

## **ARTICLE 1200**

### **OFF-SITE IMPROVEMENTS**

#### **Sec. 1200.01 General provisions.**

(a) *Generally.* The sub-divider shall be required to install off-site improvements, where the need for such improvements is created in whole or in part by the proposed subdivision, in accordance with Sec. 1200.2 Determining Necessity for Off-Site Improvements. For purposes of this section, an off-site improvement shall mean any improvement listed in these regulations which is to be installed on property located outside the proposed subdivision.

(b) *Installation.* Any required off-site improvements shall be installed according to city standards; provided off-site improvements to roads located outside the city's corporate limits but within the city's planning area shall be installed to county standards. The sub-divider shall be required to bear that portion of the cost of off-site improvements which bears a rational nexus to the needs created by the subdivision.

(c) *Proportionate share.* At the time the Planning Commission grants preliminary plat approval, the Planning Commission shall determine whether the proposed subdivision creates a need for off-site improvements and the portion of the cost of any needed off-site improvements which the sub-divider shall be required to bear; provided, that portion of the cost of off-site improvements to roads located outside the city's corporate limits but within the city's planning area shall be determined by the county. In determining that portion of the cost of off-site improvements which the sub-divider shall be required to bear the Planning Commission shall consider the acreage within the proposed subdivision as a percentage of all the acreage which, when fully developed will benefit from the off-site improvements; provided, the Planning Commission may use a different method of measurement if it determines that use of the acreage standard will not result in the sub-divider bearing that portion of the cost which bears a rational nexus to the needs created by the subdivision.

(Ord. No. 2003-100, § 1, 06-10-2003)

#### **Sec. 1200.02 Determining necessity for off-site improvements.**

(a) *Indirect access to substandard streets.* When a proposed subdivision has access to paved streets or roads only by way of substandard or unimproved roads or streets leading from the subdivision to the paved streets or roads, the sub-divider shall be responsible for contributing his proportionate share of the cost of improving the substandard access roads or streets to existing city standards. The sub-divider's proportionate share of said costs shall be determined by the Planning Commission in accordance with the provisions of Sec. 1200.1.

(b) *Direct access to substandard streets.* When a proposed subdivision has direct access to, or fronts on, an existing road or street which is below current standards, the sub-divider shall be responsible for contributing his proportionate share of the cost of improving said street or road to existing city standards. The Planning Commission shall determine the sub-divider's proportionate share of said costs in accordance with the provisions of Sec. 1200.1.

(c) *Off-site drainage.* Off-site drainage improvements shall be required whenever a proposed subdivision causes the need for such improvements.

(d) The off-site improvement shall be required whenever a proposed development or residence causes the need for such improvements.

(Ord. No. 2003-100, § 1, 06-10-2003; Ord. No. 2019-57, § 5, 04-09-2019)

**Sec. 1200.03 Fee-in lieu for delayed improvements.**

If the Planning Commission determines that a needed off-site improvement cannot be built until future development occurs, the sub-divider shall pay to the city an amount determined by the Planning Commission in accordance with the standards prescribed in subsection 1200.1 above to be the developer's proportionate share of the cost of said off-site improvements as of the date of final plat approval. The city shall deposit said money into an interest bearing escrow account until such time as the off-site improvement is constructed. If the off-site improvement is not constructed within five (5) years from the date of the first payment into the escrow account by a sub-divider, the Planning Commission shall hold a public hearing, after notification to all affected property owners, to determine the disposition of all money in the escrow account. Following the public hearing, the Planning Commission may:

(a) Determine that the off-site improvement is still necessary and feasible and can be built within a reasonable time, in which case the escrow account shall be continued for a period specified by the Planning Commission; or

(b) Determine that the off-site improvement is not necessary, or will not be feasible, or that insufficient development has occurred to render the improvement likely in the foreseeable future, in which case the Planning Commission shall either:

- (1) Refund the money in the escrow account, with accumulated interest, to the sub-dividers who made the contributions; or
- (2) Distribute the money in the escrow account on a pro rata basis to the property owners who purchased lots in the subdivision(s) and the sub-divider(s); or
- (3) With the written consent of a majority of the property owners who have purchased lots in the subdivision(s) and the sub-divider(s), direct that money in the escrow account be utilized for a different purpose which will specifically benefit the neighborhood.

(Ord. No. 2003-100, § 1, 06-10-2003)

**Sec. 1200.04 Waivers.**

A sub-divider may petition the Planning Commission for a waiver of off-site improvement requirements in whole or in part on one or more of the following grounds:

(a) *No plans for upgrading.* The city has no plans for upgrading the substandard street or road on which off-site improvements are proposed to be required by the sub-divider.

(b) *Primary access to improved streets.* The proposed subdivision has primary access to improved streets or roads and the portion of the subdivision which fronts on a substandard street or road is so small or remote from anticipated future traffic patterns as to cause an unfair imposition on the sub-divider.

(c) *Alternate off-site improvements.* The sub-divider proposes alternative off-site improvements which will protect the health, safety and welfare of persons residing in the proposed subdivision and the surrounding area and equally benefit said persons.

(Ord. No. 2003-100, § 1, 06-10-2003)

**Sec. 1200.05 Off-site improvements to state highways and highways maintained by the state highway and transportation department.**

The sub-divider shall be required to dedicate sufficient right-of-way to bring those state highways which the Master Street Plan shows to abut or intersect the proposed subdivision into conformance with the right-of-way

## Art. 1200 Off-Site Improvements

requirements of the Master Street Plan. The sub-divider shall be required to install a sidewalk adjacent to that portion of a state highway abutting the proposed subdivision; provided, the sub-divider shall be permitted to make a cash contribution in lieu of actual installation, which contribution shall be an account equivalent to the estimated cost of constructing the required sidewalk as of the date of final plat approval; and, provided further, that the Planning Commission may waive the sidewalk requirement prescribed by this section upon application by the sub-divider and a determination by the Planning Commission that the topography of the proposed subdivision where it abuts a state highway is such that installation of a sidewalk is not practical. No other improvements to state highways shall be required of the sub-divider unless required by the State Highway and Transportation Commission.

(Ord. No. 2003-100, § 1, 06-10-2003)

### **Sec. 1200.06 Performance guarantees.**

At or prior to the preconstruction conference with the City, the owner/developer shall provide to the Community Development Director a performance guarantee for off-site improvements in compliance with Sec. 300.11.

(Ord. No. 2007-130, 11-13-07)

Art. 1200 Off-Site Improvements