

Article amendments approved unless noted:	OMPC	Owensboro	Daviess Co.	Whitesville
Re-adoption of Subdivision Regulations	24-Mar-1977	01-Apr-1977	20-Apr-1977	?
Complete revision of Subdivision Regulations	18-Apr-1981	22-May-1981	26-May-1981	06-Jul-1981
Section 1.6 revised to comply with KRS Section 100.277(3), Section 1.8211 added to allow for minor revisions to major subdivisions to be approved by Planning Director	10-June-2004			

1.0 PURPOSE. These subdivision regulations are designed to encourage the development of sound, healthful, and economically stable residential, commercial, industrial, and public areas; to provide for safe, convenient, and efficient traffic circulation; to coordinate land developments in order to insure that our future physical growth will be orderly, efficient, and conducive to the minimum out-lay of public and private expenditures in providing services to new growth areas; to minimize fire hazards; to provide for light and air in habitable structures; and to provide for the overall harmonious development of our entire community.

1.1 SHORT TITLE. The full title of these subdivision regulations shall be "The Owensboro Metropolitan Subdivision Regulations". As a short title, these regulations shall be known, and may be cited, as the "Subdivision Regulations".

1.2 AUTHORITY AND ADMINISTRATIVE AGENCY. These regulations are adopted by the City of Owensboro, the City of Whitesville, and the County of Daviess, Kentucky, under the authority of Chapter 100 of the Kentucky Revised Statutes, and shall be administered by the Owensboro Metropolitan Planning Commission (OMPC).

1.3 AREA OF JURISDICTION. The OMPC, through these Subdivision Regulations, shall have jurisdiction and control over the subdivision of all land in the City of Owensboro, the City of Whitesville, and the County of Daviess, Kentucky, which area shall also be considered as the planning area.

1.4 VARIANCES. These subdivision regulations are adopted only as minimum requirements, and all subdividers should consider developing their subdivisions at higher standards. The OMPC may require standards above the minimum contained herein whenever it feels that public health, safety, or welfare purposes justify such increases.

The OMPC also may reduce or otherwise vary the requirements of these regulations whenever it encounters

the situations described below. In granting such variances, the OMPC may attach and require whatever conditions it feels are necessary to secure the basic objectives of the varied regulations. Any variances granted by the OMPC shall be noted in its official minutes along with the reasons which justified the granting of the variance.

1.41 Exceptional Hardship. Where the OMPC finds that strict compliance with these regulations would create an undue hardship because of exceptional and unique topographic or other physical conditions encountered on the particular land, the OMPC may modify these regulations to the extent necessary to relieve the undue hardship; provided, however, that such resulting variances may be granted only without detriment to the public good, without impairing the intent and purposes of these regulations, and without impairing the desirable general development of the neighborhood and the community as proposed in the Comprehensive Plan.

1.42 Design Innovation and Large Scale Development. These regulations may be modified by the OMPC in the case of plans for complete neighborhoods or other design innovations, which, in the OMPC's opinion, still achieve the basic objectives of these regulations.

1.5 AMENDMENTS AND VIOLATIONS. The City of Owensboro, City of Whitesville, and County of Daviess, Kentucky may, from time to time, revise or modify or amend these regulations by appropriate action after a public hearing has been held, and recommendations made, by the OMPC. Violations of these requirements, and penalties therefore, shall be as cited in Chapter 100 of the Kentucky Revised Statutes.

1.6 SELLING OF LAND BEFORE APPROVAL. No person owning land composing a subdivision, or his agent, shall transfer or sell any lot or parcel of land located within a subdivision by reference to, or by exhibition, or by any other use of a plat of such subdivision, before such plat has received final approval of the OMPC (or approval of the

OMPC Director for minor subdivision plats) and has been recorded by the County Clerk. Any such instrument of transfer or sale shall be void and shall not be subject to be recorded, unless the subdivision subsequently receives final approval of the OMPC (or approval of the OMPC director for minor subdivision plats), but all rights of such purchaser to damages shall be preserved. The description of such lot or parcel by metes and bounds in any instrument of transfer or other document used in the process of selling or transferring same shall not exempt the person attempting to transfer from penalties provided or deprive the purchaser of any rights or remedies he may otherwise have. Provided, however, any person, or his agent, may agree to sell any lot or parcel of land located within a subdivision by reference to an unapproved or unrecorded plat or by reference to a metes and bounds description of such lot and any such executory contract of sale or option to purchase may be recorded and shall be valid and enforceable so long as the subdivision of land contemplated therein is lawful and the subdivision plat subsequently receives final approval of the OMPC (or approval of the OMPC Director for minor subdivision plats).

1.7 LEGAL STATUS.

1.71 Conformance with Zoning and Other Regulations. No final plat of land within the planning area will be approved unless it conforms to the Zoning Ordinance. Wherever there is a discrepancy between the minimum standards set forth in these regulations and those contained in the Zoning Ordinance, building code, or other official regulations, the highest standard shall apply.

1.72 Separability. Should any section, subsection, paragraph, or provision of these regulations be held invalid or unenforceable by a court of competent jurisdiction, such decision shall in no way affect the validity of any other provision of these regulations.

1.73 Previous Regulations. Any previous subdivision regulations adopted for the planning area are hereby repealed.

1.74 Effective Date. These regulations shall be in full force and effect as of the date of their adoption by the City of Owensboro on 22 MAY 1981, the City of Whitesville on 6 JUL 1981, and the County of Daviess on 26 MAY 1981.

1.8 DEFINITION OF WORDS. The following words and phrases, when used in these regulations shall be

defined and interpreted as indicated. Throughout these regulations, all words in the plural number include the singular number and vice-versa, unless the natural construction of the wording indicates otherwise. The word "may" is permissive, the word "should" is suggestive, and the words "shall" and "will" are mandatory.

1.81 Access or Accessibility. A point at which provisions are made for vehicular entrance to, or exit from, a street to, or from, a lot or other street; or the provision of an easement providing vehicular movement between streets and lots not fronting upon streets.

1.81A Agricultural Purposes or Agricultural Uses. Includes the use of land for the preparing and cultivating of the soil, the planting of seeds, the raising and harvesting of crops or of agricultural or horticultural (relating to the growing of fruits, vegetables, flowers or ornamental plants) commodities on such land, the feeding, breeding, raising and managing of poultry and livestock or other domestic animals for food or racing purposes, the managing of a dairy and whatever the land produces (plant and animal life useful to man). "Agricultural purposes or uses" do not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

1.82 Block. A surface land area, which is separated, and distinguished from other surface land areas by visible physical boundaries such as streets, railroads, rivers, extremely steep land, or other physical barriers.

1.83 Buildings. Any man-made physical structure, or part thereof, affixed to the land and intended for man's work, residence, or other occupancy.

1.84 Building Setback Line. A line in the interior of a lot, which is generally parallel to, and a specified distance from, the street right-of-way line, or lines. No building shall then be placed in the space between the building setback line and the right-of-way line.

1.85 Comprehensive Plan. Plans showing the OMPC's recommendations for guiding the development of the City of Owensboro, the City of Whitesville, and the County of Daviess, Kentucky, including any amendment, extension or addition to such plans, and any component part of such plans adopted by the OMPC.

1.86 Downtown Core. Generally the central business district of Owensboro, bounded by the Ohio River (N), Crittenden St. (E), 5th St. (S), and Walnut St. (W).

1.87 Downtown Frame. The inner-city area of Owensboro, bounded by the Ohio River and the downtown core (N), Triplett St. (E), 9th St. (S), and Orchard St. (W).

1.88 Easement. The right to use another person(s) property, but only for a limited and specifically named purpose. The owner generally may continue to make restricted use of such land since he has given up only certain, and not all, ownership rights.

1.89 Improvements. Physical changes made to raw land, and structures placed on or under the land surface, in order to make the land more useable for man's activities. Typical improvements in these regulations would be grading, street pavement, curbs, gutters, drainage ditches, storm and sanitary sewers, utility lines of all types, etc.

1.810 Legislative Body. The Owensboro City Commission, the Whitesville City Commission, or the Daviess County Fiscal Court.

1.811 Lot. A portion of a subdivision or other parcel of land intended for transfer of ownership, or for building development. Generally "lots" are the basic unit of a subdivision plan, i.e., the smallest division of a plan designed to be owned by one person.

1.812 Lot Area. The amount of surface land contained within the property lines of a lot, including land within easements on the lot, but excluding any land within street and other rights-of-way.

1.813 Lot, Corner. A lot abutting upon two or more streets at a street intersection, or abutting upon two adjoining and deflected lines of the same street and thereby forming an interior angle of less than one hundred thirty-five (135) degrees.

1.814 Lot Depth. The average horizontal distance between the front and rear property lines of a lot.

1.815 Lot Frontage or Width. Generally, the distance, measured along the building setback line, between the two side property lines of a lot --- although at times the measurement will be along the right-of-way line or back property line.

1.816 Lot, Double Frontage. A lot having two or more of its non-adjoining property lines abutting upon a street or streets.

1.817 Lot, Reverse Frontage. A double frontage lot, which has its vehicular access point limited to the back of the lot, rather than having access on its front as do most lots.

1.817A OMPC. The Owensboro Metropolitan Planning Commission.

1.818 Right-of-way. Land used generally for streets, sidewalks, alleys, or other public uses. Right-of-way also is a land measurement term, meaning the distance between lot property lines, which generally contains not only the street pavement, but also the sidewalks, grass area, and underground and aboveground utilities.

1.819 Street. Any vehicular way --- a general term used to describe right-of-way, which provides a channel for vehicular and pedestrian movement between certain points in the community which may provide for vehicular and pedestrian access to properties adjacent to it, and which may also provide space for the location of under or above ground utilities. Streets are classified by function as follows:

1.8191 Freeways. Hold the first rank in the classification of streets, and are used only for movement of vehicles, providing for no vehicular or pedestrian access to adjoining properties; interchange of traffic between a freeway and any other streets is accomplished by grade separated interchanges with merging deceleration and acceleration lanes, and no at-grade intersections are permitted. Freeways generally carry higher volumes, require greater right-of-way width, and permit higher speed limits than any other class of street, and should be depressed in urban and urbanizing areas. Arterials are the only class of street, which generally should be connected with freeways at, interchange points.

1.8192 Expressways/arterials. Hold the second rank in the classification, and should be used primarily for the movement of vehicles. Expressways should not provide for vehicular access to adjacent properties. Arterials shall provide controlled vehicular access to adjacent properties. Interruption of traffic flow should be permitted only at street intersection, which should contain medians, deceleration lanes, and left turn storage lanes. Expressways and arterials are the link between freeways and collectors, and rank next to freeways in traffic volumes, speed limit, and right-of-way width.

1.8193 Collectors. Hold the third rank in the classification of streets, and are used more for movement of vehicles than for providing access to adjacent properties. Access to adjoining properties should be planned and controlled so that minimum disturbance is made to the traffic moving efficiency of the collector street. Intersections should contain medians, deceleration lanes, and left turn storage lanes. Collectors are the link between arterials and local streets, and generally rank next to arterials in traffic volumes, speed limit, and right-of-way width. For the purposes of these regulations collectors are further subclassified by function as follows:

1.81931 Major Collectors. Those collector streets which continue through neighborhoods for **distances greater than one (1) mile**, serving vehicular destinations both within and beyond the neighborhoods through which they pass. Access to major collectors shall be controlled for all adjacent land uses.

1.81932 Minor Collectors. Those collector streets which do not continue through neighborhoods and are generally **less than one (1) mile** in length. They serve vehicular destinations within particular neighborhoods, and access to them is generally controlled only for certain land uses where higher levels of vehicular turn movement typically occur.

1.8194 Locals. Hold the fourth rank in the classification of streets, and are used primarily for providing access to adjacent properties. Vehicles moving on these streets should have an origin or destination in the immediate vicinity, and all types of through traffic should be eliminated through initial design of its connections with other streets. Local streets are the primary link between trip generation points (homes, offices, stores, work) and collector streets. Locals have the least right-of-way, the lowest speed limit, and the least amount of vehicular traffic. Local streets can be subdivided further into the following seven sub-classes:

1.81941 Continuing Streets. Are local streets having two open ends: each end generally connects with different streets; one or more other streets may intersect it between its two open ends; and property fronts on both sides of the streets.

1.81942 Marginal Access Streets. Are local streets (or service roads) generally having two or more open ends which are sometimes referred to as access

point, but herein are considered to be a full part of the marginal access street; the ends generally connect with the same street, other streets may intersect between the ends and property fronts on only one side of the street (the other street side is parallel, and adjacent, to a higher classification street such as a collector or arterial).

1.81943 Loop Streets. Are local streets having two open ends; each end generally connects with the **same** street; other streets generally intersect between its two ends and property fronts on both sides of the street.

1.81944 Cul-de-sac Streets. Are local streets having only one end providing access to another street; the closed end provides a turnaround circle for vehicles; no other street generally intersects between the two ends and property fronts on both sides of the streets.

1.81945 Dead-end Streets. Are similar to cul-de-sacs except that they provide no turnaround circle at their closed end, and are not permitted as streets, in any proposed subdivision. Stub streets, planned for future continuation, are not considered to be dead-end streets.

1.81946 Alleys. Alleys generally have two open ends, each end connects with different streets; and property generally **backs** onto both sides of the alley. Special permission from the Commission is required whenever alleys are used.

1.81947 Private Street. A means of access within a Planned Development Project which gives access to a public street and is owned and maintained by the project owner(s).

1.820 Subdivider. An individual, partnership, corporation or other legal entity or agent thereof, which undertakes the activities covered by these regulations. Inasmuch as the subdivision plat drawings are merely a necessary means to the end of assuring satisfactory development, the term subdivider includes "developer", "owner", "builder", etc. even though the persons and their precise interests may vary at different project stages.

1.821 Subdivision. The division of a parcel of land into two or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division

of a parcel of land; providing that a division of land for agricultural purposes into lots or parcels of five (5) acres or more and not involving a new street shall not be deemed a subdivision. The term includes re-subdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided. For the purposes of these regulations, two classes of subdivisions shall be established as follows:

1.8211 Major Subdivision. Shall be a subdivision of land, which is of major significance to our community's future development, and shall include all subdivisions which do not conform to the definition established for minor subdivisions. Any subdivision proposing the creation of a new street shall automatically be considered as, and follow the requirements for, a major subdivision.

1.82111 Minor Amendments to Major Subdivisions. Shall be a minor revision to an approved major subdivision preliminary or final plat. All minor amendments to preliminary and final subdivision plats, which fully meet the requirements set forth hereinafter, may be approved and signed by the OMPC Director, or his appointee, without further action by the OMPC. If any question arises as to compliance, however, the Director shall refer the plat to the OMPC for action. Such minor amendments

- (1) shall not increase the number of lots from the originally approved subdivision
- (2) shall not change the location or cross section of any street or the location of street access points on arterial or high-traffic collector streets
- (3) shall not alter drainage ways, detention basins or storm water drainage calculations

1.8212 Minor Subdivision. Shall be a subdivision of land, which is generally of minor planning significance to our community's future development, and includes only those subdivisions as defined hereinafter. All minor plats, which fully meet the requirements set forth hereinafter, may be approved and signed by the OMPC Director, or his appointee, without further action by the OMPC. If any question arises as to compliance, however, the Director shall refer the plat to the OMPC for action. Minor subdivisions may be required to follow major

subdivision requirements whenever the OMPC feels important questions are involved.

1.82121 Consolidation Minor Subdivision. Shall be for the purpose of transferring land between adjoining properties, which share at least one common boundary involved in the transfer; or among several adjoining lots which will result in no more lots than existed prior to the subdivision.

1.82122 Division Minor Subdivision. Shall be a subdivision resulting in no more than two (2) lots or tracts having frontage on an existing public street; or on a private street or drive providing clearly legal and physically adequate access to a public street, where provided for in these regulations. Any redivision of lots involved in a division minor subdivision occurring within twelve (12) months of the original action shall be deemed a major subdivision, and shall follow the requirements for such.

1.822 Zoning Ordinance. The Owensboro Metropolitan Zoning Ordinance.