




# **Article Two**

## Administration

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### 2.1 Notice of Public Hearing

- A. The Planning Director, upon receipt of the proper documents, shall within thirty (30) days from the date of receipt of the proper documentation set a date for a public hearing before the Commission. The Planning Director shall prepare a Notice of Public Hearing to be published in a newspaper of general circulation as required by law, and which shall run one (1) time only. The legal notice shall appear in the newspaper no less than ten (10) days prior to the date of the public hearing; the submission of the notice to the newspaper and the cost of the notice shall be borne by the petitioner. A proof of publication shall be retained by the Planning Director. Also the petitioner shall place a sign on the Lot provided by the office of the Planning Director which gives public notice of the hearing.
- B. A Notice of Public Hearing shall be sent by the petitioner at the petitioner's expense.
  - a. The Notice of Public Hearing shall be sent to all properties adjacent within two (2) properties deep of the subject site boundaries within the Town of Cicero corporate boundary and only directly adjacent properties outside the municipal boundaries of Cicero.
  - b. Names and addresses of these property owners shall be submitted at the time of filing for a minor or major plat.
  - c. The notices shall be sent at least ten (10) days before the date of the public hearing. The property owners shall be notified by Certified Mail with Return Receipts Requested.
  - d. Proofs of publication, receipts of mailing, or proofs of mailing shall be submitted to the Planning Director three (3) days prior to the date of the public hearing.
- D. Legal notices shall include the following:
  - a. The general location of the proposed subdivision and a legal description of the land contained therein.
  - b. That the project plans are available for examination at the office of the Cicero/Jackson Township Plan Commission.
  - c. That a public hearing will be held giving the date, place, and hour of the hearing.
  - d. Written comments on the plat will be accepted prior to the public hearing and may be submitted to the Planning Director for the Plan Commission.
  - e. The street or common address of the real estate.
- E. Legal notices shall comply with I.C. 5-3-1.

### 2.2 Variances from Subdivision Regulations

- A. Where plan commission finds that extraordinary hardships or practical difficulties may result from the strict compliance with these regulations or the purposes and intent of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to the subdivision regulations set forth in this ordinance so that substantial justice may be done and the public interest served, provided that such variances shall not have the effect of nullifying the intent and purpose of this Ordinance.
- B. Plan Commission has exclusive control over the approval of plats and replats.

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- C. The Plan Commission shall not approve variances to the subdivision regulations unless it makes written findings based upon the evidence presented to it in each specific case such that:
- a. The granting of the variance will not be detrimental to the public safety, health or welfare, or injurious to other property;
  - b. The conditions upon which the request for variance is based are unique to the property for which a variance is sought and are not applicable generally to other property;
  - c. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a hardship to the owner would result if the strict letter of these regulations were carried out. A hardship is distinguished from a mere inconvenience.;
  - d. The variance will not contradict the provisions of the Town of Cicero/Jackson Township Zoning Ordinance or Comprehensive Plan.
  - e. Where the variance impacts on the design, construction or maintenance obligations of public facilities, that the appropriate public agency has reviewed and approved the proposed development in writing to the Plan Commission.
- D. Procedure for Review of Variance Requests is as follows:
- a. At the time of filing a major or minor plat, the petitioner must submit a detailed written statement of all variances to the subdivision regulations of this Ordinance sought which shall fully state the grounds for the request and file detailed written findings of fact in support of such variance request.
  - b. Only those standards specifically described in the request for a variance may be reviewed by the plan commission.
  - c. Variances may only be granted in a Public Hearing process.

### 2.3 Inspections and Permits

- A. The petitioner shall notify the Planning Director seventy-two (72) hours prior to the planned installation of improvements within the development. The Planning Director will notify the Town Engineer who shall have the responsibility for inspecting and testing street curbs, sub-bases, pavement depth and quality, sidewalks, trails, sewer lines, water lines, utilities, drainage improvements, and any other site improvements to see that they conform to the regulations in this ordinance, to the Town of Cicero Construction Standards Ordinance, or if applicable to the Construction Standards of Hamilton County and to accepted engineering standards, whichever is most strict.
- B. In addition to any other remedy and/or penalties which may be imposed on the petitioner by this Ordinance or by any other Ordinance of the Town of Cicero, the Town of Cicero/Jackson Township shall reserve the right to withhold Improvement Location Permits for the remaining ten percent (10%) of the lots in a Secondary (Final) Plat with two (2) lots being a minimum number, if the petitioner has failed to install all of the improvements shown on the Secondary (Final) Plat and the final Improvement Plan, except for sidewalks/pedestrian paths. Sidewalks/pedestrian paths shall be installed on each lot by individual builder, lot owner, or subdivision developer prior to the final inspection of the principal structure.

A Certificate of Occupancy shall not be issued on any Lot until sidewalks/pedestrian paths are installed for said lot or a bond is posted to the Plan Commission by the petitioner in an amount equal to the value of the sidewalk/pedestrian path.

However, after three (3) years from the Secondary (Final) Plat approval, the petitioner is responsible to install all sidewalks/pedestrian paths shown on the Secondary (Final) Plat, whether fully built out or not.

The petitioner shall be responsible for installing sidewalks/pedestrian paths through park and open space areas and connect them to sidewalks in other areas of the subdivision or adjacent sidewalk/pedestrian paths, in other projects.

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- C. All fees and costs of the Town Engineer in review of plats, plans and specifications, field inspection of improvements, and any other aspects of subdivision review, shall be paid to the Town of Cicero by the petitioner. The petitioner shall sign an agreement with the Town of Cicero for reimbursement of inspection and other plan review fees and have prepaid to the Town in an amount equal to what the Town Engineer calculated as to what the total fees will be.

**2.4 Administrative and Enforcement**

- A. The administrator of this chapter shall be of the Town Planning Director. The Planning Director is hereby authorized and directed to enforce and carry out all provisions of this ordinance both in letter and spirit, pursuant to state statute,
- B. The Planning Director is hereby empowered to delegate the duties and the powers granted to and imposed upon him under this ordinance. As used in this section, Planning Director shall include any authorized representative(s).
- C. The Planning Director is hereby empowered to enter or inspect any building, structure, or premises in jurisdictional area of this ordinances to insure compliance with the provisions of this ordinance. Such inspections shall be carried out during business hours, unless an emergency exists. (ORD. 8-1-89, passed 8-15-89)

**2.5. Violations and Penalties**

- A. Violations. A failure to comply with any of the requirements of this ordinance, including violations of conditions and safeguards established in connection with the granting of variances, subdivisions, and planned district development plan approvals, shall constitute a violation of this ordinance.
- B. Legal Proceedings, The Plan Commission, the Zoning Board, the Planning Director, or any designated enforcement official may bring to the attention of the Planning Director and/or Town Attorney a violation of the provisions of this ordinance in order to initiate legal proceedings pursuant to statute.
- C. Mandatory Injunction. The Plan Commission, the Zoning Board, the Planning Director or any designated enforcement official may request the Town Attorney to bring an action for a mandatory injunction directing any person to remove a structure and/or to discontinue working in violation of the provisions of this ordinance pursuant to state statute.
- D. Common Nuisance. Any structure erected, raised or converted, or land or premises used in violation of any provision of this chapter or of the requirements thereof, is hereby declared to be a common nuisance and as such may be abated in such a manner as nuisances are now or may hereafter be abated under existing law.
- E. Fines. Any person who violates this ordinance shall, upon conviction, be fined not less than \$25 nor more than \$2500.00 for each offense. For the purposes of this ordinance, each day of violation of terms of this chapter shall constitute a separate offense.
- F. Person in Violation. Any person who attempts, commits, participates in, assists or maintains a violation of this ordinance may be found guilty as a principal and suffer the penalties herein provided.
- G. Remedy for Failure. The remedy provided in this section for failure to comply with any of the requirements of this chapter, whether civil, criminal or otherwise, shall be cumulative and shall be in addition to any other remedy provided by law. The civil, criminal or otherwise, shall be in addition to any other remedy provided by law. The civil penalty hereinafter described shall be used in preference to the criminal penalty on all violations except in the case of repeated., malicious, willfully prolonged of flagrant violations.
- H. Assurance of Discontinuance. On all violations, the Planning Director may accept an assurance of discontinuance of any act or violation. Such assurance shall specify a time limit in which the act or violation shall be discontinued (Ord. 8-1-89, passed 8-15-89).