

ORDINANCE NO. 3502

AN ORDINANCE AMENDING THE MIDWEST CITY MUNICIPAL CODE, CHAPTER 38 SUBDIVISION REGULATIONS, ARTICLE I, GENERAL PROVISIONS, SECTION 38-8, FEES; ARTICLE II, DECISION-MAKER AUTHORITY, SECTION 38-13, SUMMARY TABLE OF APPLICATIONS AND DECISIONS; ARTICLE III, PLATS, SECTION 38-16, GENERAL SUBDIVISION AND PLATTING PROCEDURES, SECTION 38-19, FINAL PLAT, 38-20, MINOR PLAT, AND 38-21, REPLAT; ARTICLE VI, SUBDIVISION STANDARDS, SECTION 38-43, WATER AND WASTEWATER REQUIREMENTS, SECTION 38-44, DRAINAGE AND ENVIRONMENTAL STANDARDS, SECTION 38-45, STREET REQUIREMENTS, SECTION 38-47, SIDEWALKS, SECTION 38-51, PARKS AND OPEN SPACE DEDICATIONS, SECTION 38-52, PARKS AND OPEN SPACE DESIGN TRAILS; ARTICLE VII, RELIEF FROM SUBDIVISION STANDARDS, SECTION 38-59, PETITION FOR SUBDIVISION WAIVERS AND ADDING SECTION 38-62, FEE IN LIEU; ARTICLE VIII, DEFINITIONS, SECTION 38-65, DEFINITIONS; PROVIDING FOR REPEALER AND SEVERABILITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MIDWEST CITY, OKLAHOMA:

ORDINANCE

Section 1. That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article I, General Provisions, Section 38-8, Fees; is hereby amended to read as follows:

Sec. 38-8. – Fees

The following fees for filing plats with the city shall be paid to the city clerk or designee at the time of submission:

Table 1: Fee Schedule

Type of Plat	Fee
Preliminary Plat	(1) Less than 10 acres- \$300.00 plus \$2.00 per lot (2) 10 through 40 acres- \$400.00 plus \$2.00 per lot (3) More than 40 acres- \$500.00 plus \$2.00 per lot
Final Plat	\$300.00
Minor Plat	\$100.00
Amending Plat	\$150.00

Section 2. That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article II, Decision-Maker Authority, Section 38-13, Summary Table of Applications and Decisions; is hereby amended to read as follows:

Sec. 38-13 – Summary table of applications and decisions

The following table is for illustrative purposes only and if a conflict occurs between this table and the text of this Subdivision Ordinance, then the text shall govern:

Table 2: Applications and Decisions

Article/Section	Application/Decision	City Engineer	Director of Community Development	Planning Commission	City Council
Article II. Sec. 38-11.4(a)	Interpretation of Conflicting Provisions		Approve		
Article II. Sec. 38-11.4(b)	Appeal of an Interpretation of Conflicting Provision				Approve
Article V. Sec. 38-35.3(b)	Date and Notification for the Pre-Application Meeting		Approve		
Article V. Sec. 38-37.4	Waiver of Right to 60-Day Action		Approve		
Article III. Sec. 38-17	Sketch Plat		Review		
Article III. Sec. 38-18	Preliminary Plat		Review	Approve (Dual Approval Required)	Approve (Dual Approval Required)
Article III. Sec. 38-18.9(a)	Preliminary Plat Extension		Approve		
Article III. Sec. 38-18.9(d)(1)	Appeal of the Director's Preliminary Plat Extension Decision			Approve	
Article III. Sec. 38-18.9(d)(2)	Appeal of the Commission's Preliminary Plat Extension Decision				Approve
Article III. Sec. 38-18.10(c)	Determination between Minor and Major Amendments to Preliminary Plats		Approve		
Article III. Sec. 38-19	Final Plat		Review	Approve (Dual Approval Required)	Approve (Dual Approval Required)
Article III. Sec. 38-20.5	Minor Plat		Review	Approve (Dual Approval Required)	Approve (Dual Approval Required)
Article III. Sec. 38-22.6	Amending Plat		Approve		
Article III. Sec. 38-22.7(a)	Deferral to the Planning Commission of an Amending Plat Decision			Approve	
Article III. Sec. 38-22.8(a)	Appeal to City Council of an Amending Plat Decision made by the Planning Commission				Approve
Article III. Sec. 38-23(b)(3)	Plat Correction Certificate				Approve
Article III. Sec. 38-24.1(b)	Plat Vacation Prior to Recordation			Recommend	Approve
Article IV. Sec. 38-27.3	Construction Plans	Approve			

Article IV. Sec. 38-27.8	Extension of Construction Plans	Approve			
Article IV. Sec. 38-28	Pre-Construction Meeting	Approve			
Article IV. Sec. 38-29	Construction Release	Approve			
Article IV. Sec. 38-31.4(c)	Letter of Final Acceptance	Approve			
Article V. Sec. 38-35.3(b)	Date and Notification for the Pre-Application Meeting		Approve		
Article V. Sec. 38-37.4	Waiver of Right to 60-Day Action		Approve		
Article VI. Sec. 38-53.5(d)	Tree Canopy Management Plan		Review	Approval (Dual Action Required)	Approval (Dual Action Required)
Article VI. Sec. 38-53.7(b)	Tree Mitigation Plan		Review	Approval (Dual Action Required)	Approval (Dual Action Required)
Article VII. Sec. 38-59.3(b)	Minor Subdivision Waiver	Approve	Approve		
Article VII. Sec. 38-59.3(a)(1)	Appeal to the Planning Commission/City Council of a Minor Subdivision Waiver Decision			Approve (First Appeal)	Approve (Second Appeal)
Article VII. Sec. 38-59.3(b)	Major Subdivision Waiver			Approve	
Article VII. Sec. 38-59.3(b)(1)	Appeal to the Planning Commission/City Council of a Major Subdivision Waiver Decision				Approve
Article VII. Sec. 38-60	Subdivision Proportionality Appeal	Review		Recommend	Approve
Article VII. Sec. 38-61.7(b)	Decision by the Responsible Official on a Vested Rights Petition	Approve	Approve		
Article VII. Sec. 38-61.7(c)	Decision by the Commission on a Vested Rights Petition			Approve	
Article VII. Sec. 38-61.7(d)	Decision by the City Council on a Vested Rights Petition				Approve
Article VII. Sec. 38-61.7(e)	Appeal to the City Council of a Decision on a Vested Rights Petition				Approve

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Section 3. That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article III, Plats, Section 38-16, General Subdivision and Platting Procedures; is hereby amended to read as follows:

1 **Sec. 38-16. - General Subdivision and Platting Procedures**

2

3 **Sec. 38-16.1. Types of plats.**

4

5 **Table 3: Types of Plats (below) lists the various type of Plats and the purpose for each plat:**

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Table 3: Types of Plats

Section	Plat	Purpose
Section 38-17	Sketch Plat	As the prerequisite to the submission of any and all Plat Applications, the purpose of a Sketch Plat is to serve as a visual aid to the Applicant and Director of Community Development during the Pre-Application Meeting (Section 38-35). The Sketch Plat shall be used to identify major development considerations such as utilities, roadways, drainage concerns, comprehensive plan elements, specific neighborhood characteristics, and historic information.
Section 38-18	Preliminary Plat	As the first stage in the platting approval process, the purpose of a Preliminary Plat is to determine the general layout of the subdivision, the adequacy of public facilities needed to serve the intended development, and the overall compliance of the land division with applicable requirements of this Subdivision Ordinance.
Section 38-19	Final Plat	As the second stage in the platting approval process, the purpose of a Final Plat is to ensure that the proposed Subdivision and development of the land is consistent with all standards of this Subdivision Ordinance pertaining to the adequacy of public facilities; that Public Improvements to serve the Subdivision or development have been installed and accepted by the City or that provision for such installation has been made; and that all other requirements and conditions have been satisfied or provided for to allow the Final Plat to be recorded.
Section 38-20	Minor Plat	The purpose of a Minor Plat is to provide a limited means for simple land division under certain circumstances, which result in minimal lot creation. In circumstances no new interior public or private roads are created to serve the Subdivision then a Minor Plat may be suitable as an instrument to subdivide one (1) lot into five (5) or fewer lots. Minor Plats are intended to ensure the future growth and development of the entire City by ensuring new development does not hinder the provision of public facilities and services to neighboring and nearby properties.
Section 38-22	Amending Plat	The purpose of an Amending Plat shall be to provide an expeditious means of making minor revisions to a recorded Plat. The Amending Plat allows these minor revisions without the need of filing a Plat Correction Certificate. Furthermore, the Amending Plat goes beyond the scope of a Plat Correction Certificate and provides a means to relocate any lot line or to combine lots. An Amending Plat does not allow for the creation of new lots and is designed only to modify existing recorded Plats.

8

9 *Sec. 38-16.2. Plats required for land subdivision.*

10 A final plat or minor plat shall be approved prior to any land division that is subject to these
11 regulations and prior to commencement of any new development.

12

13 *Sec. 38-16.3. Amending plats.*

14 *Amending plat.* In the case of minor revisions to recorded plats or lots, an amending plat
15 may also be utilized if in accordance with section 38-22, Amending plat.

16

1 *Sec. 38-16.4. Exemptions.* The following land divisions are exempt from the requirements of this
2 Subdivision Ordinance that apply to plats:

- 3 (a) *Cemeteries.* Use of existing cemeteries complying with all state and local laws and
4 regulations.
- 5 (b) *Division of land created by order of a court.* A division of land created by order of a
6 court of competent jurisdiction. However, prior to construction of improvements, a plat
7 meeting the requirements of this Subdivision Ordinance shall be approved and
8 recorded prior to the issuance of permits.

9 *Sec. 38-16.5. Zoning.*

- 10 (a) *Conformance with existing zoning.* All applications shall be in conformance with the
11 existing zoning on the property.
- 12 (b) *Request to rezone first.* If an applicant seeks to amend the zoning for the property, the
13 request to rezone the land shall be submitted and approved prior to acceptance of an
14 application for filing, unless as otherwise provided below.
 - 15 (1) The applicant may request approval from the director of community development
16 to submit an application simultaneous with the zoning change request, in which
17 case the application for the zoning amendment shall be acted upon first, provided
18 that the application is accompanied by a properly executed waiver of right to
19 sixty-day action (due to the more lengthy timeframe necessary to advertise and
20 process zoning applications).
 - 21 (2) In the event that the requested zoning amendment is denied, the application shall
22 also be rejected or denied.
- 23 (c) *Zoning ordinance site plan approval.* Where site plan approval is required by the
24 zoning ordinance prior to development, no application for a final plat approval shall be
25 accepted for filing until a site plan has been approved for the land subject to the
26 proposed plat.

27 *Sec. 38-16.6. Plat approval process and staff review.*

- 28 (a) *Two-stage process.*
 - 29 (1) The platting process involves two (2) approval stages: Submission and approval of
30 a preliminary plat; and the subsequent submission and approval of a final plat.
 - 31 (2) Exceptions to the requirement of a preliminary plat. A preliminary plat is not
32 required when a minor plat is submitted (section 38-20 minor plat), though the city
33 engineer and community development director retain the right to require any
34 preliminary plans normally required during the preliminary plat process of minor
35 plats to adequately assess the proposed development's impacts to surrounding
36 properties or public infrastructure.
- 37 (b) *Staff review.* Unless otherwise specified under the regulations for a specific type of
38 plat:

- 1 (1) The director of community development shall be the responsible official for a
2 plat, and shall be responsible for the initial review of a plat for conformance with
3 this Subdivision Ordinance and any other applicable ordinances of the city.
- 4 (2) The director of community development shall review all applications for
5 completeness (refer to section 38-37, Initiation and complete application) based
6 on a checklist supplied by the director of community development.
- 7 (3) The director of community development shall then review all applications that are
8 deemed complete for conformance with this Subdivision Ordinance and with
9 other applicable city regulations.

10

11 **Section 4.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article
12 III, Plats, Section 38-19, Final plat, Section 38-19.13, Final plat revisions following
13 recording/recordation; is hereby amended to read as follows:

14 *Sec. 38-19.13. Final plat revisions following recording/recordation.*

15 Revisions may only be processed and approved as an amending plat (section 38-22), as
16 applicable.

17

18 **Section 5.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article
19 III, Plats, Section 38-20, Minor plat; is hereby amended to read as follows:

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21 *Sec. 38-20. - Minor plat.*

22

23 *Sec. 38-20.1. Purpose.*

24

25 The purpose of a minor plat is to provide a limited means for simple land division under
26 certain circumstances, which result in minimal lot creation.

27

28 In circumstances where no new interior public or private roads are created to serve the
29 Subdivision, then a minor plat may be suitable as an instrument to subdivide one (1) lot
30 into five (5) or fewer lots.

31

32 Minor plats are intended to ensure the future growth and development of the entire city
33 by ensuring new development does not hinder the provision of public facilities and
34 services to neighboring and nearby properties.

35 *Sec. 38-20.2. Applicability.*

36 An application for approval of a minor plat may be filed when all of the following
37 circumstances apply.

38

1 Minor plat circumstances.

- 2
- 3 (1) The proposed division results in five (5) or fewer lots;
- 4 (2) All lots in the proposed subdivision front onto an existing public or approved
5 private street and the construction or extension of a street or alley is not required to
6 meet these Subdivision Ordinance requirements;
- 7 (3) All lots meet the zoning ordinance area regulations and standards (minimum
8 frontage, etc.); and
- 9 (4) The plat does not require new interior public or private roads to serve the
10 Subdivision.

11

12 *Sec. 38-20.3. Minor plat requirements.*

13

14 Minor plat requirements.

- 15
- 16 (1) The proposed plat shall be for the subdivision of one (1) lot into five (5) or fewer
17 lots.
- 18 (2) No parcel of land shall have more than one (1) minor plat approved during any
19 five-year period.
- 20 (3) The proposed plat shall meet all zoning ordinance requirements.
- 21 (4) The proposed plat shall meet all subdivision ordinance requirements (e.g.,
22 improvement of substandard streets, per subsection 38-42.3(b)(2)), or the applicant shall
23 pay fee in-lieu.
- 24 (5) Private wells and private wastewater treatment facilities that meet the current city
25 health standards shall be considered adequate when existing public water and
26 sewer lines are not within the required area for utility extension and connection as
27 specified in the city Code of Ordinances, and at the discretion of the city engineer.

28 *Sec. 38-20.4. Application requirements.*

- 29 (a) *Same as a final plat.* The requirements for the submittal of a minor plat shall be the
30 same as the requirements for a final plat, as outlined in section 38-19, Final plat.
- 31 (b) *Preliminary plat not needed.* As stated in subsection 38-16.6(a)(2), a preliminary plat
32 is not required when a minor plat is submitted.
- 33 (c) *Application preparation.* An application shall be prepared by a land surveyor,
34 registered or an engineer, professional.

35 *Sec. 38-20.5. Review and approval process.*

- 1 (a) *Review action and approval action—Same as final plat.* The review and approval
2 processes for a minor plat shall be the same as the review and approval processes for a
3 final plat per section 38-19.
- 4 (b) *Minor plat review criteria.* The following criteria shall be used to determine whether
5 the application for a minor plat shall be approved, approved with conditions, or denied:
6
- 7 (1) The minor plat is consistent with all zoning requirements for the property (if
8 applicable), and all other requirements of this Subdivision Ordinance that apply to
9 the minor plat;
 - 10 (2) All lots to be created by the minor plat already are adequately served by improved
11 public street access and by all required city utilities and services and by alleys, if
12 applicable;
 - 13 (3) The ownership, maintenance and allowed uses of all designated easements have
14 been stated on the minor plat; and
 - 15 (4) The plat does not require new interior public or private roads to serve the
16 Subdivision.
17

18 *Sec. 38-20.6. Procedures for minor plat recordation following approval.*

19 The procedures for recordation of a minor plat shall be the same as the procedures for
20 recordation of a final plat, as outlined in section 38-19.10., Procedures for final plat
21 recordation upon approval.

22 *Sec. 38-20.7. Revisions to a minor plat following approval.*

23 Revisions may only be processed and approved as an amending plat, as applicable.

24 *Sec. 38-20.8. Example of a suitable lot for the minor plat process.*

25 *Figure 3: Example of a Suitable Lot for the Minor Plat Process* shows a multi-acre parcel
26 with all infrastructure already constructed and that could be divided in three (3) individual
27 lots.



Figure 3: Example of a Suitable Lot for the Minor Plat Process

Section 6. That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article III, Plats, Section 38-21, Replat; is hereby repealed and placed into reserve:

Sec. 38-21. Reserved.

Section 7. That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article VI, Subdivision Standards, Section 38-43, Water and Wastewater Requirements, Sec. 38-43.3. Preliminary utility plan; is hereby amended to read as follows:

Sec. 38-43.3. Preliminary utility plan.

(a) *Purpose and applicability.*

- (1) Water and wastewater mains. Concurrent with the submission of a preliminary plat or minor plat not previously served by public utilities the developer shall submit a preliminary utility plan showing the location and size of water and wastewater mains, which will be required to provide adequate service and fire protection to the lots specified in the proposed plat.
- (2) Fire hydrants. Preliminary utility plans shall include plans and specifications for fire hydrant systems and shall be submitted concurrently with the submission of a preliminary plat or minor plat not previously or inadequately served by public fire hydrants, where hydrants are required.

(b) *Preliminary utility plan document.* The preliminary utility plan shall be prepared as noted in the application form.

1 **Section 8.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article
2 VI, Subdivision Standards, Section 38-44, Drainage and environmental standards, Sec. 38-44.3.
3 Preliminary stormwater management plan and Sec. 38-44.4. Preliminary drainage plan.; are
4 hereby amended to read as follows:

5
6 *Sec. 38-44.3. Preliminary stormwater management plan.*

7 (a) *Purpose and applicability.*

- 8 (1) The purpose of the preliminary stormwater management plan (SWMP) is to
9 identify permanent water quality features and guide stormwater management
10 design within the related construction plans, final plat, and development
11 plans/permits.
- 12 (2) A preliminary SWMP shall be prepared for all developments in accordance with
13 the requirements set forth in the application form.

14 (b) *Coordination with preliminary drainage plans.*

- 15 (1) The preliminary SWMP shall be prepared in coordination with the preliminary
16 drainage plan on all projects where both are required.
- 17 (2) The preliminary SWMP and the preliminary drainage plan may be shown on the
18 same sheet.
- 19 (3) When a preliminary drainage plan is not required, the preliminary SWMP shall
20 indicate the existing drainage patterns, runoff coefficients, and the proposed
21 changes to these items.

22 (c) *Standards and criteria.*

- 23 (1) The preliminary SWMP must comply with the standards and criteria outlined in:
24 a. This Subdivision Ordinance;
25 b. The Engineering Standards Manual and construction details; and
26 c. The Code of Ordinances (e.g., chapters 13 and 43), including erosion
27 control/sediment plans.
- 28 (2) The preliminary SWMP may satisfy the stormwater management portion of the
29 stormwater pollution prevention plan (SWPPP) that is required for construction
30 activities; however, the preliminary SWMP is not a substitution for the SWPPP.
- 31 (3) The city's review of the preliminary SWMP does not constitute acceptance of the
32 related construction plans or development plans/permits.

33 (d) *Proposed area.*

- 34 (1) The developer shall provide a preliminary SWMP for the area proposed for
35 development.
- 36 (2) For amended plats or plats with a previously accepted preliminary SWMP, the
37 accepted preliminary SWMP shall be enforced unless a revised preliminary
38 SWMP is required.

39 (e) *Preliminary SWMP submittal.*

- 1 (1) A digital copy of the preliminary SWMP plan shall be submitted with the
2 submittal of a preliminary plat for review and acceptance; or for a minor plat, as
3 required by city engineer or community development director.
- 4 (2) The preliminary SWMP shall be labeled as "Preliminary."
- 5 (3) The preliminary SWMP shall be signed, sealed, and dated by the professional
6 engineer (P.E.), or shall contain a statement showing the professional engineer's
7 name and license number and affirming the preliminary SWMP was prepared
8 under the direction of the engineer and that the plan is preliminary.

9 *Sec. 38-44.4. Preliminary drainage plan.*

10 (a) *Purpose and applicability.*

- 11 (1) The preliminary drainage plan is a guide for the detailed drainage design within
12 the related construction plans, final plat, and development plans/permits.
- 13 (2) A preliminary drainage plan shall be prepared for all developments in accordance
14 with the requirements set forth in the application form.

15 (b) *Plan required, previous plans, and waivers.*

- 16 (1) For any property involved in the development process, a preliminary drainage
17 plan shall be provided, at the developer's expense, for the area proposed for
18 development.
- 19 (2) For property with a previously accepted preliminary drainage plan, the accepted
20 preliminary drainage plan may be submitted and enforced unless a revised
21 preliminary drainage plan is required by the city due to lot reconfiguration or
22 other conditions created by the new plat.
- 23 (3) The city engineer may waive the requirement for a preliminary drainage plan if
24 the submitted plat is not anticipated to cause any significant change in runoff
25 characteristics from a previously accepted drainage study or for single residential
26 properties where no drainage problems are anticipated.
- 27 (4) If the applicant requests a waiver in writing, a copy of any previous drainage plan
28 shall be provided.

29 (c) *Standards and criteria.*

- 30 (1) The preliminary drainage plan shall show the watershed affecting the
31 development and how the runoff from the fully-developed watershed will be
32 conveyed to, through, and from the development.
- 33 (2) The preliminary drainage plan must comply with the standards and outlined in:
 - 34 a. This Subdivision Ordinance.
 - 35 b. The Engineering Standards Manual and construction details.
 - 36 c. The Code of Ordinances (e.g., chapters 13 and 43).
- 37 (3) The review of the preliminary drainage plan does not constitute final drainage
38 plan approval related to construction plans or development plans/permits or
39 authorize a waiver to this Subdivision Ordinance.

1 (d) *Preliminary drainage plan submittal.*

- 2 (1) Three (3) paper copies of the preliminary drainage plan shall be submitted with
3 the submittal of a preliminary plat for review and acceptance; or for a minor plat,
4 as required by city engineer or community development director.
5 (2) The preliminary drainage plan shall be labeled as "Preliminary."
6 (3) The preliminary drainage plan shall be stamped by and dated by the engineer,
7 professional.
8

9 **Section 9.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article
10 VI, Subdivision Standards, Section 38-45, Street requirements, Sections 38-45.2 – Streets basic
11 policy and Sec. 38-45.3. Private streets; are hereby amended to read as follows:

12 *Sec. 38-45.2. Streets basic policy.*

13 (a) *Standard requirements.* All streets, driveway approaches, curbs, gutters, pavements
14 and appurtenances necessary to provide access to properties shall be provided by the
15 developer, shall be designed, constructed and maintained in accordance with standards
16 in the Engineering Standards Manual and construction details, and planned unit
17 development (PUD) ordinance (if applicable to the subject property), and shall be
18 subject to approval by the city engineer.

19 (b) *Street improvements.* In platting a new development, the property owner shall provide
20 additional right-of-way needed for existing or future streets as required and shown by
21 the comprehensive plan, trails master plan, and/or Engineering Standards Manual and
22 construction details.

23 (c) *Improvement of existing substandard streets.*

24 (1) When a proposed residential or nonresidential development abuts one (1) or both
25 sides of an existing substandard street, the developer shall be required to:

- 26 a. Improve the substandard street and its appurtenances (such as curbs and gutters,
27 sidewalks, barrier-free ramps, street trees, etc.) to bring them to city standards; or
28 b. Replace the substandard street, if any, and its appurtenances with a standard city
29 street, at no cost to the city other than as may be provided in the city's cost-
30 sharing policies that are in effect at the time of final plat approval.

31 (2) Developer options.

- 32 a. If the requirements for improving an existing substandard street imposed
33 by this article VI, subsection 38-45.2(c), would result in unnecessary
34 hardship or would be disproportional to the impacts generated by the
35 development on the city's street system then the developer may file a
36 proportionality appeal (section 38-60, Subdivision proportionality appeal);
37 or
38 b. If the requirements for improving an existing substandard street imposed
39 by this article VI, subsection 38-45.2(c) is infeasible, a fee in-lieu of

1 improving the existing substandard street, as outlined in Article VI Sec.
2 38-62 shall be paid.

3 (d) *New perimeter streets.*

4 (1) *Construction of a new perimeter street.* If a proposed residential or nonresidential
5 development is developed abutting an existing or planned arterial street or
6 collector street (as shown on the comprehensive plan), then the developer shall
7 construct a portion of the abutting street and its appurtenances (such as curbs and
8 gutters, sidewalks, barrier-free ramps, street trees, etc.) to the city's design
9 standards for that type of street (per the Engineering Standards Manual and
10 construction details).

11 (2) *Waiver of the construction of a new perimeter street requirement.* The director of
12 community development may grant a minor subdivision waiver, in accordance
13 with section 38-59, Petition for subdivision waivers, if circumstances exist on the
14 subject property or on adjacent property that make it difficult or impractical to
15 comply with this requirement.

16 (e) *New internal streets.*

17 (1) All new streets and their appurtenances internal to a proposed residential or
18 nonresidential development shall, at a minimum, be built to a width and design
19 that will adequately serve that development, and shall conform to the Engineering
20 Standards Manual and construction details.

21 (2) If oversizing of an internal street is deemed necessary by the city engineer for
22 traffic safety or efficiency (such as adjacent to a school or park site), then the city
23 and/or the applicable school district may participate in such oversizing costs as
24 part of a development agreement.

25 *Sec. 38-45.3. Private streets.*

26 Private streets within the city may be allowed in accordance with this section 38-45.3.,
27 Private streets.

28 (a) *Private street standards.* Private streets shall be designed and constructed to the city's
29 standards for public streets, in accordance with the comprehensive plan, trails master
30 plan, and Engineering Standards Manual and construction details.

31 (b) *Private street approval required.*

32 (1) All private streets shall be within a PUD zoning district.

33 (2) Private streets shall require approval at the time of preliminary plat or ~~replat~~ minor
34 plat approval.

35 (3) Private streets shall be permitted only as local streets or collector streets in any
36 subdivision.

37 (c) *Private street approval criteria.*

38 (1) Nondisruption of planned public roadways or facilities/projects (thoroughfares,
39 parks, park trails, public pedestrian pathways, etc.);

- 1 (2) Nondisruption to and from properties of future developments either on-site or off-
2 site to the proposed subdivision;
- 3 (3) No negative affect on traffic circulation on public streets;
- 4 (4) No impairment of access to and from public facilities including schools or parks;
- 5 (5) Adequate and timely provision of essential municipal services (emergency
6 services, water/sewer improvements or maintenance, etc.);
- 7 (6) Limited access to a development created by the existence of natural and/or
8 manmade boundaries around the development (creeks, floodplain, golf courses,
9 parks); and/or
- 10 (7) Absence of a concentration of private street developments in the vicinity of the
11 requested private street development.
- 12 (d) *Homeowners' association (HOA) requirements.* Private street shall be maintained by
13 the HOA, see section 38-50, Homeowners' association (HOA) requirements for further
14 HOA requirements.
- 15

16 **Section 10.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations,
17 Article VI, Subdivision Standards, Section 38-47 – Sidewalks, Section 38-47.2, Sidewalks and
18 trail land dedications required for all development; is hereby amended to read as follows:

19 *Sec. 38-47.2. Sidewalks and trail land dedications required for all development.*

20 (a) *Requirement.*

- 21 (1) Sidewalks shall be constructed on both sides of all streets except as approved by a
22 major subdivision waiver by the planning commission.
- 23 (2) Within all residential developments, sidewalks shall be at least four (4) feet in
24 width.
- 25 (3) All subdivisions, site developments, or sections thereof shall have installed in
26 them sidewalks and trails to serve each lot or parcel therein.
- 27 (4) Land for the trails system shall be dedicated in accordance with areas shown on
28 the trails master plan.

29 (b) *Responsibility.* The developer shall install sidewalks within the development along
30 street rights-of-way and along the existing streets fronting the development.

31 (c) *Construction materials.* Sidewalks shall have a hard, improved surface constructed of
32 materials and to standards established by the city depending on type of street
33 construction, anticipated permanence of sidewalk, and land uses being served.

34 (d) *Location.* Sidewalks and trails shall be located in the right-of-way of the street or as
35 close to the right-of-way line as possible, and shall extend across the entire dimension
36 of each lot or parcel side adjacent to a public street.

1 (e) *Timing of completion.* All required sidewalks and trail dedications shall be completed
2 prior to occupancy and before any public utility connection occurs.

3 (f) *Agreement with trails master plan.* Trails shall be located and configured according to
4 the trails master plan and include separate shared-use paths, bike lanes and signed and
5 marked shared bike routes.

6 (g) *Sidewalk fee in lieu of construction.*

7 (1) It is the desire of the city to have required sidewalks built at the time of and
8 congruent with development. However, there may be circumstances regarding
9 safety, economic waste and geographical features that preclude such construction.
10 In such cases, a fee in-lieu shall be paid in accordance with Sec.38-62.

11
12 (2) The director of community development has the authority to approve construction
13 exemptions and collect a fee in lieu according to Sec.38-62.

14
15 (3) A private or public entity shall pay a fee in lieu of sidewalk or trail construction for
16 development along unimproved road.

17
18 (4) Along improved roads, with no geographical constraints, or circumstances
19 regarding safety or economic waste, sidewalks shall be constructed at the time of
20 and congruent with development. In rare instances where a listed Bond project or
21 other City project is scheduled to start construction within 12 months from the
22 approval of a plat application, a fee in lieu may be accepted subject to the approval
23 of the city engineer or community development director.
24

25 **Section 10.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations,
26 Article VI, Subdivision Standards, Sec. 38-51. - Parks and open space dedication, Sec. 38-51.4.
27 Reservation of future park/open space or the contribution of money; is hereby amended to read
28 as follows:

29 *Sec. 38-51.4. Reservation of future park/open space or the contribution of money.*

30 (a) Contribution of land or money determination. The determination as to whether the
31 subdivider will contribute land or money will be made by the park land review
32 committee after submission of the sketch plat and the pre-application meeting (section
33 38-35) and before the preliminary plat or minor plat approval.

34 (b) *Contribution determination appeal.*

35 (1) The decision by the park land review committee may be appealed to the city
36 council.

37 (2) In the case of any appeal, the matter shall be presented first to the park and
38 recreation board and then to the planning commission.

1 (3) Upon review, the park and recreation board and the planning commission shall
2 make recommendations to the city council.

3 (c) *Process after contribution determination.*

4 (1) *Cases with land dedication.*

5 a. In those cases where a dedication of land is required and no appeal is involved,
6 the park land review committee shall forward proposed park sites to the park and
7 recreation board.

8 b. The park and recreation board shall review the plans and make a recommendation
9 to the planning commission.

10 c. Consistent with the recommendations of the park land review committee and the
11 park and recreation board, the subdivider shall prepare and submit a preliminary
12 plat to the planning commission.

13 (2) *Cases with money contribution.* In those cases where a contribution of money is
14 required, no review and recommendation on the part of the park and recreation
15 board is required.

16 **Section 11.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations,
17 Article VI, Subdivision Standards, Sec. 38-52. - Parks and open space design and trails, Sec. 38-
18 52.7. Completion of land dedication and improvements; is hereby amended to read as follows:

19 *Sec. 38-52.7. Completion of land dedication and improvements.*

20 (a) *Timing of park land dedication.* Park land shall be dedicated to the city concurrently
21 with the filing of an approved final plat or minor plat, if applicable.

22 (b) *Timing of improvements.* All improvements, if applicable, shall be completed prior to
23 approval of the final plat or minor plat, if applicable.
24

25 **Section 12.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations,
26 Article VI, Subdivision Standards, Sec. 38-59. - Petition for subdivision waivers; is hereby
27 amended to read as follows:

28 **Sec. 38-59. - Petition for subdivision waivers.**

29 *Sec. 38-59.1. Purpose and Intent.*

30 The purpose of a petition for a subdivision waiver to a specific standard or requirement of this
31 Subdivision Ordinance, as such are applicable to plats or construction plans, is to determine
32 whether or not such specific standard or requirement should be applied to an application.

33 A subdivision waiver may be granted only when in harmony with the general purpose and intent
34 of this Subdivision Ordinance so that the public health, safety and welfare may be secured and
35 substantial justice done.

36 *Sec. 38-59.2. Definitions.*

37 Subdivision waivers shall be classified as a minor subdivision waiver or a major subdivision
38 waiver.

1 *Sec. 38-59.3. Decision-maker.*

2 (a) *Minor subdivision waiver.* Minor subdivision waivers are acted upon by the director of
3 community development or city engineer, as specified in Table 7: Minor Subdivision
4 Waivers.

5 **Table 7: Minor Subdivision Waivers**

Article/Section	Standard	Director of Community Development	City Engineer
Article VI. Sec. 38-43.5(b)(3)	Waiver for Water Line Extension Requirement	Approve	Approve
Article VI. Sec. 38-43.6(a)(2)	Waiver for Wastewater System Extension Requirement	Approve	Approve
Article VI. Sec. 38-45.4(d)(3)b	Waiver of the Alignment with Median Opening Requirement	Approve	Approve
Article VI. Sec. 38-46.9(3)	Waiver of the Permit Required for a Screening Fence or Wall	Approve	
Article VI. Sec. 38-48.5(a)(2)	Waiver of the Side Lot Line Requirement	Approve	
Article VI. Sec. 38-48.5(b)(2)	Waiver of the Lot Line Jurisdictional Requirement	Approve	
Article VI. Sec. 38-48.14(b)	Waiver of the Subdivision Name Requirement	Approve	
Article VI. Sec. 38-50.2(b)	Waiver to the HOA Establishment Requirement	Approve	
Article VI. Sec. 38-52.3(d)(3)	Waiver of the Screening Requirement between a Nonresidential Use and Park and Open Space	Approve	
Article VI. Sec. 38-53.4	Waiver to Tree Canopy Management Plan Requirement	Approve	

6
7 (1) *Appeal to the planning commission/city council of a minor subdivision waiver*
8 *decision.*

9 a. An appeal of the minor subdivision waiver may be considered by the planning
10 commission.

11 b. The city council shall consider all appeals of the planning commission's
12 determination of the minor subdivision waiver (see section 38-59.10., Subdivision
13 waiver appeal).

14 (b) *Major subdivision waiver.* A major subdivision waiver can only be approved by the
15 planning commission with a five-sevenths vote of the membership present.

16 (c) *Appeal to the city council of a major subdivision waiver decision.* An appeal of the
17 major subdivision waiver may be considered by the city council (see section 38-59.10.,
18 Subdivision waiver appeal).

19
20 *Sec. 38-59.4. Subdivision waiver applicability.*

21 (a) *Waiver of standard or requirement.*

1 (1) An applicant may request a subdivision waiver to a specific standard or
2 requirement applicable to a preliminary plat, to construction plans, or to a final plat or a
3 minor plat. Except that, waivers to the substandard road and sidewalk requirements shall
4 not be granted. If an applicant cannot meet the Street requirements (Sec.38-45) or
5 Sidewalks (Sec.38-47) a fee in-lieu must be paid as outlined in Sec.38-62; or a
6 proportionality appeal sought as outlined in Sec.38-60.

7 (2) A subdivision waiver petition shall be specific in nature, and shall only involve
8 relief consideration for one (1) specific standard or requirement.

9 (3) An applicant may, if desired, submit more than one (1) subdivision waiver
10 petition if there are several standards or requirements at issue.

11 (b) *Waiver petition acceptance.*

12 (1) A petition for a subdivision waiver shall not be accepted in lieu of:

- 13 a. A subdivision proportionality appeal (section 38-60); or
14 b. A vested rights petition (section 38-61).

15 (2) If there is a question as to whether a subdivision proportionality appeal or vested
16 rights petition is required instead of a petition for a subdivision waiver, such
17 determination shall be made by the director of community development.

18 *Sec. 38-59.5. Submission procedures.*

19 a) *Written waiver request with application.*

20 (1) A request for a subdivision waiver shall be submitted in writing by the applicant with
21 the filing of a preliminary plat, construction plans, final plat or minor plat, as
22 applicable.

23 (2) No subdivision waiver may be considered or granted unless the applicant has made
24 such written request.

25 (b) *Grounds for waiver.*

26 (1) The applicant's request shall state the grounds for the subdivision waiver request and
27 all of the facts relied upon by the applicant in writing.

28 (2) The grounds for the request shall not rely on financial considerations alone and shall
29 materially demonstrate no adverse impacts to the existing conditions.

30 (3) Failure to do so will result in denial of the application unless the applicant submits a
31 waiver of right to sixty-day action in accordance with section 38-37.4., Waiver of
32 right to sixty-day action.

33 *Sec. 38-59.6. Criteria.*

34 (a) *Consideration factors.* The decision-maker (see section 38-59.3., Decision-maker)
35 shall take into account the following factors:

36 (1) The nature of the proposed land use involved and existing uses of the land in the
37 vicinity;

- 1 (2) The number of persons who will reside or work in the proposed development; and
2 (3) The effect such subdivision waiver might have upon traffic conditions, infrastructure
3 conditions and longevity, and upon the public health, safety, convenience, and
4 welfare in the vicinity.
5 (4) The effect such subdivision waiver might have upon the Purpose and Intent of the
6 ordinance (Sec. 38-59.1).

7 (b) *Findings.* No subdivision waiver shall be granted unless the decision-maker (see
8 section 38-59.3., Decision-maker) finds:

- 9 (1) That there are special circumstances or conditions affecting the land involved or
10 other constraints such that the strict application of the provisions of this
11 Subdivision Ordinance would deprive the applicant of the reasonable use of his or
12 her land; and
13 (2) That the subdivision waiver is necessary for the preservation and enjoyment of a
14 substantial property right of the applicant, and that the granting of the subdivision
15 waiver will not be detrimental to the public health, safety or welfare or injurious
16 to other property in the area; and
17 (3) That the granting of the subdivision waiver will not have the effect of preventing
18 the orderly subdivision of other lands in the area in accordance with the
19 provisions of this Subdivision Ordinance.

20 (c) *Minimum degree of variation.* No subdivision waiver shall be granted unless it represents
21 the minimum degree of variation of requirements necessary to meet the needs of the
22 applicant.

23 (d) *Violations and conflicts.* The decision-maker (see section 38-59.3., Decision-maker) shall
24 not authorize a subdivision waiver that would constitute a violation of, or conflict
25 with, any other valid ordinance, code, regulation, master plan, or comprehensive plan
26 of the city.

27 (e) *Falsification of information.*

- 28 (1) Any falsification of information by the applicant shall be cause for the subdivision
29 waiver request to be denied.
30 (2) If the subdivision waiver request is approved based upon false information,
31 whether intentional or not, discovery of such false information shall nullify prior
32 approval of the subdivision waiver, and shall be grounds for reconsideration of the
33 subdivision waiver request.

34 *Sec. 38-59.7. Burden of proof.*

35 (a) The applicant bears the burden of proof to demonstrate that the requirement for which
36 a subdivision waiver is requested, if uniformly applied, imposes a disproportionate
37 burden on the applicant.

38 (b) The applicant shall submit proof of the original requirement with the original
39 submittal.

40 *Sec. 38-59.8. Decision.*

1 The decision-maker (see section 38-59.3., Decision-maker) shall consider the subdivision
2 waiver petition and, based upon the criteria set forth in section 38-59.6., Criteria, shall take
3 one (1) of the following actions:

4 (a) *Deny.* Deny the petition and impose the standard or requirement as it is stated in this
5 Subdivision Ordinance; or

6 (b) *Grant.* Grant the petition and waive in whole or in part the standard or requirement as
7 it is stated in this Subdivision Ordinance.

8 *Sec. 38-59.9. Notification of decision on petition—Fourteen (14) days.*

9 The applicant shall be notified of the decision on the subdivision waiver by the applicable
10 decision-maker (e.g., the director of community development, city engineer, planning
11 commission or city council, as applicable - see section 38-59.3., Decision-maker for
12 details), within fourteen (14) calendar days following the decision.

13 *Sec. 38-59.10. Subdivision waiver appeal.*

14 (a) *Initiation of an appeal.*

15 (1) The applicant or four (4) voting members of the commission may appeal a minor
16 subdivision waiver decision from the director of community development or city
17 engineer.

18 (2) The written request to appeal shall be submitted to the director of community
19 development within fourteen (14) calendar days following the denial decision.

20 (b) *Appeal to planning commission.*

21
22 (1) The planning commission shall consider the appeal at a public meeting no later
23 than thirty (30) calendar days after the date on which the notice of appeal is
24 submitted to the director of community development.

25 (2) New information may be presented at the time of filing an appeal and considered
26 by Planning Commission.

27 (3) The planning commission may affirm, modify or reverse the previous minor
28 subdivision waiver decision by a five-sevenths vote of the membership present.

29 (c) *Appeal to city council.*

30 (1) The applicant, the director of community development, or four (4) voting
31 members of city council, may appeal the planning commission's decision on
32 either a minor subdivision waiver or major subdivision waiver by submitting a
33 written notice of appeal to the director of community development within
34 fourteen (14) calendar days following the planning commission's decision.

35 (2) The city council shall consider the appeal at a public meeting no later than thirty
36 (30) calendar days after the date on which the notice of appeal is submitted to
37 the director of community development.

1 (3) The city council may affirm, modify or reverse the planning commission's
2 decision by a five-sevenths vote of the membership present.

3 (4) The decision of the city council is final.

4 *Sec. 38-59.11. Effect of approval.*

5 (a) *Submission and processing.* Following the granting of a subdivision waiver, the
6 applicant may submit or continue the processing of a plat or construction plans, as
7 applicable.

8 (b) *Expirations.* The subdivision waiver granted shall remain in effect for the period the
9 plat or construction plans are in effect, and shall expire upon expiration of either or
10 both of those applications.

11 (c) *Extensions.* Extension of those applications shall also result in extension of the
12 subdivision waiver.

13 **Section 13.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations,
14 Article VI, Subdivision Standards, Section. 38-62. - Fee In-Lieu; is hereby brought out of reserve
15 and added to read as follows:

16 *Sec. 38-62. – Fee In-Lieu.*

17
18 *Sec. 38-62.1. Purpose and Intent.*

19
20 This section is meant to provide an alternate means for those subdividing land to meet the
21 requirements of substandard street improvements, the provision of sidewalks to city
22 standards.

23
24 *Sec. 38-62.2. Definitions.*

25 (a) The following phrases and words, when used in this article shall have the
26 meanings associated to them in this section, except where the context clearly indicates a
27 different meaning.

28 (1) *Capital improvement* includes transportation system planning, facility
29 engineering, design study, land surveys, land acquisition, permitting, and
30 construction of facilities.

31 (2) *Fee payer* is a person commencing a land development activity, including,
32 but not limited to the subdivision of land, which generates construction or
33 placement of residential dwelling unit subject to a building permit.

34 (3) *Traffic impact study* is a study conducted by a licensed professional
35 engineer which quantifies the traffic impacts of a development and identifies
36 needed on-site, and off-site transportation improvements.

37
38 *Sec. 38-62.3. Fund Established.*

39
40 A fund is hereby established for the collection and expenditure of all fees provided
41 herein. A separate fund shall be maintained for both sidewalk and roads fee in-lieu
42 collections.

1
2 *Sec. 38-62.4. Computation of fees.*

3 (a) Roads.

4 (1) The amount of fee in-lieu shall be determined by linear foot of entire
5 frontage for each lot. Lots with multiple frontages, despite access limitations,
6 must be charged for all frontages along a public or private road. The following
7 formula shall be used for calculating roads fee in-lieu amount:
8

9
$$\text{Linear foot of entire frontage(s) for each lot} \times \$104.10 = \text{fee in-lieu for}$$

10
$$\text{roads per lot}$$

11
12 (b) Sidewalks.

13 (1) The amount of fee in-lieu shall be according to the following formula:

14
$$\text{Linear foot of entire frontage(s) for each new lot} \times \$18.02 = \text{fee in-lieu for}$$

15
$$\text{sidewalks}$$

16

17 *Sec. 38-62.5. Assessment of fees.*

18
19 The developer or applicant must pay and the City will collect the fee in-lieu at the time of
20 filing a final plat or minor plat.
21

22 *Sec. 38-62.5. Use of funds.*

23
24 Funds collected from fee in-lieu shall be used to pay for capital improvements to the
25 transportation system, including sidewalks, within the corporate limits of the city. These
26 funds may also be used as matching funds in pursuit of federal or state transportation
27 program funding. No funds shall be used to pay for operating or maintenance costs.
28

29 *Sec. 38-62.6. Annual Rate Adjustment.*

30
31 (a) To keep pace with inflation and increasing construction costs the fees outlined in
32 this section shall be automatically increased, annually on July 1, by the following
33 formula.
34

35 (b)
$$\text{Fee} = (R) (X) (Y / Z)$$

36

37 (c) Where: R = the rate per linear feet of frontage. X = the linear feet of frontage for
38 each lot. Y = "Engineering News Record": Twenty City Average Construction
39 Cost Index as published the last week of July of the most current year. Z =
40 "Engineering News Record": Twenty City Average Construction Cost Index as
41 published the last week of December 2022.
42

43 *Sec. 38-62.6. Appeals.*

44
45 (a) If a fee payer disagrees with the fee in-lieu amount they shall have the option of
46 appeal to the Community Development Director.

- 1
2 (b) All appeals shall be made in writing to the Director.
3
4 (c) The Appellant shall provide an independent fee calculation prepared by qualified
5 professionals and follow best practices and methodologies. In the case of traffic
6 impacts, a traffic impact study shall be prepared by a professional traffic engineer
7 (PTOE) licensed by the State of Oklahoma.
8

9 Sec. 38-63. - Reserved.
10

11 **Section 14.** That the Midwest City Municipal Code, Chapter 38 Subdivision Regulations, Article
12 VIII, 38-65, definitions, Section 38-65.128, Plat, minor; is hereby amended to read as follows, as
13 well as Section 38-65.153, Replat, being repealed and placed into reserve:
14

15 *Sec. 38-65.128. Plat, minor.*

16 A plat dividing land into no more than five (5) lots and that meets the submission and
17 approval requirements of section 38-20, Minor plat. A minor plat is is also considered a
18 final plat.

19 Sec. 38-65.153 – Reserved.
20

21 **Section 15.** REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby
22 repealed.
23

24 **Section 16.** SEVERABILITY. If any section, sentence, clause, or portion of this ordinance is for
25 any reason held to be invalid, such decision shall not affect the validity of the remaining provisions
26 of the ordinance.
27

28 PASSED AND APPROVED by the Mayor and the Council of the City of Midwest City,
29 Oklahoma, this 10 day of January, 2023.
30




37 **THE CITY OF MIDWEST CITY, OKLAHOMA**

38
39
40
41
42


MATTHEW D. DUKES, II, Mayor

ATTEST:


SARA HANCOCK, City Clerk

1
2 Approved as to form and legality this 15th day of January, 2023.

3
4 
5 _____
6 DONALD D. MAISCH, City Attorney