

Sec. 19-601. - Variations.

A. Occasionally the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in substantial hardship or inequity. The City Council may vary or modify, except as otherwise indicated, such requirements of design, but not of procedure or public improvements, so that the subdivider may develop the subject property in a reasonable manner. At the same time, the public welfare and interests of the City must be protected and the general intent and spirit of this chapter are preserved by granting such variance. Such modification may be granted upon written request of the subdivider or the subdivider's engineer, stating the reason for each modification, and may be approved by vote of the regular membership of the City Council, with the recommendation of the Planning Commission, subject to the acceptance of the plat and the dedications thereon by the City Council; provided, however, that a variation based on unique condition(s) shall not be granted when the unique condition(s) was created or contributed to by the subdivider.

B. WQPZ Averaging. The width of the WQPZ may be reduced in some circumstances to accommodate unusual or historical development patterns, shallow lots, stream crossings, or storm water ponds. Any averaging of the WQPZ must be done in accordance with the following:

1. An overall average WQPZ width of at least the base width as determined in [subsection] 19-411(B) must be achieved within the boundaries of the property to be developed. The WQPZ on adjoining properties cannot be included with buffer averaging on a separate property, even if owned by the same property owner.
2. The average width must be calculated based upon the entire length of stream bank that is located within the boundaries of the property to be developed. When calculating the WQPZ length, the natural stream channel should be followed.
3. WQPZ averaging shall be applied to each side of a stream independently. If the property being developed encompasses both sides of a stream, WQPZ averaging can be applied to both sides of the stream, but must be applied to both sides of the stream independently, unless the natural topography of the stream makes one side of the stream not conducive to the establishment of a WQPZ and in that event, averaging using both sides may be utilized.
4. WQPZ averaging is prohibited in developments that have, or will have after development areas that have slopes greater than fifteen (15) percent that are located within fifty (50) feet of the stream to be buffered.
5. Appeal from Decision of Public Works Director. If the applicant desires to appeal from the decision of the Public Works Director or his or her designee made in accordance with this subsection, the applicant may file such request, and any documentation supporting said appeal, with the City Clerk. The City Clerk will place the appeal on the agenda of the next available regular City Council meeting. The decision of the Public Works Director, or his or her designee, may be upheld or overturned by vote of the regular membership of the City Council.

Sec. 19-602. - Exception for issuing a building permit.

B. *Deferral of public improvements:*

1. It is the purpose of this section to provide, in specific cases, as are hereinafter designated, a procedure whereby the City Council may temporarily defer the construction of certain public improvements required by the Code of the City of Norman at the time of acceptance of a final plat within a subdivision; provided that the City Council, in its sole judgment, deems that such deferment shall be immediately in the interest of public health, safety, or general welfare. It is the further purpose of this section to provide in specific cases where construction of required drainage improvements outside the boundary of a subdivision plat or other tract of land cannot be accomplished because the necessary easements or rights-of-way cannot be reasonably obtained, a procedure whereby the City Council may temporarily defer the construction of certain public improvements required by the Code of the City of Norman at the time of acceptance of a final plat and the associated program of improvements.

2. The City Council, after recommendation from the Director of Public Works and the Planning Commission, may accept a final plat and authorize the issuance of building permits prior to the construction of such deferred public improvements required by the Code of the City of Norman in the following situations:

- (a) Where incompatible grades exist;
- (b) Where there are inadequate or a lack of connecting facilities;
- (c) Where construction of the improvement would not immediately function for its intended use; or
- (d) Where such improvement would be replaced by a planned future project.

3. The City Council, after recommendation from the Director of Public Works and the Planning Commission, may accept a final plat and the program of improvements and defer public drainage improvements with the condition that the deferred drainage improvements are a part of the program of improvements but are the responsibility of the City of Norman to construct under the following situations:

- (a) Where construction of required drainage improvements outside the boundary of a subdivision plat or other tract of land cannot be accomplished because the necessary easements or rights-of-way cannot reasonably be obtained; or
- (b) Where documentation is provided which demonstrates that reasonable and proper attempts have been made to obtain the necessary easements and rights-of-way to construct the drainage improvements required by the City and that these attempts have been unsuccessful.
- (c) Deferral of such improvements shall not result in any increased flooding of any street or habitable structure.

4. Whenever it is deemed necessary by the City Council to defer construction of any improvement, other than drainage under section 19-602B.3, the applicant shall pay the cost, as

determined by the Director of Public Works, of future improvements to the City within ten (10) days of City Council acceptance of the final plat. Payment of cost shall be in cash or certificate of deposit.

In the case of deferred construction recommended under subsection 19-602B.3. above, the applicant shall make the following payments:

- (a) An initial payment based on the engineer's estimate of the cost of construction as approved by the Director of Public Works plus the estimated costs of right-of-way acquisition and competitive bidding. The initial payment shall be in cash or certificate of deposit and shall be made within ten (10) days of City Council acceptance of the final plat.
 - (b) A final payment based on the actual cost of construction, right-of-way acquisition, and competitive bidding minus the initial payment. If the initial payment is greater than the actual cost, the difference will be returned to the applicant upon action of the Council upon request from the applicant. The final payment shall be in cash.
5. Monies received by the City under the authority of this section shall be separately accounted for and expended for no other purpose than in conjunction with the later construction of deferred improvement, except for deferred drainage improvements.
 6. Monies received by the City under authority of this section for drainage improvements must be separately accounted for, but may be used for a drainage improvement other than the specific deferred improvement with the approval of the City Council if the proposed drainage improvement addresses a problem of the tract of land that the specific deferred improvement serves. The applicant is relieved of the obligation for the deferred improvement when its deferred funds are expended.
 7. If construction of the deferred facility has not commenced within ten (10) years from the date of deferment, then the cost paid or the certificate of deposit may be returned upon action of the Council upon written request of the payor.
 8. A deferment as contemplated by this section shall be submitted to the Planning Commission for a recommendation of approval or disapproval at the same time the final plat is submitted. The deferment and recommendation shall then be submitted to the City Council for its consideration at the same time the final plat is submitted for acceptance.