

ORDINANCE NO. 1999-02

AN ORDINANCE TO ADOPT REVISED SUBDIVISION REGULATIONS, AND  
DECLARING AN EMERGENCY.

WHEREAS, the Municipality of Brookville desires to amend  
and revise its subdivision regulations as set forth in Title  
Five, Sections 1171.00 through 1185.07, of the Code of  
Ordinances of the Municipality of Brookville.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE  
MUNICIPALITY OF BROOKVILLE, OHIO, THAT:

SECTION I: Title Five, Subdivision Regulation, Sections 1171.00-  
1185.07 are hereby amended and adopted as set forth in Exhibit  
"A" attached hereto and incorporated herein by reference.

SECTION II: All Ordinances, Resolutions, and parts of Ordinances  
and Resolutions which are in conflict with any of the provisions  
of Title Five, Subdivision Regulation, Sections 1171.00 through  
1185.07 as set forth in Exhibit "A" are repealed.

SECTION III: This Ordinance is declared to be an emergency measure  
to permit timely implementation of these regulations prior to  
start of the construction season in 1999, and therefore, said  
Ordinance shall become effective immediately upon its passage by  
at least two-thirds of the members of Council pursuant to the  
Charter of the Municipality of Brookville, Ohio.

PASSED THIS 16th DAY OF March, 1999.

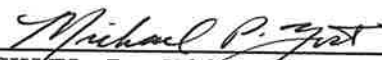
ATTEST:

  
MICHAEL P. YOST, CLERK

  
THOMAS L. DAFLER, MAYOR

### CERTIFICATE

The undersigned, Clerk of the Municipality of Brookville, Ohio, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 1999-02, passed by Council of the Municipality of Brookville, Ohio, on the 16th day of March, 1999.

  
MICHAEL P. YOST, CLERK

### CERTIFICATE OF POSTING

The undersigned, Clerk of the Municipality of Brookville, Ohio, does hereby certify that the foregoing Ordinance No. 1999-02 was posted at the Municipal Building, U.S. Post Office, and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 17th day of March, 1999, to the 17th day of April, 1999, both days inclusive.


  
MICHAEL P. YOST, CLERK

EXHIBIT "A"

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## SECTION 1171.00 GENERAL PROVISIONS

### 1171.01 Title

The provisions of this chapter shall be known as the Subdivision Regulations of the Municipality of Brookville and shall be referred to hereinafter as these Regulations.

### 1171.02 Intent

These Regulations are adopted to secure and provide for the following:

- A. Proper arrangement of streets or highways in relation to existing or planned streets or highways or to the Comprehensive Development Plan.
- B. Adequate and convenient open spaces for vehicular and pedestrian traffic, utilities, access of fire-fighting apparatus and recreation.
- C. Establishment of standards for the construction of any and all improvements as herein required.
- D. Conformance with the existing Zoning Code.
- E. Orderly and efficient layout and the appropriate use of the land.
- F. Accurate surveying of land, preparing and recording of plats and the equitable handling of all subdivision plats by providing uniform procedures and standards for observance by both the approving authority and subdividers.
- G. Protection against floodplain encroachment and possible future flood damage.
- H. Protection of the public health, safety and general welfare of the citizens.
- I. Guidance for public and private policy and action in order to provide adequate and efficient transportation, water, sewerage and other public requirements and facilities.

### 1171.03 Planning Commission

- A. Establishment - There is hereby established a Planning Commission for the Municipality. Charter passed 11-7-78.
- B. Membership; Terms - The Planning Commission shall consist of seven members. The Mayor shall be a full voting member of the Planning Commission by virtue of holding the office of Mayor. On or before the first day of February of each year, the Council shall designate, by a motion adopted by a majority vote of its members, one of its members to serve as a full voting member of the Planning Commission, and such person shall serve

so long as he or she is a member of the Council and until a successor is designated by the Council. In addition to the members hereinbefore provided (the Mayor and one member of the Council), there shall be five Citizen members of the Planning Commission appointed to 3-year terms of office by the Council by a motion adopted by a majority vote of the members of the Council; provided that the first citizen members appointed pursuant to this Charter shall be appointed so that two shall serve for a term of 3 years, two shall serve for a term of 2 years, and one shall serve for a term of 1 year. Thereafter, each Citizen member shall be appointed to serve a term of 3 years. Such Citizen members of the Commission shall also be full voting members.

- C. The powers, duties, and functions of the Planning Commission shall be provided by these Regulations and the ordinances and resolutions of the Municipality; but until such ordinance or resolutions shall be passed, it shall possess powers, duties, and functions as are provided by the laws of Ohio, to the extent that such laws do not conflict with the provisions of these Regulations.

#### **1171.04 Administration**

The Planning Commission shall be responsible for the uniform administration of these Regulations, and shall make recommendations to Council when amendments to these Regulations would further the intent and objective of these Regulations.

#### **1171.05 Relation to Other Laws**

The provisions of these Regulations shall supplement any and all laws of the State of Ohio, ordinances of the Municipality of Brookville, Municipality of Brookville Design Criteria and Construction Standards and Drawings, or any and all rules and Regulations promulgated by authority of such law or ordinance relating to the intent and scope of these Regulations. Whenever the requirements of these Regulations are at variance with the requirements of any law, ordinance, regulations of the Board of Health or Ohio Environmental Protection Agency (OEPA), the most restrictive or that imposing the higher standards shall govern.

#### **1171.06 Interpretation and Separability**

- A. Interpretation - In their interpretation and application, provisions of these Regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.
- B. Separability - If any part or provision of these Regulations or the application thereof to any person or circumstance is judged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these Regulations or the application thereof to other persons or circumstances. The Council hereby declares that it would

have enacted the remainder of these Regulations even without any such part; provision or application.

**1171.07 Amendment**

These Regulations may be amended, after meeting requirements as specified in the Ohio Revised Code and/or Brookville Municipal Charter.



## **SECTION 1173.00 DEFINITIONS**

For the intent of these Regulations, certain terms or words used herein shall be interpreted as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- C. The word "shall" is a mandatory requirement, the word "may" is a permissive requirement, and the word "should" is a preferred requirement.
- D. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied".
- E. The word "lot" includes the words "plot" or "parcel".
- F. Regardless of capitalization, definitions are standard.

**ALLEY (See Thoroughfare)**

### **BLOCK**

A unit of property entirely surrounded by public highways and streets, railroad rights-of-way, waterways, or other barriers, or combination thereof.

**BUILDING LINE (See Setback Line)**

### **COMMUNITY FACILITIES**

Existing, planned and proposed parks, playgrounds, public schools, other public lands and buildings of the Municipality for which the Regulations are in effect.

### **COMPREHENSIVE DEVELOPMENT PLAN**

A plan, which may consist of several maps, data, policies, and other descriptive matter, for the physical development of the Municipality which has been adopted by the Municipality to indicate the general location for proposed physical facilities including housing, industrial and business uses, major streets, parks, schools, public sites, and other similar information.

### **CONSTRUCTION DRAWINGS**

A complete set of engineering drawings drawn to scale containing, but not limited to, grading plans, street plans and profiles, cross sections, sanitary sewer plans and profiles, water main plans and profiles, storm sewer plans and profiles, a complete topographical layout of all existing appurtenances and structures located within the right-of-way, and any other

requirement as outlined in the Municipality of Brookville Design Criteria and Construction Standards and Drawings.

**CORNER LOT** (See Lot)

**CUL-DE-SAC** (See Thoroughfare)

**DEAD-END STREET** (See Thoroughfare)

**DEDICATION**

The acceptance of land to the Municipality of Brookville by its owner for any public use.

**DEVELOPER**

Any person, subdivider, partnership, or corporation or duly authorized agent who constructs or contracts to construct improvements on subdivided land.

**DEVELOPMENT** (See Subdivision)

**EASEMENT**

Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his/her property.

**ENGINEER**

Any person registered to practice professional engineering by the State Board of Registration as specified in the Ohio Revised Code.

**FINAL PLAT** (See Plat)

**IMPROVEMENTS**

Street pavement or resurfacing, curbs, gutters, sidewalks, pedestrian walkway, water lines, sanitary and storm sewers, landscaping, street lights, flood control and drainage facilities, utility lines, and other related matters normally associated with the development of land into building sites.

**INSPECT, INSPECTION**

The visual observation of construction to permit the Municipality or their representative to render his or her professional opinion as to whether the contractor is performing the services in a manner indicating that, when completed, the services will be in accordance with the Municipality of Brookville Subdivision Regulations, Construction Standards and Drawings, and Design Criteria. Such observations shall not be relied upon in any part as acceptance of the services, nor shall they relieve any party from fulfillment of customary and contractual responsibilities and obligations.

## **LOT**

A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and its accessory buildings and uses, and having frontage on an improved public or private street.

- A. Corner – A lot located at the intersection of two or more streets.
- B. Through Frontage – A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.
- C. Interior – A lot with only one frontage on a street.

## **LOT AREA**

The computed area contained within the lot lines.

## **MAINTENANCE SURETY**

A surety by a subdivider or developer with the Municipality for the amount of ten percent (10%) of the performance surety guaranteeing the maintenance of the physical improvements according to the plans and specifications within the time prescribed.

## **MINOR SUBDIVISION (See Subdivision)**

## **MONUMENTS**

Permanent concrete or iron markers used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary line corners, and points of change in street alignment shall comply with the State of Ohio Minimum Standards for Boundary Surveys.

## **MUNICIPAL MANAGER**

A person appointed by Council and the Planning Commission to handle the administration of the Municipality. The Municipal Manager may appoint an authorized representative to administer these Regulations

## **ORIGINAL PARCEL**

The parcel of land shown as a unit as contiguous units on the last preceding tax roll.

## **PARCEL**

A piece of land that cannot be designated by lot number.

## **PEDESTRIAN WALKWAY**

A right-of-way dedicated for the purpose of a pedestrian access through residential, commercial, and industrial areas, and located so as to connect to two or more streets, or a street and a public land parcel.

### **PERFORMANCE SURETY**

An agreement by a subdivider or developer with the Municipality of Brookville for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to the plans and specifications within the time prescribed.

### **PLANNING COMMISSION**

The Municipality of Brookville Planning Commission.

### **PLAT**

A map of a tract or parcel of land, made from a survey by a registered surveyor in the State of Ohio.

- A. Preliminary Plat - A plat showing all requisite details of a proposed subdivision submitted to the Planning Commission for purpose of preliminary consideration, prepared in conformance with these Regulations.
- B. Final Plat - A plat of all or part of a subdivision providing substantial conformance to the Preliminary Plat of the subdivision prepared in conformance with these Regulations and suitable for recording by the County Recorder.

### **PROTECTIVE COVENANT**

A restriction on the use of all private property within a subdivision, to be set forth on the plat and/or incorporated in each deed, for the benefit of the property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

### **PUBLIC RESERVATION**

A portion of a subdivision which is set aside for public use and made available for public use or acquisition.

### **PUBLIC UTILITY**

A firm, association, syndicate, corporation, co-partnership, municipal authority or public agency, board or commission, duly authorized to furnish, and furnishing under governmental regulations, to the public: facilities, products or services such as gas, electricity, sewage disposal, communication, telephone, transportation, water, etc.

### **REPLATS/VACATION PLATS**

Alteration, modification or adjustment of existing lots, lot lines, property lines or right-of-way lines and/or vacation thereof within the Municipality of Brookville shall be submitted to the Planning Commission for a recommendation thereon. Council, after review of such recommendation, shall approve or disapprove such request.

### **RIGHT-OF-WAY**

Land reserved, used, or to be used for a street, alley, walkway, or other public purpose.

### **SETBACK LINE**

A line established by the Zoning Code, generally parallel with and measured from the lot line, defining the limits of a yard in which no portion of any principal structure other than an accessory building may be located, except as may be provided in said Zoning Code.

### **SKETCH PLAN**

An informal plan or sketch showing the existing features of a site and its surroundings and the general layout of a proposed subdivision which can be presented to the Planning Commission for informal discussions.

### **STREET (See Thoroughfare)**

### **SUBDIVIDER (See Developer)**

### **SUBDIVISION**

The division or redivision of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more lots, tracts or parcels, any one of which is less than five acres, for the purpose, whether immediate or future, of transfer of ownership; excepting, however, the following transactions:

- A. The division or partition of land into parcels of land into parcels of more than five acres for residential use not involving any new streets or easements of access or fronting on existing streets or roads which are required to be widened under the thoroughfare ordinance;
- B. The sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites;
- C. The simple inheritance of land by will or intestate succession;
- D. The improvement of one or more lots, tracts, or parcels of land of any size for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any street or streets, except private streets serving industrial structures;
- E. The division or allocation of land as open spaces for common use by owners, occupants, or leaseholders, or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public facilities;
- F. The improvement of one or more parcels of land by the erection or enlargement thereon of any residential, commercial, or industrial structure or groups of structures.
- G. Major Subdivision – Division of a lot or parcel of land into more than five lots or parcels, and/or the creation or establishment of new streets or roadways by the division of a lot or parcel of land.

- H. Minor Subdivision – Division of a lot or parcel of land along an existing public thoroughfare into not more than five lots or parcels not establishing a new street or roadway.

### **SURVEYOR**

Any person registered to practice surveying by the State Board of Registration as specified in the Ohio Revised Code.

### **THOROUGHFARE, STREET, OR ROAD**

The full width between property lines bounding every public way of whatever nature, with a part thereof to be used for vehicular traffic and designated as follows:

- A. Alley – A right-of-way used primarily for vehicular service access to the back or side of properties abutting on another street.
- B. Arterial Street – A general term denoting a highway primarily for through traffic, carrying heavy loads and large volume of traffic, usually on a continuous route.
- C. Collector Street – A thoroughfare, whether within a residential, industrial, commercial, or other type of development, which primarily carries traffic from local streets to arterial streets or to other collector streets, including the principal entrance and circulation routes within residential subdivisions.
- D. Cul-de-sac – A local street with one end open to traffic and the other end terminating in a vehicular turnaround.
- E. Dead-end Street – A street temporarily having only one outlet for vehicular traffic and intended to be extended or continued in the future.
- F. Local Street – A street primarily for providing access to residential, commercial, or other abutting property.
- G. Loop Street – A type of local street, each end of which terminates at an intersection with same arterial or collector street, and whose principal radius points of the 180° system of turns are not more than 1000 feet from said arterial or collector street, nor normally more than 600 feet from each other.

### **VARIANCE**

A variance is a modification of the strict terms of the relevant Regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the result of the action of the applicant, a literal enforcement of the Regulations would result in unnecessary and undue hardship.

### **VICINITY MAP**

A drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby development or landmarks and community facilities and services within Municipality of Brookville in order to better locate and orient the area in question.

### **ZONING CODE**

The Zoning Ordinance for the Municipality of Brookville which regulates the use of land by districts or zones and as the same may be amended or supplemented.

## **SECTION 1175.00 MINOR SUBDIVISION**

### **1175.01 Intent**

The purpose of a minor subdivision is that these Regulations shall be handled by staff and require a survey plat with a legal description, fees, and may include a sketch plat as recommended by the Planning Commission.

### **1175.02 Minor Subdivision Conditions**

Approval without a plat of a minor subdivision may be granted by the Municipal Manager as the properly designated representative of the Planning Commission, if the proposed subdivision of the parcel of land meets all of the following conditions:

- A. The proposed subdivision is located along an existing improved public road and involves no opening, widening, or extension of any street or road.
- B. The proposed division of a parcel of land involves no more than five (5) lots, after the original parcel has been completely subdivided, any one of which is under five (5) acres inclusive of the remaining parcel).
- C. The proposed subdivision is not contrary to applicable Subdivision Regulations, Design Criteria, Construction Standards and Drawings or Zoning Code.
- D. Plat and description of the property are based on a survey completed by a professional surveyor and in compliance with the Montgomery County platting regulations.

### **1175.03 Submission for Approval of a Minor Subdivision**

The subdivider shall prepare and submit one (1) original and three (3) copies of the minor subdivision plat to the Municipal Manager. The minor subdivision plat shall be considered officially filed on the day it is received and properly noted and shall be so dated. However, the minor subdivision plat shall not be considered properly submitted until all applicable fees are paid (see Section 1185.04 Schedule of Fees) and a survey plat and legal description are provided to the Municipal Manager.

### **1175.04 Submission Requirements**

The survey plat shall contain the following information:

- A. Registration number, seal, and signature of the land surveyor responsible for the plat.
- B. Name of the subdivider;
- C. Location by section, range, township, or by subdivision name and lot number;



- D. Date, north arrow, scale, and acreage to thousandths of acre.
- E. Name of abutting streets including right-of-way width.
- F. Existing buildings, septic facilities, and wells, if applicable.
- G. The Minor Subdivision Plat shall be clearly and legibly drawn. A plat shall indicate the size of the parcel, existing and proposed rights-of-way within 100 feet, existing and proposed ownership, any existing parcel within 100 feet and its owner and size, a north arrow, and the professional surveyor's signature and seal.
- H. Areas within the 100-year floodplain and within floodways, as determined by mapping provided by the Federal Emergency Management Agency (FEMA), shall be delineated.
- I. Name and address of owners of parcel and adjoining parcels.
- J. Survey boundaries and lot lines drawn on an 11" x 17" sheet and at a scale between 1" = 10' and 1" = 100'. All dimensions shall be shown in feet and hundredths of feet.
- K. Location of monuments and their descriptions.
- L. The survey shall conform to the Minimum Standards for Boundary Surveys in the State of Ohio (ORC 4733.37).
- M. Approval signature and date lines for the Municipal Manager and County Engineer.

#### **1175.05 Supplementary Information**

Lot grading and drainage plan, illustrating a plan for the handling of surface and subsurface drainage, showing proposed finished grade elevations, the type, size, location and outlet of all existing and proposed drainage systems, swales, easements, water and sanitary sewer services, and the proposed ground cover may be required by the Municipal Manager on the basis of the characteristics of the subject property.

#### **1175.06 Administrative Approval Procedure**

After the complete submittal is considered officially filed, a copy of the survey plat is then checked by the Municipal Manager for its conformity with these Regulations. The authorized representative of the Planning Commission shall stamp and sign the plat "approved no plat required" if the lot in question meets all codes as stipulated above, within seven (7) working days after submission, the plat shall then be taken by the subdivider to the County Auditor for the transfer of property and then to the County Recorder where it will become a legal lot of record. Lot split requests expire if not recorded within one (1) year of initial fee payment. A proposal remaining unapproved by the Planning Commission representative for one (1) year

from the date of fee payment shall expire and become void. Incomplete or deficient proposals shall be disapproved and the subdivider notified of issues and reasons for the disapproval. The subdivider shall furnish the Municipality with a reproducible of the recorded plat.

## **SECTION 1177.00 PRELIMINARY PLAT (Major Subdivision) (Optional)**

### **1177.01 Intent**

The developer may submit a preliminary plat for review and tentative approval prior to the formulation and submittal of detailed construction drawings. The preliminary plat is conducted for the developer's benefit and at his discretion, its submission does not constitute a formal subdivision review pursuant to ORC Section 711.09. With the submission of the preliminary plat, the applicant waives any rights to an approval under ORC Section 711.09 until such time as application is made for final subdivision plat review and is submitted to the Planning Commission for review and approval as detailed in these Regulations.

The purpose of the preliminary plat is to show on a map for a major subdivision all the facts which may enable the Planning Commission to determine whether the proposed layout of land including street layout, utilities, and storm water controls is satisfactory from the standpoint of the public interest. The plat shall be prepared by a registered of the state. Approval of the preliminary plat, in effect, provides a "concept approval" of the subdivision proposal. It may be advised for the subdivider/owner to meet with the Municipal Manager to become familiar with the Municipal requirements.

### **1177.02 Submission for Preliminary Plat Approval**

The subdivider shall prepare and submit six (6) copies of the preliminary plat of the proposed subdivision and the construction plans along with a completed preliminary plat checklist with remarks to the Planning Commission.

- A. The preliminary plat shall be considered officially filed on the day it is received and properly noted and shall be so dated.
- B. The preliminary plat shall not be considered properly submitted until all applicable fees are paid by the developer (see Section 1185.04 Schedule of Fees).
- C. All plats and plans are provided to the Municipal Office.
- D. The subdivider shall provide a copy of the preliminary plat to the local utility companies.

### **1177.03 Preliminary Plat Form**

The preliminary plat shall be clearly and legibly drawn. The size of the drawing shall not be less than 24" x 36". If the preliminary plat is to be drawn in sections, each section shall be accompanied by a key map, showing the location of the sections. The plat of a subdivision containing 5 acres or less shall be drawn to a scale of 1" = 50'. All other subdivisions shall be drawn to a scale of 1" = 100'.

#### 1177.04 Preliminary Plat Contents

The preliminary plat shall clearly show the following features and information:

A. Items of title

1. Proposed name of subdivision. The name of the subdivision and proposed streets shall not duplicate, or too closely approximate, the name of any other subdivision or street, subject to Planning Commission approval.
2. Location by numerically labeled inlot or outlot.
3. Name and address of property owner/developer.
4. Scale of the plat.
5. North arrow.
6. Name and address of the professional surveyor who prepared the plat, as well as the stamp and signature of the surveyor certifying the accuracy of the plat.
7. Date of preparation.
8. Location by section, town, range, or by other legal description.
9. Signature and date line for the Planning Commission Chairperson.
10. Stamp and signature of the Professional Surveyor.

B. Existing site conditions/characteristics

1. Perimeter boundaries of the proposed subdivision indicated by a heavy solid line, and the approximate acreage comprised therein.
2. Location, widths and names of all existing or platted streets, indicated as to: dedicated, undedicated, constructed or unimproved, official thoroughfares or other public ways, railroad and utility rights-of-way, easements, parks and other open spaces, permanent buildings, section and corporation lines within or adjacent to the subject tract.
3. Location and size of all existing utilities: sewers, water mains, telephone, electric, gas, culverts or other underground items located within or adjacent to the subject tract.
4. Names of adjacent subdivisions and owners of adjoining parcels.
5. Topographic map of such proposed subdivision shall be submitted with the preliminary plat, showing 1-foot contour intervals for all land within and 50 feet adjacent to the subject site.
6. Current zoning classification of the tract and adjoining properties.
7. The vicinity map shown on the preliminary plat.

C. Proposed site conditions/characteristics

1. Street layout, including street names and widths, alleys, cross-walkways and easements and their dimensions.

2. Layout, numbers and approximate dimensions of lots, including lot area (as measured in acres or square feet).
3. Parcels of land intended to be dedicated or temporarily reserved for public use, and the conditions of such dedication or reservation.
4. Setback lines, along all streets, with dimensions.
5. Indication of the proposed zoning designation to identify the potential development so as to reveal the nature of the impact the proposal will have on traffic flow, fire hazard, congestion, public utility capacities and required services.
6. A typewritten copy of the protective covenants or deed restrictions, if any.
7. Indication of any developmental phasing or staged development timing.

#### D. Construction Plans

The proposed preliminary subdivision plat shall be accompanied by preliminary construction plans consisting of:

1. A centerline profile for each street shown thereon, drawn to a scale of at least 1" = 100'.
2. A preliminary layout, drawn to a scale of at least 1" = 100', including proposed placement of water lines, sanitary sewers and storm sewers. These may be incorporated in the above preliminary plat.
3. A preliminary drainage plan including proposed storm detention location. This may be incorporated in the above preliminary plat.
4. All plans must be certified by a registered professional engineer.

#### 1177.05 Approval of Preliminary Plat

The Municipal Manager shall determine when the submittals of the preliminary plat are complete as required by these Regulations. When completed, the Municipal Manager shall schedule a Planning Commission meeting.

The Planning Commission shall review all details of the proposed subdivision within the framework of the applicable Zoning Code, the various elements of these Regulations, the Design Criteria, the Construction Standards and Drawings, and the various elements of the Comprehensive Development Plan.

The Planning Commission shall give careful study to the preliminary plat, taking into consideration the requirements of the community and the best possible use of the land to be subdivided, together with its prospective character, whether residential, commercial or industrial. Attention shall be given to street widths, arrangement and circulation; surface drainage; lot sizes and arrangements; and to such neighborhood and community requirements as park, school, and playground sites and main thoroughfare widths and locations.

The Municipal Manager shall forward copies of the preliminary plat to such officials and agencies as may be necessary for the purpose of study and recommendation.

After receipt of such reports from such officials and agencies, the Planning Commission shall determine whether the preliminary plat shall be approved, approved with modifications, or disapproved. If a plat is disapproved, the reasons for disapproval shall be stated in writing and recorded in the minutes of the Planning Commission meeting.

The Planning Commission shall act on the preliminary plat within 30 days after filing unless such time is extended by agreement with the subdivider. When a preliminary plat has been approved by the Planning Commission, the chairperson shall sign and date all copies and return one to the subdivider.

#### **1177.06 Preliminary Plat Approval Period**

The approval of the preliminary plat shall be effective for a maximum period of 12 months unless the first section has been filed for final approval. If no subsequent sections are filed within 2 years from the recording of the previous sections, the approval of the remainder of the preliminary plat is no longer effective. The terms under which the approval is granted will not be affected by changes to these Regulations during the maximum period of 12 months.

## SECTION 1177.07 PRELIMINARY PLAT CHECKLIST

SUBDIVISION \_\_\_\_\_

DATE \_\_\_\_\_

This list is not all inclusive, but is to be used as a guideline for submittals and reviews.

√	DESCRIPTION	REMARKS
	1 Fees paid.	
	2 Seven copies of plat (at a scale of not more than 1" = 100').	
	3 Name of Subdivision.	
	4 Location of property with respect to surrounding property and streets.	
	5 Location by township, section, town, and range.	
	6 Names of all adjoining property owners, or names of adjoining developers.	
	7 Name of adjoining subdivisions.	
	8 Location and names of adjoining streets.	
	9 Location of corporation line, if applicable.	
	10 Location and dimensions of all boundary lines of the property in feet and decimals of a foot.	
	11 Vicinity map.	
	12 Indication of zoning.	
	13 Location of existing easements.	
	14 Location of existing water bodies, streams, and other pertinent features such as railroads, buildings, parks, cemeteries, drainage ditches, bridges, etc.	
	15 Locations, dimensions, and areas of all proposed or existing lots.	
	16 Location and dimensions of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation.	
	17 Date of plat.	
	18 Scale of plat.	
	19 North arrow.	

✓		DESCRIPTION	REMARKS
	20	Data from which the location, bearing, and length of all lines can be determined and reproduced on the ground.	
	21	Names of new streets as approved by the Planning Commission.	
	22	Indication of the use of any lot and all uses other than residential.	
	23	Lots consecutively numbered.	
	24	Approximate dimensions of lots, including lot area.	
	25	Front setback lines.	
	26	Profiles showing existing and proposed elevations along centerline of all streets.	
	27	Approximate stationing on all streets.	
	28	Location, size, and invert elevations of all existing and proposed sanitary sewers and stormwater sewers and structures.	
	29	Preliminary drainage plan including proposed storm water detention location.	
	30	Location and size of all water lines.	
	31	Topography at the same scale with contour interval of 1'.	
	32	Other specifications and references required by the local government. Construction standards and specifications, including a site grading plan for the entire subdivision.	
	33	Title of property, name and address of owner, and signature of surveyor.	
	34	Date, including revision dates.	
	35	Notation of approval, signature line for Planning Commission Chairman.	
	36	Name and address of subdivider and/or developer.	
	37	Copy of protective covenants, if applicable.	
	38	Indication of any developmental phasing or staged development timing.	
	39	Meets zoning requirements (i.e. minimum frontage, setbacks, area, etc.)	



[illegible]

## **SECTION 1179.00 FINAL PLAT (Major Subdivision)**

### **1179.01 Final Plat Required**

Having received the approval of the preliminary plat, if applicable, the subdivider shall submit a final plat containing all changes required by the Planning Commission in the preliminary plat. The final plat and the supplementary information shall be certified by a professional surveyor. Construction plans, drawings, and specifications shall be certified by a professional engineer licensed to practice in the State of Ohio.

### **1179.02 Submission for Approval of Final Plat**

The Subdivider shall prepare and submit the following:

- A. Fifteen copies of the final plat of the proposed subdivision.
- B. Three copies of construction drawings related to the improvements to be constructed in the proposed subdivision.
- C. Three copies of an itemized engineer's estimate with quantities for all proposed improvements including the estimate of cost for each item.
- D. Three copies of the storm sewer and storm detention calculations and other applicable calculations for design.
- E. Completed final plat checklist with remarks.
- F. Completed final construction plan checklist with remarks (see Design Criteria for list.)

All final plats, construction drawings and supporting documents shall meet all Design Criteria and Construction Standards and Drawings established by the Municipality of Brookville, the Zoning Code of the Municipality of Brookville, or requirements established by other governmental organizations having jurisdiction over the improvements. The most restrictive requirements shall apply.

The final plat shall be considered officially filed on the day it is received and properly noted and shall be so dated. However, the final plat shall not be considered properly submitted until all applicable fees are paid by the developer (see Schedule of Fees - Section 1185.04) and until all plans, supporting documents, and materials are provided to the Municipal Manager.

### **1179.03 Final Plat Form**

The final plat shall be clearly legibly drawn on reproducible mylar. The size of the drawing shall be 11" x 17". The plat of a subdivision containing 5 acres or less, shall be drawn to a scale of 1" = 50'. All other subdivisions shall be drawn to a scale of 1" = 100'. The

minimum lettering height shall be 3/32" and all lot dimensions shall be 1/8" or larger. Lot number lettering shall be 1/4" or larger and underlined or circled.

If the final plat is drawn in two or more sections, each section shall be accompanied by a key map showing the location of the sections. All final plat sections shall either totally include or totally exclude intersections and all lots fronting such intersections.

The survey shall conform to the minimum standards as per Section 4733-37-01 through 07 of the Ohio Revised Code, and further, shall meet the Minimum Standards for Filing Land Surveys within the Municipality of Brookville, Ohio.

Construction Drawings shall be submitted in the form stated in the Municipality of Brookville Design Criteria. The plans shall consist of the required improvements stated in these Regulations.

#### **1179.04 Final Plat Contents**

The final plat shall contain the following information:

- A. Name of the subdivision (which shall not duplicate or closely resemble the name of any other subdivision in the County), location by section, town, range and township, or by other survey number, date, north arrow and basis of bearing, acreage to thousandths of an acre (total lot acreage and total street acreage) and deed book and page reference.
- B. Name and address of the subdividers, the professional engineer, and registered surveyor who prepared the plat and appropriate registration numbers and seals.
- C. The total area being platted shall include all perimeter courses and be outlined by a heavy-line border. Courses are to be listed in a clockwise direction. All dimensions, both lineal and angular, shall be determined by an accurate control survey in the field. The error of closure shall conform to the Ohio Administrative Code.
- D. Bearings and distances to the nearest centerline of intersecting roads or the intersection of right-of-way lines; lot corners of recorded plat with plat reference; or Section Corner or Quarter Section Corner.
- E. Names, exact location, dimensions and right-of-way width of all streets and railroads within and adjoining the plat and building set back lines. Street names shall be approved by the Planning Commission.
- F. Radii, internal angles, points of curvature, tangent bearings, lengths of arcs, chord length bearing of all applicable streets within the plat area shall be illustrated on the plat.
- G. The exact locations, dimensions and uses of all private and public utility easements shall be illustrated on the plat.

- H. All lots accurately dimensioned in feet and hundredths with lot numbers and acreage. The lot numbers shall be consecutive for each platted section and shall be placed in the center of the lot with acreage under the lot number. Replatted lots shall illustrate existing lot numbers, lot lines dashed, and utility easements on the plat.
  - I. Accurate location and a description of all monuments as to type, size, and whether the monument was found or set. If a monument has been omitted or offset, a notation shall appear on the plat indicating the reason for the omission; or if it has been offset, its true location in relation to the property corner or lot corner shall be noted.
  - J. Accurate outlines of areas to be dedicated or reserved for public use, or any area to be reserved for the common use of all property owners. The use and accurate boundary locations shall be shown for each parcel of land to be dedicated.
  - K. Any restrictions and covenants shall be shown or referenced on the final plat.
  - L. Certification shall contain the following:
    - 1. The total acres being subdivided;
    - 2. Current ownership;
    - 3. Deed reference; and
    - 4. Zoning
  - M. Acknowledgment dedication statement of the owner or owners to the plat and restrictions, including dedications to public use of all public streets, alleys, parks or other open spaces shown thereon and the granting of the required easements, as shall be indicated by the following statement on the plat tracing: "Easements shown on this plat are for the construction, operation, maintenance, repair, replacement or removal of water, gas, sewer, electric, telephone, or other utilities or services, and for the express privilege of removing any and all trees or other obstructions to the free use of said utilities and for providing of ingress and egress to the property for said purposes, and are to be maintained as such indefinitely."
- A statement of intention and request for the vacation of lot lines and easements on previously platted properties, and the signature of authorized representatives of local utility companies (electric, telephone, cable television, etc.) acknowledging the abandonment of easements.
- N. The names of record of all abutting parcels with deed reference, acreage and survey record reference, if applicable. Platted land shall show the name of the subdivision, lot numbers, plat book and page reference.
  - O. Any section lines, corporation limits, township and county lines shall be accurately documented and located on the plat and their names lettered thereon.

- P. Location of permanent facilities and easements for same used for drainage control such as detention ponds, retention ponds, infiltration beds, etc., and statement of the provisions for the maintenance of these facilities.
- Q. Approval signature and date lines shall be provided for Municipal Manager, Mayor, Clerk of Council, Planning Commission Chairperson, and County Engineer.

#### **1179.05 Supplementary Information**

The following information shall be supplied in addition to the above requirements:

- A. If a zoning change is involved, approval shall be required and in effect prior to submittal.
- B. Prior to approval of the final plat, a Surety shall be furnished assuring installation and initial maintenance of the required improvements.
- C. In flood prone areas the subdivider shall provide information detailing how the structures will be protected from flood hazard.
- D. The Planning Commission may require the applicant to submit additional topographic information, detailed plans for proposed uses, and other information to determine possible flood or erosion hazards, the effect of the subdivision uses upon flood flows, and the adequacy of proposed flood protection measures. The Planning Commission may consult with expert persons or agencies for technical assistance and advice.
- E. These construction plans shall be submitted to the OEPA and the City of Dayton Water Department for approvals as required. Certification of OEPA approval shall be provided on the plans where applicable. Construction shall not commence until such approvals are granted.
- F. The Municipal Manager's signature shall be provided on approved construction plans to verify compliance with the applicable specifications and the requirements of the Regulations.

#### **1179.06 Approval of Final Plat**

The Planning Commission shall approve or disapprove the final plat within 30 days after it has been officially and properly filed. Failure of the Planning Commission to act upon the final plat within such time shall be deemed as approval of the plat. If the plat is disapproved, the grounds for disapproval shall be stated in the records of the Planning Commission, and a copy of said record shall be forwarded to the subdivider. If disapproved, the subdivider shall make the necessary corrections and resubmit the final plat within 30 days to the Planning Commission for final approval. When the final plat has been approved by the Planning Commission, the original shall be forwarded to the Council. Within 30 days after receipt of

the final plat from the Planning Commission and all required items for submission with the final plat, the Municipal Council shall approve or disapprove the plat. The original shall be returned to the subdivider.

#### **1179.07 Recording of the Final Plat**

After the final plat has been approved by the Planning Commission, dedications accepted by the Council and the necessary approval endorsed in writing thereon, the subdivider shall record the plat in the office of the County Recorder. The final plat shall be recorded in the office of the County Recorder as required by law within 90 days after the date of final approval. If such record is not made within 90 days, the approval will become void and reapplication must be made. The subdivider shall furnish the Municipality with a copy of the recorded plat.

## 1179.08 FINAL PLAT CHECKLIST

SUBDIVISION \_\_\_\_\_

DATE \_\_\_\_\_

This list is not all inclusive, but is to be used as a guideline for submittals and reviews.

√	DESCRIPTION	REMARKS
	1 Fees paid.	
	2 Fifteen copies of the final plat.	
	3 Three copies of construction drawings.	
	4 Three copies of engineer's estimate.	
	5 Three copies of storm sewer calculations, storm detention calculations, and other necessary design calculations.	
	6 Performance surety.	
	7 Name of subdivision.	
	8 Location by section, town, range and township.	
	9 Date of plat.	
	10 North arrow and basis of bearing.	
	11 Acreage to thousandths of an acre.	
	12 Deed book and reference page. (Plat book, if available.)	
	13 Name and address of the subdividers.	
	14 Name and address of professional engineer who prepared plans, including registration number and seal.	
	15 Name and address of professional surveyor who prepared plat, including registration number and seal.	
	16 Perimeter of subdivision to be outlined by a heavy border.	
	17 All dimensions.	
	18 Bearings and distances to the nearest centerline of intersecting roads.	
	19 Names, exact location, dimensions and right-of-way width of all streets.	
	20 Radii, internal angles, points of curvature, tangent bearings, chord length and bearings, lengths of arcs of all applicable streets within the plat area.	

✓		DESCRIPTION	REMARKS
	21	The exact locations, dimensions and uses of easements shall be illustrated on the plat.	
	22	All lots accurately dimensioned in feet and hundredths with Municipal lot numbers and acreage.	
	23	Replatted lots shall illustrate old lot numbers and lot lines dotted on the plat.	
	24	Accurate location and a description of all monuments as to type, size, and whether the monument was found or set.	
	25	Any restrictions and covenants shall be shown on the final plat.	
	26	Acknowledgment dedication statement of the owner or owners to the plat.	
	27	A statement of intention and request for the vacation of lot lines and easements.	
	28	The signature of authorized representatives of local utility companies acknowledging the abandonment of easements.	
	29	Names of record of all abutting parcels with deed reference, acreage and survey record reference.	
	30	Any section lines, corporation limits, township and county lines.	
	31	Location of permanent facilities and easements for same used for drainage control such as detention basin, retention ponds, infiltration beds, etc. and statement of the provisions for the maintenance of these facilities.	
	32	Construction plans submitted to the OEPA and City of Dayton Water Department for approvals as required.	
	33	Submitted within 12 months of preliminary approval.	
	34	Conforms to preliminary plat and incorporates suggested changes.	



[illegible]

## SECTION 1181.00 ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

### 1181.01 Improvements and Performance Surety

In order that the Municipality has the assurance that the construction and installation of such improvements such as street surfacing, curbs, gutters, storm sewers and appurtenances, sanitary sewer, waterlines, sidewalks, street lighting, street signs and other required improvements will be constructed, the subdivider shall provide performance surety.

- A. Performance Surety - The subdivider shall furnish either a bond, executed by a surety company, cash deposit (certified or cashier's check) or Irrevocable Letter of Credit (form must be approved by the Municipal Finance Director and/or Law Director) equal to the cost of construction of such improvements as shown on the plans, and based on a detailed, itemized estimate approved by the Municipal Manager. The estimate shall reflect consideration of prevailing wage requirements.

The performance bond, cash deposit (certified or cashier's check) or Irrevocable Letter of Credit to the Municipality of Brookville shall run for a period of 2 years, be extendable at the discretion of the Municipal Finance Director and shall provide that the subdivider, their heirs, successors and assigns, their agent or servants, will comply with all applicable terms, conditions, provisions and requirements of these Regulations, and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with such laws and Regulations. Before said bond is accepted it shall be approved by the Municipal Finance Director and/or Law Director. Whenever a cash deposit (certified cashier's check) is made, the same shall be made payable to the Municipality of Brookville.

- B. Extension of Time - If the construction or installation of any improvement or facility, for which guarantee has been made by the developer in the form of bond or cash deposit, is not completed within 2 years from the date of final approval of the record plat, the developer may request the Municipal Manager to grant an extension, provided reasonable cause can be shown for inability to complete said improvements within the required 2 years.
- C. Acceptance of Dedication Offers - Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by the Municipal Council. The approval by the Planning Commission of a subdivision plat shall not be deemed to constitute or imply the acceptance by the local government of any street, easement, or park shown on said plat.

### **1181.02 Inspection of Improvements**

Periodic inspections during the installation of improvements shall be made by the Municipality of Brookville to insure conformity with the approved plans and specifications as required by these Regulations.

The subdivider shall notify proper Municipal officials at least 24 hours before each phase of the improvements is ready for inspection. The presence and/or absence of an inspector during construction shall not relieve the subdivider from full responsibility of required improvements to the Municipality of Brookville Construction Standards and Drawings and to the satisfaction of the Municipality of Brookville. See the Municipality of Brookville Design Criteria for inspection requirements. The Municipality will require improvement inspection fees (see Section 1185.04 Schedule of Fees).

### **1181.03 Maintenance of Improvements**

The applicant shall be required to maintain all improvements, if required, until approval of said improvements. Once the required public improvements have been constructed and approved in the subdivision by the Municipal Manager, and prior to the release of the performance surety, the subdivider shall post with the Municipality a maintenance surety in the amount of 10% of the performance surety plus the cost of any sidewalk not installed and in a form as approved by the Municipal Finance Director and/or Law Director.

No public improvements shall be approved until the subdivider has posted an approved maintenance surety, and this maintenance surety will extend for 2 years from the actual date that the final punch list has been completed and approved by the Municipality.

Acceptance by the Municipality of the public improvements will not take place until the Municipality releases the maintenance surety and receives record drawings as outlined in the Municipality of Brookville Design Criteria of construction plans, including all utilities (i.e. sanitary sewers, storm sewers, gas, water. Record drawings shall be stamped by a registered professional engineer or surveyor verifying the accuracy of the drawings.

Prior to release of the maintenance surety by the Municipality, the developer shall have paid all public improvement fees required by these Regulations and have completed all sidewalks and all maintenance punch list items.

### **1181.04 Deferral or Waiver of Required Improvements**

The Planning Commission may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

Whenever it is deemed necessary by the Planning Commission to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the applicant shall pay his share of the costs of the future improvements as approved by the Municipal Manager and Council to the Municipality of Brookville prior to signing of the final subdivision plat.

#### **1181.05 Procedure in Case of Failure to Complete Improvement**

The subdivider shall be in default of the performance surety when one of the following conditions exist:

- A. The installation of all required public improvements as called for in these Regulations has not been completed within the 2-year time period and the subdivider has failed to establish reasonable cause for such delay to the satisfaction of the Municipal Manager and thereby to receive a time extension.
- B. The subdivider has not constructed the required public improvements in accordance with the minimum standards specified in these Regulations, and the subdivider is unwilling to modify and to upgrade said public improvements within a 6-month time period after receiving notice from the Municipal Manager so as to be in compliance with the provisions of these Regulations.

#### **1181.06 Procedure in Case of Default**

The subdivider shall be in default of the maintenance surety when the required public improvements have not been properly maintained over the 2-year period as established in Section 1181.01 Improvements and Performance Surety or when the required public improvements are not in accordance with the Record Drawings submitted by the subdivider to the Municipality. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications. In such cases of default, the Municipality shall proceed to utilize the performance surety and/or maintenance surety to construct the required public improvements to the minimum design standards as required in these Regulations.

#### **1181.07 Issuance of Building and Zoning Permits**

As determined by the Municipal Manager, Building and Zoning Permits may be issued when the extent of the street improvements are completed with curb and first layer of asphalt installed. However, the subdivider is responsible for any damage to improvements.

## **SECTION 1183.00 REQUIREMENTS FOR CONSTRUCTION OF IMPROVEMENTS AND DESIGN**

### **1183.01 General Statement**

The Regulations contained in this Section and the Municipality of Brookville Design Criteria and Construction Standards and Drawings shall control the manner in which streets, lots, and other elements of a subdivision are arranged on the land. These design controls shall help ensure convenient and safe streets, creation of usable lots, provision of space for public utilities, and reservation of land for recreational uses. The planning of attractive and functional neighborhoods shall be promoted, minimizing the undesirable features of unplanned, haphazard growth.

The Planning Commission has the responsibility of reviewing the design of each future subdivision early in its design development. The Planning Commission shall ensure that all the requirements of this section and the Municipality of Brookville Design Criteria and Construction Standards and Drawings are met.

### **1183.02 Conformity to Development Plans and Zoning**

The arrangements, character, width, and location of all arterial and collector thoroughfares or extensions thereof shall conform with the adopted Municipality of Brookville Comprehensive Development Plan. Lack of a Comprehensive Development Plan or thoroughfares not contained in the aforementioned plan shall conform to the recommendation of the Planning Commission, based upon the design standards set forth in this section and the Municipality of Brookville Design Criteria and Construction Standards and Drawings. In addition, no final plat shall be approved if in conflict with an existing Zoning Code.

### **1183.03 Suitability of Land**

If the Planning Commission finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, topography, inadequate water supply and other such conditions which may endanger health, life, or property; and if from investigations conducted by the public agencies concerned it is determined that in the best interest of the public the land should not be developed for the desired purpose, the Planning Commission shall not approve the land for subdivision unless adequate methods are advanced by the subdivider for solving the problems that will be created by the development of the land.

### **1183.04 Street Improvements**

The arrangements, character, extent, width, grade, construction, and location of all streets shall conform to the Comprehensive Development Plan of the Municipality, and shall conform to the Municipality of Brookville Design Criteria and Construction Standards and Drawings. Street design shall take into consideration their relationship to existing and

planned streets, topographical conditions, and public convenience and safety; and in their appropriate relation to the proposed uses of land to be served by such streets. The street pattern shall discourage through traffic in the interior of a subdivision. The subdivider shall provide within the boundaries of the plat, the necessary right-of-way for the widening, continuance, or alignment of such streets in conformity with the Comprehensive Development Plan.

The subdivider shall improve all streets which are part of the subdivision, including that portion of the subdivision located on existing streets. The required improvements shall be such that all items of work are in accordance with the Municipality of Brookville Design Criteria and Construction Standards and Drawings. Existing streets shall be improved so that they meet the above standards including storm drainage. The subdivider shall pay the full construction cost for required improvements.

Curbs and gutters shall be required for all streets including existing streets.

Appropriate access to and from any subdivision in the form of a standard Municipal street with required improvements must be provided by a developer in instances where development is not located contiguously along an improved public street right-of-way. No subdivision shall be approved where a parcel, tract or lot has frontage only on the "stub end" of a discontinued or dead-end street. Such street must first be extended or reconstructed as a cul-de-sac in accordance with these Regulations. No subdivision showing reserved strips controlling the access to public ways will be approved.

All street widths shall conform to the Municipality of Brookville Design Criteria and Construction Standards and Drawings. In cases where the designation of the street is in question, the Planning Commission shall determine the type of street designation.

#### **1183.05 Street Signs and Street Names**

- A. Standard street name signs and other traffic control signs shall be erected by the Municipality with the cost being paid by the developer.
- B. For purposes of street naming, the following is recommended:
  - 1. Circle, Place, or Court should be used only for cul-de-sac type streets.
  - 2. The words north, south, east, or west should be avoided as part of a street name whenever possible.
- C. Whenever a new street is constructed along the approximate alignment or extension of an existing street, its name shall be the same as that of the existing one.
- D. To avoid duplication and confusion, the proposed names of all streets shall be approved by the Planning Commission prior to such names being assigned or used.

- E. House numbers shall be assigned in accordance with the current house numbering system in effect in the Municipality of Brookville.

#### **1183.06 Special Street Types**

The following requirements shall apply to special street types:

- A. Permanent dead-end streets shall not be permitted. Temporary dead-end streets shall be permitted only as part of a continuing street plan and only if a temporary turnaround satisfactory to the Planning Commission in design is provided.
- B. Dedication of new half-streets shall not be permitted. Where a dedicated or platted half-street exists adjacent to the tract being subdivided, the other half shall be platted.
- C. Alleys shall not be approved.

#### **1183.07 Streets for Commercial Subdivisions**

Streets serving business developments and accessory parking areas shall be planned to connect with arterial streets or marginal access drives so as not to generate traffic problems. The intersections of driveways from parking areas with arterial or collector streets shall be located so as to cause the least possible interference with traffic movement on the streets. The location of streets and driveways for business developments shall conform to the Municipality of Brookville Design Criteria and Construction Standards and Drawings.

#### **1183.08 Streets for Industrial Subdivisions**

Collector streets for industrial subdivisions shall be planned to serve industrial areas exclusively and shall connect with arterial streets so that no industrial traffic will be directed into any residential street. Streets shall be planned to be extended to the boundaries or any adjoining land planned for industry, except when severe physical conditions exist or if the Planning Commission finds such extension is not in accordance with the approved plan of the area. The location of streets and driveways for industrial developments shall conform to the Municipality of Brookville Design Criteria and Construction Standards and Drawings.

#### **1183.09 Easements**

- A. Utility Easements: Public utility easements at least 10 feet in total width may be required along the rear, front, and sides of lots where needed for the accommodation of a public utility, drainage, sanitary structures, or any combination of the foregoing, and at least 20 feet total width where sanitary sewer or waterlines will be placed. Where deemed necessary by the Planning Commission, an additional easement width shall be provided.
- B. Watercourses: The subdivider shall dedicate rights-of-way or provide easements for storm drainage purposes which conform substantially with the lines of any natural

watercourses, channels, streams, or creeks which traverse the subdivision or for any new channel which is established to substitute for a natural watercourse, channel, stream, or creek. Such rights-of-way or easements shall be of a width which will provide for the maintenance needs of the channel and incidental structures as determined by the Planning Commission. Easements shall be provided for entire area of detention basins/retention ponds with a 20-foot access easement.

#### **1183.10 Sidewalks**

Sidewalks shall be required on both sides of all streets.

All sidewalks shall be constructed in accordance with the Municipality of Brookville Design Criteria and Construction Standards and Drawings. The developer who constructs a sidewalk is responsible for curb ramps at intersections and any sidewalk located on a public access that may be dedicated to the Municipality at a later time. Homeowners will be required to install sidewalks on individual properties before occupation of the building. Temporary occupancy permits may be issued due to weather constraints. Within 2 years after the maintenance surety is received by the Municipality of that particular phase of the subdivision or once 50% of the lots within that particular phase of the subdivision are developed, sidewalks must be installed on all lots by the developer. If the sidewalks are not installed, before the expiration of the maintenance surety, the Municipality shall follow the Procedure in Case of Default as established in Section 1181.06 to have the sidewalk installed.

#### **1183.11 Blocks**

The following Regulations shall govern the design and layout of blocks:

- A. The arrangement of blocks shall be such as to conform to the street planning criteria set forth in the section and to the street design criteria established in the Municipality of Brookville Design Criteria and Construction Standards and Drawings, and shall be arranged to accommodate lots and building sites of the size and character required for the zoning district as set forth in the Zoning Code and to provide for the required community facilities.
- B. The Planning Commission may require that the characteristics of blocks bear close relation to the use of the land.
- C. Irregularly shaped blocks, those intended for cul-de-sacs or loop streets, and those containing interior parks or playgrounds, may be approved by the Planning Commission if properly designed and located and if the maintenance of interior public spaces is covered by an agreement.
- D. No block shall be longer than 1400 feet nor less than 300 feet and the block width shall accommodate two tiers of lots, except where unusual topography or other exceptional physical circumstances exists.



- E. Where blocks are over 900 feet in length, a pedestrian walkway easement not less than 10 feet in width at or near the halfway point may be required, if necessary, to provide proper access to schools, recreational areas, and other facilities. The Planning Commission has the authority to require an easement of 10 feet, 5 feet from each lot through the tier of two lots for pedestrian access to school, playgrounds, or other facilities. A sidewalk shall be constructed. The width for a sidewalk shall conform to the Municipality of Brookville Design Criteria and Construction Standards and Drawings.
- F. All block corners shall be rounded with a radius of not less than 25 feet measured at the back of the curb.

#### 1183.12 Lots

The following Regulations shall govern the design and layout of lots:

- A. The lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related topography and the character of surrounding development.
- B. All lots shall conform to or exceed the requirements for the zoning district in which they are located and the use for which they are intended.
- C. All lots shall abut by their full frontage on a publicly dedicated street or a street that has received the legal status of such. The minimum lot size, widths, and setbacks, shall be as specified in the Zoning Code.
- D. All side lot lines shall be as close to right angles as possible to the street line and radial to curved street lines, except where the Planning Commission determines that a variation to this rule would provide a better layout.
- E. Lots with double frontage shall be avoided except where the Planning Commission determines it is essential to provide separation of residential development from arterial streets.
- F. All corner lots shall have front yard setbacks on both streets and lots shall be of an area sufficient to permit adequate building sites.
- G. No lot shall have an average depth which is more than three times its average width, nor shall it have a depth of less than 110 feet except that, whenever a lot fronts upon an exterior curved portion of a street, lot depth may be reduced to not less than 100 feet.
- H. In the case of vacation of lots, or parts of lots, in the Municipality previously recorded in the office of the Recorder of Montgomery County, Ohio, the same procedure, rules and regulations shall apply as for a new plat, except that a preliminary plat may not be required. The title of the vacation plat shall indicate what is being vacated, and the final

plat shall include enough of the surrounding plat or plats to show its relations to adjoining areas.

- I. Whenever a subdivider or developer proposes a re-subdivision of a plat previously recorded in the Office of the Recorder of Montgomery County, Ohio they shall follow the same procedures as for a new plat, except that a preliminary plat may not be required if changes in street alignment or similar changes are not included in the proposal. The lots in the re-subdivision shall conform as to size and arrangement with the requirements of these Regulations and the appropriate requirements of the Zoning Code of the Municipality of Brookville.
- J. When a preliminary plat is submitted, all lots shall have the front setback lines clearly marked on them.

### **1183.13 Minimum Standards for Filing Land Surveys within the Municipality**

The following shall be known as the "Minimum Standards for Filing Land Surveys within the Municipality of Brookville, Ohio":

- A. Plat of survey shall be prepared on a 17" x 21" mylar with 1/2" border and the name, address, and phone number of the person preparing shall appear at the lower right-hand corner.
- B. Show town, range, section, quarter section, and township. If survey is of a platted lot, then show the lot number or numbers.
- C. Show North arrow and bar scale and bearing basis.
- D. Show tract surveyed as solid heavy line with bearings and distances given on all lines of surveyed tract.
- E. Show type of monument set or found at all points. Where it is not feasible, or circumstances prevent monumenting actual corner, a witness monument should be set with bearing and distance from witness monument to actual corner shown.
- F. Show name and right-of-way widths on all roads and streets.
- G. Where property corners fall in the pavement of roads, in addition to monumenting actual corner, a witness pin or monument shall be set (preferably at the right-of-way line) and distance and bearing shall be shown on plat from the true corner to witness monument.
- H. All section and half-section lines shall be noted on the survey plat.
- I. Show tie to section corner, quarter-section corner, or platted lot corner and indicate type of monument set or found at tie corner. If platted lot corner is used as a tie, the Plat Book

Number and Page Number of the Montgomery County Recorder's Plat Records whereby the lot was created shall be shown.

- J. Show total acreage of surveyed tract. If tract lies in more than one section the acreage from each section shall be noted on the survey plat. If survey is of a lot shown on a Recorder's Plat the lot number and acreage shall be shown. If it is part of two or more platted lots, the acreage from each lot shall be noted.
- K. Show surveyor's certification, signature, and Ohio registration number and embossed seal.
- L. The mathematical error in closure of the property boundary shall not exceed 0.02 foot in latitude and 0.02 foot in departure.
- M. A list of references used to perform the survey should be noted on the plat giving the recording data of the surveys, deeds, plats, and road records.
- N. Where a Municipal lot number does not exist, a number shall be obtained from the Municipality of Brookville, and assigned to the plat and deed.

#### 1183.14 Survey Monuments

A survey shall be made by a registered surveyor and shall conform to the "Minimum Standards for Boundary Surveys in the State of Ohio".

Permanent markers shall be set at all exterior subdivision boundary corners and intersections of change, at the point of curvature and point of tangent of all curves and where the radius of direction changes. The intent is to identify and establish all lines of the plat. All monuments or permanent markers shall be placed prior to acceptance of improvements by the Municipality.

Monument boxes with permanent markers shall be set at all street intersections and center point of cul-de-sac. Railroad spikes shall be set at all other point of intersections. If the point of intersections are not in the paved area of the street, the railroad spikes shall be placed at the point of curvature and point of tangent of all curves. In the instances of concrete pavement, monument boxes shall be used where all railroad spikes are specified above.

All monuments and permanent markers shall be set as shown on the final plat. The size, location and type of material used shall also be shown. A professional surveyor's affidavit shall be filed in the plat volume and cross-referenced with the original plat when, for any reason, a monument or permanent marker must be offset from the original location or the type of permanent marker is changed.

Boundary lines shall be monumented at all points where there is a change of direction and at all lot corners by suitable monuments as specified in the "Minimum Standards for Boundary Surveys in the State of Ohio."

#### **1183.15 Street and Walkway Lighting**

The Developer is responsible for all equipment, labor, and materials for all standard street lights to be installed. If the subdivider wants to upgrade the street lighting, the subdivider will be responsible for all additional costs.

#### **1183.16 Water Supply Improvements**

The subdivider shall install a public water system, if applicable, to adequately serve all lots, including lateral connections to the public system. Public water system extensions shall meet the requirements and be approved by the Ohio Environmental Protection Agency and conform to the standards and specifications established in the Municipality of Brookville Design Criteria and Construction Standards and Drawings, and City of Dayton Water Standards, Ordinances, and other rules and regulations of the Municipality.

#### **1183.17 Sanitary Sewer Improvements**

The subdivider shall install public sanitary sewers to adequately serve all lots, including lateral connections to the public system. Public sewer system extensions shall meet the requirements of the Ohio Environmental Protection Agency and conform with the standards and specifications of the Municipality of Brookville Design Criteria and Construction Standards and Drawings.

No individual septic systems or combined sanitary and storm sewers shall be allowed.

#### **1183.18 Drainage Improvements**

The subdivider shall construct all necessary facilities including underground pipe, inlets, catch basins, open drainage ditches, and detention basins as approved by the Municipal Manager, to provide for adequate disposal of subsurface and surface water and maintenance of natural drainage course. The developer shall also provide all necessary soil sediment pollution control. Design and construction shall be in accordance with the Municipality of Brookville Design Criteria and the Municipality of Brookville Construction Standards and Drawings. Adequate provisions shall be included in design and construction to accommodate all upstream drainage and, where necessary, extend all drainage improvements to plat limits.

It shall state on the final plat that all-natural watercourses, detention basins, retention ponds, and appurtenances shall be maintained by the property owner. An easement shall be provided to ensure that there will not be any building within the drainage area and to provide for major maintenance and inspection. See the Municipality of Brookville Design Criteria for inspection and ownership of detention basins.

All lots shall be laid out and graded to provide positive drainage away from buildings and shall be designed to assure adequate protection from the concentration of storm water run-off on adjacent property. No storm drainage, including drain tile around basements, shall be permitted to discharge into any sanitary facility.

#### **1183.19 Culverts and Bridges**

Where natural drainage channels intersect any street right-of-way, it shall be the responsibility of the subdivider to have satisfactory bridges and/or culverts constructed. Where culverts are required, minimum requirements shall be observed as follows:

- A. All culverts and bridges shall extend, at a minimum, across the entire right-of-way width of the proposed street. The cover over the culvert and its capacity shall be approved by the Municipal Manager. Headwalls are required.
- B. Driveway culverts shall be as approved in accordance with the Municipality of Brookville Design Criteria and Construction Standards and Drawings. The driveway culverts shall be laid so as to maintain the flow lines of the ditch or gutter. Headwalls are required.
- C. All culverts and bridges shall conform to the Municipality of Brookville Design Criteria and Construction Standards and Drawings.

#### **1183.20 Electric, Gas, Cable Television, and Telephone Improvements**

- A. Electric, cable television, gas, and telephone service shall be provided within each subdivision. Telephone, electric, street lighting wires, conduits, and cables shall be constructed underground except in cases where the Municipality determines that topographic, bedrock, or underground water conditions would result in excessive cost to the subdivider.
- B. Overhead utility lines, where permitted, shall be located at the rear of all lots. The width of the easement per lot shall be not less than 10 feet and the total easement shall be not less than 20 feet.
- C. Whenever a sanitary sewer, water main or storm sewer, and electric and/or telephone line are each placed underground in the same utility easement, the following provision shall be applicable:
  - 1. The total easement width shall not be less than 20 feet.
  - 2. The sanitary sewer, water main, or storm sewer shall be installed on one side of the easement.
  - 3. Electric, gas, cable television, and telephone shall not be installed within 5 feet of either sanitary sewer, water main or storm sewer.

### **1183.21 Over-Sized, Over-Depth, and Off-Site Improvements**

The utilities, pavements, and other land improvements required for the proposed subdivision shall be designed to incorporate any required over-sizing and any extensions needed to provide service to nearby adjoining lands as determined by the Municipality.

### **1183.22 Cost of Over-Sized and Over-Depth Improvements**

The subdivider shall be required to pay for all of the construction costs for the installation of utilities which are serving the proposed subdivision as determined by the Municipality and the Subdivider's Estimates. The Municipality may elect to have the utilities over-sized to service the surrounding areas, providing the improvement is beneficial to the Municipality. The Municipality shall pay the difference between the cost of the requirements of the subdivision and required over-sizing improvements as follows:

- A. Water Mains: A subdivider shall install water mains according to the Municipality's specifications. The material's cost difference between the minimum required size of pipe and appurtenances, and over-sized pipe required by the Municipality, will be paid by the Municipality.
- B. Sanitary Sewers: A subdivider shall install sanitary sewers according to the Municipality's specifications. The material's cost difference between the minimum required size of pipe and appurtenances, and over-sized pipe required by the Municipality, will be paid by the Municipality. The construction cost difference as determined by the Municipal Manager for the minimum depth needed for installation, and the greater depth of installation required by the Municipality, will be paid by the Municipality.
- C. Storm Sewers: A subdivider shall install storm sewers according to the Municipality's specifications. The material's cost difference between the minimum required size of pipe and appurtenances, and over-sized pipe required by the Municipality, will be paid by the Municipality. The construction cost difference as determined by the Municipal Manager for the minimum depth needed for installation, and the greater depth of installation required by the Municipality, will be paid by the Municipality.
- D. Streets: The type and composition of street paving and surfacing shall be installed as per current Municipality specifications, or County Engineering specifications where applicable, and shall be commensurate with the volume, street classification, character and general circulation requirements, as determined by the Municipality. The cost of materials for the paved surface and its sub-base of an existing street, and any over-sizing cost in excess of the owner's required responsibility needed to meet the dimensional standards for roadways, as shown on the Municipality of Brookville Comprehensive Development Plan, shall be at the Municipality's expense. The costs for the minimum street width, as required by these Regulations, including curb, gutter, and sidewalks, shall be the developer's responsibility and at his or her expense.

#### **1183.23 Extension to Boundaries**

The subdivider shall be required to extend the necessary improvements to the boundary of the proposed subdivision to serve adjoining un-subdivided land.

#### **1183.24 Off-Site Extensions**

If streets or utilities are not available at the boundary of a proposed subdivision, the subdivider will be responsible for extending those streets or utilities, obtaining necessary easements or rights-of-way, and to construct and pay for such extensions to serve the proposed subdivision. Such improvements shall be available for connection by subdividers of adjoining land and become the property of the Municipality of Brookville.

#### **1183.25 Non-Annexed Subdivisions**

Any subdivision that lies outside the corporation limits of the Municipality of Brookville but is connected to any of the Municipality's utilities, must comply with these Regulations, the Municipality of Brookville Design Criteria, and Construction Standards and Drawings.

If a subdivision is connected to any one of the Municipality of Brookville utilities, the residents of that subdivision, at the time annexation is determined to be possible by the Municipality, must not oppose annexation. A statement to this effect must be included with each property deed and recorded in the Office of the Montgomery County Recorder.

#### **1183.26 Record Drawings**

Record drawings shall be furnished to the Municipality before a final maintenance inspection. The submittal of record drawings is outlined in the Municipality of Brookville Design Criteria.

## **1185.00 MISCELLANEOUS PROVISIONS**

### **1185.01 Recording of Plat**

No plat of any subdivision shall be recorded or have any validity until said plat has received final approval in the manner prescribed in these Regulations.

### **1185.02 Revision of Plat After Approval**

No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after approval has been given by the Planning Commission, and endorsed in writing on the plat, unless said plat is first resubmitted to the Planning Commission.

### **1185.03 Sale of Land Within Subdivisions**

No owner or agent of the owner of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of, or by the use of a plat of the subdivision before such plat has been approved and recorded in the manner prescribed in these Regulations. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these Regulations.

### **1185.04 Schedule of Fees**

The Municipality of Brookville Council establishes the following schedule of fees:

Minor Subdivision plats	\$ 50.00
Vacation/Dedication plats	\$ 50.00
Replats	\$ 50.00
Preliminary plats	\$100.00
Preliminary plat reapproval	\$100.00
Final plats	\$100.00
Major Subdivision Inspection Fees	1% of Engineer's Estimate used for Performance Surety

The schedule of fees shall be posted in the office of the Municipal Clerk and may be altered, or amended only by the Municipal Council. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.



### **1185.05 Penalties**

The following penalties shall apply to the violations of these Regulations:

- A. Whoever violates any rule or regulation adopted by the Municipal Council for the purpose of setting standards and requiring and securing the construction of improvements within a subdivision or fails to comply with any order pursuant thereto is creating a public nuisance and the creation thereof may be enjoined and maintenance thereof may be abated by action at suit of the County or any citizen thereof. Whoever violates these Regulations shall forfeit and pay not less than \$100.00 nor more than \$1,000.00 for each offense. Each day such violation continues shall be considered a separate offense. Such sum may be recovered with costs in a civil action suit brought in the Court of Common Pleas of Montgomery County.
- B. Whoever, being the owner or agent of owner of any land within or outside a municipal corporation, transfers any lot, parcel or tract of such land from or in accordance with a plat of a subdivision before such plat has been recorded in the office of the County Recorder, shall forfeit and pay the sum of not less than \$100.00 nor more than \$500.00 for each lot parcel, or tract of land so sold. The description of such lot, parcel, or tract by metes and bounds in the deed or transfer shall not serve to exempt the seller from the forfeiture provided in this section.

### **1185.06 Variances**

The following Regulations shall govern the granting or variances:

- A. Where the Planning Commission finds that extraordinary and unnecessary hardship may result from strict compliance with these Regulations, due to exceptional topographic or other physical conditions, it may vary the Regulations so as to relieve such hardships, provided such relief may be granted without detriment to the public and without impairing the intent and purpose of these Regulations or the desirable development of the neighborhood or community. Such variations shall not have the effect of nullifying the intent and purpose of these Regulations, the Comprehensive Development Plan, or the Zoning Code.
- B. In granting variances or modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objective of the standards or requirements so varied or modified.

### **1185.07 Appeal**

Any person who believes he/she has been aggrieved by the Regulations or the action of the Planning Commission, has all the rights of appeal as set forth in the Ohio Revised Code.