

Chapter 22

LAND USE*

Article III. Subdivisions

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ARTICLE III. SUBDIVISIONS*

Sec. 22-256. Authority to Regulate.

By the authority of the ordinance adopted by the city council on January 6, 1958, pursuant to the provisions of state law, the city planning commission (Elberton Planning Commission – EPC) shall have the authority to regulate the subdividing of land and the recording of plats within its jurisdiction; and whereas, such law prohibits the subdivisions of land into more than two lots unless an accurate map, plan and plat of such subdivision shall have been approved by the planning commission and shall have been certified and recorded in the office of the clerk of superior court, as a basis for such approval, the planning commission prescribes the regulations governing subdivisions set out in this article.

***Editor’s Note** – This article derives from ordinance No. 478 adopted on January 6, 1958, as amended, and was included as appendix B of the 1968 Code.

State law reference – Approval by planning commission or governing authority on plat of subdivision required for filing or recording in superior court clerk’s office, O.C.G.A. §15-6-67(d); Georgia Land Sales Act, O.C.G.A. §44-3-1 et seq.

Sec. 22-257. Scope; Plat Required.

- (a) This article shall govern all subdivision of land within the city as now or hereafter established.
- (b) Any owner of land within the limits of the subdivision jurisdiction wishing to subdivide land shall submit to the planning commission a plat of the subdivision which will conform to the minimum requirements of this article. No plat of a subdivision lying within such territory or part thereof shall be recorded in the office of the clerk of the county superior court, and no subdivider shall proceed with sale of any lots in a subdivision until such subdivision plat shall have been approved by the planning C, and such approval shall have been entered in writing on the plat by the chairman or secretary.
- (c) The jurisdiction shall not include the splitting of a lot into two parts, provided both parts are to be used to increase the size of adjoining lots.

Sec. 22-258. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building Line means a line between which line and any street line of a lot, tract, or parcel of land, no building or part of a building may be erected or altered.

Building Line Setback means the distance between the building line and the street line in a lot, tract or parcel of land.

Commission means the City of Elberton Planning Commission.

Comprehensive Plan means any legally adopted part or element of the overall plan for development as provided by the General Assembly of Georgia.

Corner Lot means a lot which abuts two or more streets at their intersection, or upon a curved street, provided that the two sides of the lot intersect to form an interior angle of not more than 135 degrees.

Cul-de-sac means, generally, a dead-end street where there is room for a vehicle to turn at a circular end.

Dead-end Street means a street with no outlet at one end.

Frontage means the distance for which property abuts one side of a street, road, highway, or other public way measured along the dividing line between the public way and private property.

Lot Depth means the distance between front and rear lot lines. If these lines are not parallel, the mean dimension shall be deemed to be the lot depth.

Lot Interior means a lot which is not a corner lot.

Lot Line, Front means the line separating the lot from the street or road. The front lot line of a corner lot shall be the line of least dimension.

Lot Line, Rear means the line opposite and generally parallel to the front lot line. The rear lot line of a triangular or irregularly shaped lot shall be a line not less than ten feet long lying wholly within the lot, parallel to and the greatest distance from the front lot line.

Lot of Record means a parcel of land, the dimensions of which are shown on a map on file with the clerk of superior court. All lots of record shall front on, and have ingress and egress by means of, a public street or road.

Lot, through means the width of the lot measured at right angles to the mean depth of the lot.

Lot width means the width of the lot measured at right angles to the mean depth of the lot.

Street means a public thoroughfare, including the pavement, 24 feet or more wide. Where the title of land extends to the center of a street, the easement or right-of-way shall be considered as the sidelines of a street. The term "street" shall include avenue, drive, circle, lane, place, and road, as they are generally understood.

Street right-of-way means the distance measured perpendicular to the edges of land in common with front lot lines opposite sides of that land dedicated to public use or in public use. Such width shall be

not less than 50 feet and may be increased if, in the discretion of the planning commission, the future needs of the community will be better served.

Structure means anything constructed or erected, the use of which requires more or less permanent or semi-permanent location on the ground or the attachment to something having a permanent location on the ground. This includes gasoline pumps, signs, trailers, vending machines, etc.

Subdivision means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or building development for purposes other than agricultural. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.

Cross reference – Definitions generally, §1-2.

Sec. 22-259. Interpretations and Meanings.

The planning commission's interpretation shall be final as to the meaning of any definition, statement, requirement, rule, or symbol used in connection with this article and the application of this article, subject to appeal as provided by law.

Sec. 22-260. Procedure in General; Street and Sanitary Improvements required.

(a) *Application Required.* Whenever any subdivision of land is proposed to be made and before any contract for the sale of or any offer to sell such subdivision or any part thereof is made, and before any permit for the erection of a structure shall be granted, the subdivider, owner, or his agent shall apply in writing to the planning commission for approval of such subdivision. The application of the subdivider, owner or agent to the commission shall conform to the specifications in sections 22-262 and 22-263.

(b) *Proposals to Comply with Article.* The preliminary layout, topographic map, street profiles and formal subdivision plat and all procedures relating thereon shall in all respects be in full compliance with the provisions of this article, except where variation therefrom may be specifically authorized by the planning commission.

(c) *Review of Preliminary Layout by Planning Commission.* Three copies of the preliminary layout, as described in section 22-262, designated as such at the scale of not more than 100 feet to the inch, topographic map at the same scale and proposed street profiles at appropriate scales shall be filed with the commission. The planning commission shall then study the preliminary layout and proposed street profiles in connection with the topography of the area, the existing requirements of the zoning article, if any, the comprehensive plan and the official map, if any, and shall take into consideration the general requirements of the community and the best use of the land to be subdivided. Particular attention shall be given to specific requirements for parks, playgrounds, school sites, boulevards, and main thoroughfares, the adequacy of street connections and the suitability of the land for development.

(d) *Meeting of Commission and Developer; Required Changes.* After arriving at tentative conclusions, the commission shall discuss the preliminary layout with the subdivider or his agents at a regular or special meeting of the commission. After such discussion the commission shall communicate in writing within 30 days to the developer:

- (1) The specific changes which it will require in the preliminary layout.
- (2) The character and extent of the required public improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals and general welfare.
- (3) The amount of construction or improvement required as set forth.

(e) *Sale of lots prior to Final Approval; Bond.* The owner or agent of the owner of any land within the jurisdiction of the planning commission shall not sell, offer to sell or negotiate to sell any building lot prior to the final approval in writing by the planning commission; provided, however, that the owner or agent of the owner may sell, offer to sell or negotiate to sell any lot shown on a lot having been given tentative approval of the planning commission; provided further, that the owner or agent of the owner shall, in lieu of the completion of such work or installations required, prior to the final approval of a plat by the planning commission, provide acceptable bond, in an amount and with surety and conditions satisfactory to it, providing for the securing to the municipality the actual construction and installations required with a period specified by the planning commission and expressed in the bond. The municipality has the right and power to enforce such bonds by all appropriate legal and equitable remedies.

(f) *Submission of Formal Plat, Hearing, Approve, Modify, and Approve, or Disapprove.* The subdivider, after official notification by the commission with respect to the preliminary layout and the changes if any to be made therein, shall within six (6) months thereafter file with the commission original drawings of the formal subdivision plat and street profiles. These drawings shall be on tracing cloth or paper to a scale of not more than 100 feet to the inch showing the entire subdivision on one sheet with lot and block numbers. Before the commission acts on the formal subdivision plat, it shall hold a formal hearing thereon. The planning commission shall, within 45 days from the date of submission of the formal plat, approve, modify and approve or disapprove such plat. Such approval shall, however, not be deemed final until the subdivider has complied with the provisions of subsection (g) of this section.

(g) *Required Improvements Prior to Final Approval.* The developer shall install and complete in accordance with the requirements of this article, to the satisfaction of the planning commission, the following street and sanitary improvements:

- (1) *Water lines.* A minimum of a six-inch water line shall be installed to serve all dwellings and structures. Where a municipal water supply exists within 1,500 feet of a proposed subdivision, no individual water supply will be permitted. The developer shall be responsible for the costs of all taps and extensions to existing municipal facilities.
- (2) *Sanitary Sewers.* A minimum of an eight inch sanitary sewer line shall be installed to serve all dwellings and structures. Where a municipal water supply exists within 1,500 feet of a proposed subdivision, no individual water supply will be permitted. The developer shall be responsible for the costs of all taps and extensions to existing municipal facilities.
- (3) *Storm Sewers.* Storm sewers, catch basins, traps and connections to existing facilities shall be the responsibility of the developer. All land and streets shall be so drained that the water impoundments on a developer's land or adjacent land will exist.
- (4) *Curb and Gutter.* All streets shall be curbed and guttered by the developer. Valley gutters may be permitted on extreme grades of over six percent.

- (5) *Bond; Certificate of Satisfactory Character of Improvements; Offer of Cession.* All of the items in subsection (g) of this section shall meet the specifications of the city for materials and installation. Alternatively, the developer may file with the commission a performance bond as provided in subsection (e) of this section, complying with and satisfactory to the city attorney for the completion of such improvements as are not constructed and approved by any official or body authorized by law to act prior to the approval of the plat. The commission shall require a certificate from the city manager or other duly designated official as to the satisfactory character of improvements completed and from the city attorney or other designated legal adviser as to the adequacy of any bond which may be proffered. The subdivider shall tender offers of cession in a form certified as satisfactory by the city attorney of all land included in streets, highways, or parks not specifically reserved by him, but approval of the plat by the commission shall not constitute an acceptance by the city of the dedication of any street highway, park, or other public open space.
- (h) *Final Approval.* After the completion of these details and notation to that effect upon the plat, it shall be deemed to have final approval and within 90 days thereafter the developer must file the plat with the clerk of the county superior court. Otherwise such approval shall be voided.

Sec. 22-261. General Requirements and Principles for the Subdivision of Land.

The subdivider shall observe the following general requirements and principles of land subdivision:

- (1) In general, the proposed subdivision shall conform to the official map and to the comprehensive plan, if such exists.
- (2) The arrangements of streets in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions or for their proper projection when adjoining property is not subdivided, and shall be of a width of at least 50 feet except that collector streets shall be at least 60 feet in width. The commission will designate such collector streets.
- (3) In general, main highways and secondary highways shall not be less than the width shown on the comprehensive plan, if such exists. Parkways and boulevards shall be such width as may be designated by the commission. As a general rule, width for Minor Street shall not be less than 50 feet.
- (4) Dead end or cul-de-sac streets shall not in general exceed 400 feet in length, and shall be equipped with a turnaround roadway with a minimum radius of 40 feet for the outside curb at the closed end.
- (5) Block lengths in general shall not exceed 1,200 feet in length.
- (6) Each block shall be planned to provide two rows of lots, but irregularly shaped blocks indented by cul-de-sac streets and containing interior parks will be acceptable when properly designed and covered by agreements as to maintenance of interior parks.
- (7) Curb radii at intersection shall not be less than 25 feet, and property lines shall be adjusted accordingly.
- (8) Side lines of lots, so far as practicable, shall be at right angles or radial to street lines.

- (9) Care shall be exercised in the layout of lots at street intersections.
- (10) Corner lots shall be increased in size whenever necessary so as to provide that any structure to be placed thereon shall conform to the building setback line of each street.
- (11) Grades of all streets shall conform in general to the terrain and shall not be less than 0.5 percent nor more than seven percent for main thoroughfares nor more than ten percent for minor streets.
- (12) Paved rear service streets of not less than 20 feet in width, or in lieu thereof, adequate off-street loading space, suitably surfaced, shall be provided in connection with all lots designed for commercial use.
- (13) In front of areas designed and zoned, or where a petition for a change in zoning is contemplated for commercial use, to permit such use the street width shall be increased by such amount on each side as may be deemed necessary to the commission to ensure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district.
- (14) Land subject to flooding and land deemed by the commission to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.
- (15) In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the opening of future streets and logical further re-subdivisions.
- (16) In general, no reserve strips controlling access to land dedicated or to be dedicated to public use shall be permitted.
- (17) In general, street lines within a block deflecting from each other at any one point more than ten degrees shall be connected with a curve, the radius of which for the inner street lines shall not be less than 350 feet on main thoroughfares, 250 feet on secondary thoroughfares, and 100 feet on local streets. The outer street line in each case shall be parallel to such inner street line.
- (18) Areas for parks and playgrounds shall be of reasonable size for neighborhood playgrounds or other recreation uses. No arbitrary percentage of area shall be insisted upon by the commission, but, in general, developer should set aside not less than five percent of the area for these purposes. Such areas shall be reserved for purchase by the city at the developer's actual development cost for a period not to exceed five years.
- (19) Whenever any stream or important surface drainage course is located in any area that is being subdivided, the subdivider shall dedicate an adequate easement along each side of the stream or drainage course for the purpose of widening, deepening, sloping, improving or protecting the street or for drainage, parkway or recreational use.

- (20) Variations of the general requirements outlined in this section may be permitted by the commission on application when in their judgment special factors warrant such a variation.

Sec. 22-262. Preliminary Layout.

Subdividers shall present to the planning commission a preliminary layout. Three copies shall be filed at the scale of no more than 100 feet to the inch, showing or accompanied by the following information:

- (1) Proposed subdivision name or identifying title and the name of the city and county in which the subdivision is located.
- (2) Name and address of record owner, subdivider and designer of preliminary layout.
- (3) Location of property lines, existing easements, building, watercourses and other essential features.
- (4) The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.
- (5) The location of any existing sewers and water mains, culverts, and drains on the property to be subdivided.
- (6) Location, names and present widths of existing and proposed streets, highways, easements, building lines alleys, parks and other public open spaces and similar facts regarding property adjacent.
- (7) Any changes in the use, height, area and density districts or other regulations under the zoning article applicable to the area to be subdivided and any boundaries of such districts affecting the tract; all parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (8) The width and location of any street or other public ways or places shown upon the official map or the comprehensive plan, if such exists, within the area to be subdivided, and the width, location, grades and street profiles of all streets or other public ways proposed by the developer.
- (9) Typical cross sections of the proposed grading and roadways or sidewalks and topographic conditions.
- (10) Date, true north point and scale.
- (11) Deed description and map of survey of tract boundary made and certified by a licensed land surveyor.
- (12) Connection with existing water supply or alternative means of providing water supply to subdivision. Fire hydrants shall be noted. Fire hydrants shall be placed so that no dwelling shall be more than 1,000 feet distant, measured over traveled roadways.
- (13) Connections with existing sanitary sewage system or alternative means of treatment and disposal proposed as provided by the county health department.

- (14) Provisions for collecting and discharging surface drainage.
- (15) Preliminary designs of any bridges or culverts which may be required.
- (16) The proposed lot lines with approximate dimensions and suggested location of buildings.
- (17) The preliminary layout shall, if required by the planning commission, show the proposed location of and type of sidewalks, street lighting standards and species of street trees, the location of curbs, gutters, water mains, sanitary sewers and storm drains and the size and types thereof, the character, width and depth of pavement and subbase, the location of manholes and basins and underground conduits.
- (18) Where the topography is such as to make difficult the inclusion of any such facilities within the public area so laid out, the preliminary layout shall show the boundaries of proposed permanent easements over or under private property, which permanent easement shall be not less than 15 feet in width and which shall provide satisfactory access to an existing public highway or other public open space shown upon the layout or upon the official map.
- (19) Where the preliminary layout submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future street system of the un-submitted part shall be furnished. The street system of the submitted part shall be furnished, and the street system of the submitted part will be considered in the light of adjustments and connections with the street system of the part not submitted.

All of the information set forth in this section is required by the commission for the information of the public at the public hearings. Due care in the preparation of this material will expedite the process of passing upon the formal subdivision plat.

Sec. 22-263. Final Subdivision Plat.

- (a) The subdivision plat submitted for approval and subsequent recording shall be clearly and legibly drawn in ink upon tracing cloth or paper.
- (b) The drawing shall be at the scale of not more than 100 feet to the inch. The subdivider shall submit the original and five copies. The subdivision shall show:
 - (1) The proposed subdivision name or identifying title and the name of the city and county in which the subdivision is located; the name and address of the record owner.
 - (2) Street lines, pedestrian ways, lots, reservations, easements, and areas to be dedicated to public use.
 - (3) Sufficient data acceptable to the commission to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where practicable, these should be referenced to monuments, and in any event should be tied to reference points previously established by a public authority.
 - (4) The length of all straight lines the deflection, angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings shall be given for each

street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The final plan shall show the boundaries of the property, location, graphic scale and true north point.

- (5) The final plan shall also show by proper designation thereon all public open spaces for which deeds of cession are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the final subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor.
- (6) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the city attorney as to their legal sufficiency. The approval of the final subdivision plat by the planning commission shall not be deemed to mean acceptance by the city council of any street, way or public space.
- (7) Before final approval of the plat, there shall be filed with the planning commission a certificate by the city manager or other designated official as to the completion of all improvements required by the commission to his satisfaction in accordance with standards and specifications prescribed by him. For any required improvements not so completed there shall be submitted with the plat a certificate by the city attorney as to the sufficiency of the bond offered in lieu thereof.
- (8) Lots and blocks within a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing city practice. In counties which have established a county block and lot system, the block numbers shall be obtained from the county registrar.
- (9) Permanent reference monuments shall be shown by marking them as X. They shall be constructed in accordance with specifications of the city manager or other designated city official and when referenced to the state system, shall also conform to the requirements of the state highway department. They shall be placed as required by the city manager or other designated city official, and their location shall be noted and referenced upon the plat.
- (10) All lot corner markers shall be permanently located satisfactory to the city manager or other designated city official, by a pipe, at least three-quarters-inch, if metal, in diameter and at least 30 inches in length, shown by marking them as O, and located in the ground to existing grade.
- (11) Monuments of a type approved by the city manager or other designated city official shall be set at all corners and angle points of the boundaries of the original tract to be subdivided, and such monuments shall be set at all street intersections, angle points in the street lines, points of curve and such intermediate points as shall be required by the city manager or other designated city official.
- (12) Upon approval, two signed copies shall be returned to the subdivider, one signed copy shall be retained in the files of the planning commission, and one copy, upon which the planning commission shall assign house numbers to each lot, shall then be transmitted to the postmaster.
- (13) If the plat is disapproved, the grounds for disapproval shall be stated upon the records of the planning commission. Failure of the planning commission to approve or

disapprove the final subdivision plat within 60 days after submission shall be deemed approval of the plat.

Secs. 22-264 –22-285. Reserved.