

CHAPTER 1242
Administration, Enforcement and Penalty

1242.01	Administration.	1242.07	Cluster subdivision or Planned Unit Development variance.
1242.02	Recording of plats; construction of improvements.	1242.08	Commercial and industrial subdivision variance.
1242.03	Issuance of building and occupancy permits.	1242.09	Applications for variances.
1242.04	Schedule of fees.	1242.10	Authority of Council re variances.
1242.05	Variances generally.	1242.11	Amendments.
1242.06	Topographical or physical limitation variance.	1242.99	Penalty.

CROSS REFERENCES

Approval of plats; street system - see M.C.L.A. Sec. 125.43
 Regulations governing subdivision of land; bond to secure improvement; publication of regulations - see M.C.L.A. Sec. 125.44
 Approval or disapproval of plats; procedure; effect - see M.C.L.A. Sec. 125.45
 Certification of city plats - see M.C.L.A. Secs. 125.51 et seq.
 Planning Commission - see P. & Z. Ch. 1220

1242.01 ADMINISTRATION.

The approval provisions of these Subdivision Regulations shall be administered by the governing body in accordance with Act 288 of the Public Acts of 1967, as amended, and by the Planning Commission in accordance with Act 168, of the Public Acts of 1959, as amended.

(Ord. 1980-2. Passed 5-12-80.)

1242.02 RECORDING OF PLATS; CONSTRUCTION OF IMPROVEMENTS.

No subdivision plat required by these Subdivision Regulations or the Subdivision Control Act shall be admitted to the public land records of the County or received or recorded by the County Register of Deeds, until such subdivision plat has received final approval by the governing body. No public board, agency, commission, official or other authority shall proceed with the construction of, or authorize the construction of, any of the public improvements required by these Subdivision Regulations unless such public improvement shall have already been accepted, opened or otherwise received the legal status of a public improvement prior to the adoption of these Subdivision Regulations, unless such public improvement shall correspond in its location and to the other requirements of these Subdivision Regulations.

(Ord. 1980-2. Passed 5-12-80.)

1242.03 ISSUANCE OF BUILDING AND OCCUPANCY PERMITS.

(a) Building Permits. The Building Inspector shall not issue permits for the building of houses or other structures for occupancy, or any portion thereof, until the final plat has been approved as provided in Act 288 of the Public Acts of 1969, as amended, and until he or she has been officially notified of such approval by the governing body.

(b) Occupancy Permits. The Building Inspector shall not issue permits for the occupancy of structures or any parts thereof until all improvements required by these Subdivision Regulations and agreed to in the approved preliminary plat have been completed or otherwise provided for according to these Subdivision Regulations and until he or she has been notified of the completion of or provision for improvements by the governing body. Completion shall mean inspection, approval, and acceptance, where applicable, by the City of Litchfield. A certificate of completion shall be issued by the City of Litchfield Engineer as evidence of adequate and complete installation of facilities.

(Ord. 1980-2. Passed 5-12-80.)

1242.04 SCHEDULE OF FEES.

The schedule of fees for the review of plans and plats, the inspection of improvements for the administration of these Subdivision Regulations, and for other costs incurred by the City of Litchfield in the platting process, shall be determined by resolution of the governing body of the City of Litchfield.

(Ord. 1980-2. Passed 5-12-80.)

1242.05 VARIANCES GENERALLY.

The Planning Commission may recommend to the governing body a variance from the provisions of these Subdivision Regulations on a finding that undue hardship may result from strict compliance with specific provisions or requirements of these Subdivision Regulations or that application of such provision or requirement is impractical. The Planning Commission shall only recommend variances that it deems necessary to or desirable for the public interest. Variances shall apply only to improvements and specifications set forth in these Subdivision Regulations. No variances shall be granted on procedures required herein. In making its findings, as required below, the Planning Commission shall take into account the nature of the proposed use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, the probable effect of the proposed subdivision upon traffic conditions in the vicinity, preservation of natural features, and relation to the adopted Comprehensive Development Plan. No variance shall be recommended unless the Planning Commission finds the following:

- (a) That there are such special circumstances or conditions affecting said property that the strict application of the provisions of these Subdivision Regulations would clearly be impractical or unreasonable. In such cases, the proprietor shall first state his or her reasons, in writing, as to the specific provision or requirement involved and submit them to the Planning Commission.
- (b) That the granting of the specified variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
- (c) That the variance is necessary for the preservation and enjoyment of a substantial property right of the proprietor.
- (d) That such variance will not violate the provisions of the State Subdivision Control Act.
- (e) That such variance will not have the effect of nullifying the intent and purpose of these Subdivision Regulations and the adopted Comprehensive Development Plan and the Zoning Code of the City of Litchfield.

The Planning Commission shall include its findings and the specific reasons therefor in its report of recommendations to the governing body and shall also record its reasons and actions in its minutes.

The governing body, upon recommendation of the Planning Commission, may require conditions to the variance that will substantially secure the objectives of the standards or requirements so varied or modified.

(Ord. 1980-2. Passed 5-12-80.)

1242.06 TOPOGRAPHICAL OR PHYSICAL LIMITATION VARIANCE.

Where, in the case of a proposed subdivision, it can be shown that strict compliance with the requirements of these Subdivision Regulations would result in extraordinary hardship to the proprietor because of unusual topography, other physical conditions, or such other conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of these Subdivision Regulations, the Planning Commission may recommend to the governing body that variance modifications or a waiver of these requirements be granted.

(Ord. 1980-2. Passed 5-12-80.)

1242.07 CLUSTER SUBDIVISION OR PLANNED UNIT DEVELOPMENT VARIANCE.

The governing body may authorize a variance from specified portions of these Subdivision Regulations in the case of a cluster subdivision or Planned Unit Development upon request of the proprietor. The governing body shall find that such development is permitted by the Zoning Code and shall have the recommendation of the Planning Commission before acting on the variance.

The governing body shall determine, based on the report of the Planning Commission, that the plan provides adequate public spaces and includes provisions for efficient circulation, light and air, and other needs, and otherwise meets the intent of the Zoning Code and the adopted Comprehensive Development Plan, or parts thereof. The governing body, in making its findings shall take into account the considerations set forth in Section 1042.05 and the following:

- (a) That the proposed project will constitute a desirable and stable community development.
- (b) That the proposed project will be in harmony with the existing or proposed development of adjacent areas.
- (c) That the standards and requirements of the Zoning Code are met.
- (d) That the Planning Commission has reviewed the project plan and recommends its approval as having met the standards and intent of the Comprehensive Development Plan, or any part thereof, as it applies to the area in and around the subdivision or a Planned Unit Development.
- (e) That in granting the variance, it shall be valid only as long as the plan for the complete development is carried out as approved. Any departure from the approved plan shall immediately rescind any variance granted.
- (f) That the governing body shall establish a time schedule for the completion of the various aspects of the complete subdivision or planned unit plan.

Variances may include, but not be limited to, a reduction in minimum lot area and width, modifications in street and utility standards, yard and setback requirements and permission for the mixing of related uses otherwise segregated by the Zoning Code.

(Ord. 1980-2. Passed 5-12-80.)

1242.08 COMMERCIAL AND INDUSTRIAL SUBDIVISION VARIANCE.

The governing body may authorize a variance from provisions of these Subdivision Regulations for commercial and industrial subdivisions, upon request of the proprietor, that are in line with the standards established in Sections 1246.37 and 1246.38. The governing body shall find that the variances do not violate provisions of the Zoning Code and shall have the recommendation on the variances from the Planning Commission before acting therein.

The governing body shall determine, based on the report of the Planning Commission, that the variances will result in a plan that meets the following conditions, in addition to those set forth in Section 1242.05.

- (a) That the proposed project will constitute a desirable and stable community development.
- (b) That the proposed project will be in harmony with the existing or proposed development of adjacent areas and will not interfere with the liability of adjacent and nearby residential areas.
- (c) That the standards and requirements of the Zoning Code are met.
- (d) That the Planning Commission has reviewed the project plan, finds that it meets the standards and interests of the Comprehensive Development Plan, or any part thereof, as it applies to the area in and around the subdivision, and recommends its approval.
- (e) That in granting the variance it shall be valid only as long as the plan for the complete development is carried out. Any departure from the approved plan and plat shall immediately rescind any variance granted.
- (f) That the governing body shall establish a time schedule for the completion of the various aspects of the complete subdivision. Variances may include, but not be limited to, modifications in lot areas and width, block sizes, and changes in street and utility standards appropriate for commercial and industrial development.

(Ord. 1980-2. Passed 5-12-80.)

1242.09 APPLICATIONS FOR VARIANCES.

(a) Required Improvement Variance or Topographical Variance. An application for any such variance shall be submitted in writing by the proprietor when the preliminary plat is filed for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all the facts relied upon by the petitioner. The Planning Commission shall submit a report thereon to the governing body.

(b) Cluster Subdivision, Planned Unit Development or Commercial and Industrial Subdivision Variance. An application for any such variance shall be made in writing by the subdivider at the time when the pre-preliminary plat is filed for the consideration of the Planning Commission, stating fully and clearly all facts relied upon by the proprietor and shall be supplemented with maps, plans, or other additional data which may aid the Planning Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions, or other legal provisions necessary to guarantee the full achievement of the plan. The Planning Commission shall submit a report thereon to the governing body, as set forth in Section 1242.05.

(Ord. 1980-2. Passed 5-12-80.)

1242.10 AUTHORITY OF COUNCIL RE VARIANCES.

The governing body shall be the agency for granting variances for relief from hardships or for permitting cluster and planned unit developments, and variances for commercial and industrial subdivisions. (Ord. 1980-2. Passed 5-12-80.)

1242.11 AMENDMENTS.

The governing body may, from time to time, amend, supplement, or repeal the regulations and provisions of these Subdivision Regulations in the manner prescribed by Act 246 of the Public Acts of 1945, as amended. A proposed amendment, supplement, or repeal may be originated by the governing body, the Planning Commission, or by petition. All proposals regarding changes in these Subdivision Regulations not originating with the Planning Commission shall be referred to it for a report thereon before any action is taken on the proposal by the governing body.

(Ord. 1980-2. Passed 5-12-80.)

1242.99 PENALTY.

(a) Penalties for failure to comply with the provisions of these Subdivision Regulations shall be as follows: violations of any of the provisions of these Subdivision Regulations, or failure to comply with any of its requirements, shall constitute a misdemeanor. Any person who violates these Subdivision Regulations, or fails to comply with any of its requirements, shall, upon conviction thereof, be fined not more than one hundred dollars (\$100.00) or imprisoned for not more than thirty days, or both. Each day such violation continues shall be considered a separate offense.

(b) The land owner, tenant, proprietor, builder, public official or any other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing contained herein shall prevent the governing body, or any other public official or private citizen, from taking such lawful action as is necessary to restrain or prevent any violation of these Subdivision Regulations or of the Subdivision Control Act.

(Ord. 1980-2. Passed 5-12-80.)