

ORDINANCE NO. 2023 – 25

**AN ORDINANCE AMENDING PORTIONS OF
THE SEARCY LAND DEVELOPMENT AND
SUBDIVISION REGULATIONS; DECLARING
AN EMERGENCY; AND FOR OTHER PURPOSES**

WHEREAS, the Planning Commission for the City of Searcy, Arkansas, has, recommended certain changes to the Searcy Subdivision and Development Code, adopted by Ordinance Number 92-04 on February 11, 1992; and

WHEREAS, after proper advertisement and notice, a public hearing was conducted before the City of Searcy, Arkansas Planning Commission on June 7, 2022, at which time all public views on these issues were heard; and

WHEREAS, upon the conclusion of the said public hearing, the Planning Commission for the City of Searcy has recommended to the City Council the amendments to the Subdivision and Development Code; and

WHEREAS, the City Council has reviewed and requested code changes.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF SEARCY, ARKANSAS:

SECTION 1. The Land Development and Subdivision Regulations text of the City of Searcy, Arkansas be amended as follows:

CHAPTER III, Section 3.C: Amend to read:

C. **“Sidewalks**

For all new residential and commercial subdivisions and/or developments, developer shall construct sidewalks along all right-of-way, per the following requirements before approval of the final plat or during the construction of an approved and permitted development plan.

1. General Design and Construction Methods

- a. Sidewalks shall be constructed per construction detail shown in “Exhibit E” within this code.
- b. Before the construction of any new residential driveway on a lot that has an existing sidewalk along the street right-of-way, the homebuilder shall remove the sidewalk and concrete curb section the for the entire width of the proposed driveway, then construct the new driveway per the requirements listed in SECTION 3.A. of this chapter.

2. The Planning Commission may grant a full or partial exemption to these requirements if the construction of a sidewalk is not feasible due to location of existing sidewalks, utilities, or any other conflicts with existing improvements.”

SECTION 2. The Land Development and Subdivision Regulations text of the City of Searcy, Arkansas be amended as follows:

CHAPTER III, Section 6.A.2: Amend to read:

2. “The City Treasurer's office shall be responsible for receiving, recording, depositing, and reporting in-lieu contribution requirements as determined by the Planning Commission. If the in-lieu contribution is a cash payment, the City Treasurer's office shall maintain a boundary street improvement account and shall furnish a yearly report summarizing the account to the Mayor and City Council. This report shall include both the principal and the interest earned for the accounting period.”

SECTION 3. The Land Development and Subdivision Regulations text of the City of Searcy, Arkansas be amended as follows:

CHAPTER III, Section 6.B.2: Add Section 6.B.2.a to read:

- a. “If a large scale development falls within a piece of property greater than five (5) acres that is contiguous to any public street right-of-way and either a preserved landscape buffer, existing development, or other existing improvements lie between the proposed development the public street right-of-way, or the proposed development does not have direct access to a public street right-of-way, then the Planning Commission may waive a portion of or the entire requirements of this Section.”

SECTION 4. The Land Development and Subdivision Regulations text of the City of Searcy, Arkansas be amended as follows:

CHAPTER III, Section 6.D: Amend to read:

“When a proposed development as described in Section 6.B abuts an existing public street right of way, the developer will be responsible for installing boundary street improvements as defined by this section. If the proposed development is a multi-phase development, the required improvements may be done as each phase is constructed with the approval of the City Engineer. Boundary street improvements shall include the following:”

SECTION 5. The Land Development and Subdivision Regulations text of the City of Searcy, Arkansas be amended as follows:

CHAPTER III, Section 6.D.3: Amend to read:

3. “Reconstruction or construction of the entire street section of the street if the existing street is not up to city standards and is located wholly within the proposed subdivision or the property containing the development.”

SECTION 6. The Land Development and Subdivision Regulations text of the City of Searcy, Arkansas be amended as follows:

CHAPTER III, Section 6.D.4: Amend to read:

4. “Curb and gutter for the length of the project’s property boundary that adjoins the street.”

SECTION 7. The Land Development and Subdivision Regulations text of the City of Searcy, Arkansas be amended as follows:

CHAPTER III, Section 6.G: Amend to read:

“In-lieu requirements may be allowed solely at the discretion of the city in situations including, but not limited to, the following:

1. The horizontal alignment of the existing street pavement or right-of-way is such that the required minimum radius centerline alignment is not obtainable without participation of adjacent properties being developed.
2. The proposed horizontal centerline alignment of the existing pavement does not coincide with either the existing centerline of the right-of-way, or the land line, the discrepancy being so large as to:
 - a. Necessitate the construction of more than one-half the street width.
 - b. Necessitate construction of new curb within the projected edge of the existing pavement.
3. The vertical alignment of the existing pavement is such that:
 - a. The required safe stopping sight distance is not obtainable without extension of construction past the limits of the project.
 - b. A reasonably smooth pavement or a properly crowned and shaped cross section is not obtainable within the length and width requirements of the project.
 - c. Under the constraints of good engineering practice, maximum permissible centerline grades or minimum permissible gutter grades cannot be obtained within the length and width limits of the project.
4. The location of the existing or proposed street in the one-percent floodplain precludes the construction of street and drainage facilities.
5. A subdivision is so located that the presence of a drainage way necessitates construction of a drainage structure which would be unfeasible as half street construction.
6. The state of adjacent land development along the street precludes further acquisition of improvements through plat processes.

7. The length of the property boundary along the right-of-way is less than three hundred (300) linear feet and is not located at an intersection.
8. The City Engineer determines that in-lieu requirements would be in the best interest of the city.

If the street boundary street improvement meets the in-lieu requirements as listed in Section 6.G and the City Council decides there is not potential for participation from adjacent properties and/or the City Council has no plans on funding the remaining improvements required within a five (5) year period, then the City Council may waive the requirements entirely.”

SECTION 8. The Land Development and Subdivision Regulations text of the City of Searcy, Arkansas be amended as follows:

CHAPTER III, Section 6.H: Amend to read:

In lieu of constructed improvements, the developer shall contribute to the City either:

1. Make a cash payment (“Cash In-Lieu) equal to one hundred (100) percent of the City Engineer's estimate of the cost of construction of the required boundary street improvements (“Developer’s Responsibility”). Adjustments may be made by the City Engineer where deemed appropriate. Cash In-Lieu contributions shall be reimbursed with interest, as determined by the City Treasurer's office, when not expended for the specific required improvements within five (5) years from the recording date of the subdivision plat or issuance of the building permit; or
2. Cause to be secured and issued a Right of Way Performance and Completion Bond (the “Bond”), or equivalent, issued by a commercial carrier of objectively reasonable good standing wherein the developer would be the Principal and the City of Searcy the Obligee with the specific project, requirements, and penal sum equal to 100% of the City Engineer’s estimate of the cost of construction of the required boundary street improvements all outlined therein. The Bond shall be good for five (5) years from the date of issuance fully securing the City’s rights and interest in the Developer’s Responsibility for the same time, and such security and obligation shall extend to any and all successors and assigns of the developer.

Regardless of the In-Lieu Contribution selected, the developer shall pay the Cash In-Lieu or Post a Bond before the recording of any subdivision plat or issuance of required building permits. In no event shall a Certificate of Occupancy or other final necessary permit be issued by the City of Searcy until such time as the In-Lieu Contribution has been made.

In the event the City determines to move forward with constructed improvements within five (5) of the date of the issuance of the permit, written notice shall be submitted to the developer of such decision either notifying them of the expenditure of the any Cash In-Lieu Contributions or making demand of payment to the City of Developer’s Responsibility. If the developer has Posted a Bond, the developer shall have 30 days from the date of this notice to

make payment, in full, of the Developer's Responsibility or the City shall have the rights to make a claim against the Right of Way Performance and Completion Bond.

Any funds collected under this provision shall be expended on the same street except that intersecting streets may be included when improvements to such intersecting streets are necessary to provide adequate drainage or traffic flow between the intersecting street and the original street. Such improvements to intersecting streets shall not exceed beyond 100 feet from their intersection with the original street. The City Council must approve all refunds and may, at its discretion, refund proceeds before the five (5) year deadline.

EMERGENCY CLAUSE. The regulation of land development and ensuring of good civic design in accordance with a comprehensive plan and the continued utilization of lands within the Planning Area of the City of Searcy in accordance therewith being necessary for the preservation of the public peace, health, safety, and welfare, an emergency is hereby declared, and this ordinance shall be in full force and effect from and after its passage.

PASSED AND ADOPTED THIS 13th DAY OF JUNE, 2023

/s/ Mat Faulkner

Mayor of Searcy

ATTEST:

/s/ Jerry Morris

City Clerk