice of Termination” from City staff. The notice shall set a date, time and place for a revocation hearing by the Planning Commission, at which time the owner may request a continuance.

CROSS REFERENCE: Ordinance 924; Section 1; November 15, 2011

**CHAPTER 15.18**  
**ADOPTION OF SUBDIVISION REGULATIONS**

**SECTIONS: 15.18.01 Adoption of the Current Regulations**  
**15.18.02 Adoption of the Proposed Regulations**

**Section 15.18.01 Adoption of the Current Regulations**

After extensive revision of the original subdivision regulations, the Berryville Planning Commission adopted the current subdivision regulations on January 8, 1998, after a public hearing was held on November 13, 1997. The regulations were then reviewed and adopted by the Berryville City Council after the third reading of Ordinance No. 708, as amended, on March 17, 1998. Three (3) copies of the current subdivision regulations are on file in the office of the Berryville Building Inspector and are available for public inspection.

**Section 15.18.02 Adoption of the Proposed Regulations**

After extensive revision of the current subdivision regulations, the Berryville Planning Commission adopted the proposed subdivision regulations on August 9, 2011, after a public hearing was held on May 10, 2011. The regulations were then reviewed and adopted by the Berryville City Council after the third reading of Ordinance No. 924, on November 15, 2011. Three (3) copies of the adopted subdivision regulations are on file in the office of the Berryville Building Inspector and are available for public inspection.

CROSS REFERENCE: Ordinance 924; Section 1; November 15, 2011