

CHAPTER 12
SUBDIVISION REGULATIONS

SECTION 12.01 TITLE AND CONTENTS. This ordinance shall be known as the Subdivision Ordinance of the City of Paynesville, Stearns County, Minnesota.

SECTION 12.02 PURPOSE. Pursuant to the authority contained in Minn. Stat. 462.358, this Ordinance is adopted for the following purposes:

Subdivision 1. Assure that new additions will harmonize with overall development objectives of the community.

Subdivision 2. Encourage well-planned subdivisions by establishing optimum development standards.

Subdivision 3. Secure the rights of the general public with respect to public land and water.

Subdivision 4. Improve land records by establishing standards for surveys and plats.

Subdivision 5. Place the costs of improvements against those benefiting there from.

Subdivision 6. Assure that public improvements such as streets, utilities, and drainage are constructed to satisfactory standards.

Subdivision 7. Provide common grounds of understanding between prospective subdividers and City officials.

SECTION 12.03 JURISDICTION, APPLICATION, COMPLIANCE, AND VALIDITY.

Subdivision 1. Jurisdiction. The regulations herein governing plats and the subdivision of land shall apply within the corporate limits of the City and any areas beyond the corporate limits in which the City has authority to approve plats and subdivisions.

Subdivision 2. Application. All subdivisions in the City must be platted. Any Plat made for each subdivision or each part of it lying within the jurisdiction of this Ordinance, shall be prepared, presented for approval, and recorded as prescribed in this Ordinance. These regulations shall apply to the subdivision of a lot, tract or parcel of land into two or more lots, tracts, or development, whether immediate or future, including the re-subdivision or re-platting of land and/or lots.

Subdivision 3. Compliance. No Plat of any subdivision shall be entitled to be recorded in the County Recorder's Office or have any validity unless it has been prepared, approved, and acknowledged in the manner prescribed by this Ordinance. No building permit shall be issued by the City for the construction of any building, structure, or improvement to the land or to any lot in a subdivision, until all requirements of this Ordinance have been fully complied with.

Subdivision 4. Validity. Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 12.04 DEFINITIONS. For the purpose of this chapter, certain words and terms are hereby defined as follows:

Subdivision 1. Alley. A public right-of-way which affords a secondary means of access to abutting property.

Subdivision 2. Block. An area of land within a Subdivision that is entirely bounded by streets and the exterior boundary or boundaries of the Subdivision, or a combination of the above with a river or lake.

Subdivision 3. Comprehensive Plan. Refers to the group of maps, charts and text that make up the City's comprehensive long-range plan.

Subdivision 4. Cul-de-sac. A minor street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Subdivision 5. Design Standards. The specifications to land owners or developers for the preparation of plats, both preliminary and final, indicating among other things, the optimum minimum or maximum dimensions of such items as right-of-way, blocks, utilities, easements, lots, etc.

Subdivision 6. Detention Basin. A facility designed to temporarily store runoff from rainfall or snowmelt, releasing the stored water at a controlled rate until the basin is empty. The outlet or control structure is located at the bottom of the facility so that the basin is dry after the runoff event.

Subdivision 7. Detention Pond. A facility designed to temporarily store runoff from rainfall or snow melt, releasing the stored water at a controlled rate until the water has been brought down to a predetermined level. The outlet or control structure is located in such a way that some water remains in the facility. The bottom of the facility is usually below water table, or is otherwise constructed in such a way that standing water remains in the pond year round.

Subdivision 8. Easement. A grant by a property owner for the use of a defined piece of land, either on a temporary or a perpetual basis for the purpose of access, surface drainage, storm water or snow melt detention, snow storage, or the construction and maintenance of utilities including, but not limited to sanitary and storm sewers, water mains, storm drainage ways, gas lines, electric lines, telephone lines, cable TV lines, and walkways.

Subdivision 9. Final Plat. A drawing or map of a Subdivision, meeting all the requirements of the City and in a form the County requires for purposes of recording.

Subdivision 10. Hardshell. Refers to the white mat card stock on which a final plat is prepared and when appropriate signatures are affixed, is presented to the Stearns County Recorder for official recording.

Subdivision 11. Lot. A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, or transfer of ownership, or possession, or for building development.

Subdivision 12. Mylar. Reproducible copy of the plat which is produced by a photographic process.

Subdivision 13. Owner. Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi-public corporation, private corporation, or a combination of any of them.

Subdivision 14. Parks and Playgrounds. Public lands and open spaces in the City dedicated or reserved for and usable for recreation purposes.

Subdivision 15. Percentage of Grade. On street center line means the distance vertically (up or down) from the horizontal in feet and tenths of a foot for each one hundred (100) feet of horizontal distance.

Subdivision 16. Pedestrian Way. A public or private right-of-way across a block or within a block to provide access to be used by pedestrians and which may be used for the installation of utility lines.

Subdivision 17. Planning Commission. The Planning Commission of the City of Paynesville.

Subdivision 18. Planned Unit Development. Provides for the grouping of land parcels for development as an integrated, coordinated unit as opposed to traditional parcel by parcel, piecemeal, sporadic and unplanned approach to development. A tract of land containing not less than one (1) acre and which contains two (2) or more principal residential buildings, developed or to be developed under unified ownership or control.

Subdivision 19. Preliminary Plat. A tentative map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission for its consideration.

Subdivision 20. Protective Covenants. Contracts made between private parties as to the manner in which land may be used, with the specific intention of protecting and preserving the physical, social and economic integrity of any given area.

Subdivision 21. Retention Basin. A facility designed to store runoff from rainfall or snow melt with no outlet. The stored water is allowed to percolate into the ground.

Subdivision 22. Retention Pond. A facility designed to store runoff from rainfall or snow melt with no outlet. The bottom of the facility is usually below water table, or is otherwise constructed in such a way that standing water remains in the pond year round.

Subdivision 23. Rural Design. A street design where adjacent property and right-of-way are graded to form a ditch section along the shoulder of the road. Surface drainage is primarily carried by the ditch section.

Subdivision 24. Street. A public right-of-way affording primary access for pedestrians and vehicles to and through property within and adjacent to the community. Streets are divided into five functional classifications according to the character of service they provide:

- A. Principal Arterial. Carries the major portion of travel entering and leaving the community, as well as the majority of through movement. Serves the major centers of activity, the longest trips, and carries a high proportion of urban travel on minimum mileage. Emphasizes mobility and is usually characterized by restricted access to abutting property.
- B. Minor Arterial. Carries the largest percentage of intra-community travel interconnecting with and augmenting the principal arterial system. Serves smaller centers of activity, but ideally should not penetrate identifiable neighborhoods. Serves trips of moderate length and provides a lower level of travel than principal arterial. Access to abutting property is usually not restricted.
- C. Collector. Carries traffic from the arterial systems to local street destinations, and vice versa. Provides traffic circulation within neighborhoods, and within commercial and industrial areas.
- D. Local. Primary purpose is to provide direct access to abutting property. Offers the lowest level of mobility and through traffic movement is deliberately discouraged.

- E. Service Road. A street directly adjacent to a principal arterial used to control access to the arterial while also serving adjoining property. Serves to segregate local traffic from higher speed through traffic and intercept driveways of residences and commercial establishments along the arterial. Can carry a functional classification of collector or local street depending on projected use. Also, a street directly adjacent to railroad right-of-way where access to abutting property is only necessary on one side.

Subdivision 25. Subdivider. Person or persons submitting the preliminary and final plats for consideration and approval. Refers to owner, developer, or other description of party submitting plat.

Subdivision 26. Subdivision. A described tract of land which is to be divided into two (2) or more lots or parcels, for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land. The term includes a re-subdivision and where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

SECTION 12.05 GENERAL APPLICATION PROCEDURE.

Subdivision 1. General Procedure.

- A. Before any land is subdivided the owner of the property proposed to be subdivided or their authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures:
 - 1. Concept Plan Review
 - 2. Preliminary Plat
 - 3. Final Subdivision Plat
- B. Established Monuments. All Federal, State, County, and other official monuments, bench marks, triangulation points, and stations shall be preserved in their precise location. The subdivider must insure that these markers are maintained in condition during construction and development. All section, quarter section, and sixteenth section covers shall be duly described and tied.
- C. Preservation of Natural Features. The City Council may dedicate or establish any existing natural features to preserve any trees, groves, water courses and falls, beaches, historic sites, vistas and similar irreplaceable assets which add value to all developments and to the community as a whole.

- D. Land Subject to Flooding. No plat shall be approved for any subdivision which covers an area subject to periodic flooding or which is otherwise poorly drained unless the subdivider agrees to make improvements which will, in the opinion of the City Council make the area completely safe for occupancy and provide adequate street and lot drainage and conform to applicable regulations of other agencies such as the U.S. Corps of Engineers and Department of Natural Resources. In addition, such plats may not be approved if the cost of providing essential services to protect the flood plain area would impose an unreasonable economic burden to the City.

SECTION 12.06 CONCEPT PLAN REVIEW.

Subdivision 1. Concept Plan Review. Prior to the filing of an application of a preliminary plat, the subdivider shall meet with City staff for informal discussion of the proposed plat. As far as may be practical on the basis of informal discussion, City staff will advise the subdivider as to the extent which the proposed subdivision concept conforms to the City's Zoning Ordinance and Comprehensive Plan and suggest possible plan modifications necessary to ensure conformance. In addition to informal review of the concept plan, the subdivider shall be notified of the kind and extent of improvements to be made by them as part of a subdivision agreement. City staff may require, for any reason, the concept plan to be reviewed by the Planning Commission prior to commencing the Preliminary Plat process.

If, after the submission of a concept plan a new plan for the use of the land is developed, the subdivider shall submit a new concept plan prior to commencing the Preliminary Plat process.

Source: Ordinance No. 125, 2nd Series
Effective Date: 07-01-2010

Subdivision 2. Specifications for Documents to be Submitted.

All concept plans submitted for staff review shall be drawn to a convenient scale of not more than one hundred (100) feet to an inch and shall provide the following information:

- A. Name
1. Name of subdivision if property is within an existing subdivision.
 2. Proposed name if not within a previously platted subdivision. The proposed name shall not duplicate any name of any plat previously recorded in Stearns County.
 3. Name of property if no subdivision name has been chosen.

B. Ownership

1. Name, address and telephone number of legal owner or agent of property, and citation of last instrument conveying title to each parcel or property involved in the proposed subdivision, giving grantor, grantee, date, and lands records reference.
2. Citation of any existing legal right-of-ways or easements affecting the property.
3. Existing covenants on the property, if any.
4. Name, address, and telephone number of the professional person(s) responsible for subdivision design, for the design of public improvements, and surveys.

C. Description

1. Location of property by government lot, section, township, range, and county, graphic scale, north arrow, and date.
2. Location of property lines, existing easements, burial grounds, railroad right-of-way, watercourses, and existing wooded areas of trees.
3. The approximate location and widths of proposed streets.
4. Preliminary proposals for the connection with existing water supply and sanitary sewage systems; preliminary provisions for collecting and discharging surface water drainage.
5. The approximate location, dimensions, and areas of all proposed or existing lots.
6. The approximate location, dimensions, and areas of all parcels of land proposed to be set aside for park or playground use or other public use.
7. Whenever the Concept Plan covers only a part of an applicant's contiguous holdings, the applicant shall submit, at a scale of no more than one hundred (100) feet to the inch, a sketch in pen or pencil of the proposed subdivision area, together with its proposed street system and an indication of the probable future street and drainage system of the remaining portion of the tract.

Subdivision 3. Disagreements and Appeal.

If there is a disagreement between the subdivider and the staff during the concept plan review, either the subdivider or the staff may request that the Planning Commission review the proposed subdivision and make a determination as to whether the proposed development concept is acceptable.

Subdivision. 4. Lapse. Approval by staff or the Planning Commission received by a subdivider following the submission and review of a concept plan shall lapse and be null and void if a complete application for approval of a Preliminary Plat for the lands included in the concept plan has not been received, together with payment of the required fee, within one (1) year from the date of such approval of the concept plan.

Source: Ordinance No. 125, 2nd Series
Effective Date: 07-01-2010

SECTION 12.07 PRELIMINARY PLAT.

Subdivision 1. Plat Submission.

- A. In accordance with Minnesota State Statute §505 and following the Concept Plan review the subdivider may submit an application for approval of the Preliminary Plat along with three (3) prints or as required of the preliminary plat and one (1) reproducible 8.5"x11" plat. The subdivider shall file with the City Administrator at least ten (10) business days before a regular meeting date of the Planning Commission all required information, along with the appropriate application fee, which amount may be set from time to time by resolution of the City Council.
- B. The City Council may require qualified technical and staff services such as economic, engineering, and legal review of the Preliminary Plat to advise on its suitability regarding general planning and conformity with City services such as, but not limited to, water supply, sewage disposal, drainage and flood control, and special assessment procedures. The subdivider may be required to pay the cost of such services.

Subdivision 2. Specifications for Documents to be Submitted.

The Preliminary Plat shall be prepared by a licensed land surveyor at a convenient scale not more than one hundred (100) feet to an inch; shall be prepared upon sheets or of such size as may be acceptable for filing in the office of the Stearns County Recorder, but not to exceed thirty-four (34) inches by forty-four (44) inches in size; and shall include the following information:

- A. Identification and Description.

1. The name of the subdivision shall be lettered in prominent print at the top of the plat, together with the name of the city and county wherein the Subdivision lies. The name of the Subdivision shall be simple in nature, easy to pronounce and shall not duplicate an exact name of any plat of record in the City of Paynesville or Stearns County.
2. Location by section, township and range, or by other legal description.
3. The name of the owner or owners of the land to be subdivided, the name and address of the subdivider if other than owner, and the name and signature of the land surveyor.
4. Graphic scale, not less than one (1) inch to one hundred (100) feet.
5. North point, designated as true north.
6. All information required on the Concept Plan shall also be shown on the preliminary plat, and the following notation shall also be shown:
 - a. Identification of drainage easements, if any.
 - b. Identification of site easements, if any.
 - c. Identification of high water mark, top of bluff, and elevations if subdivision abuts public water.
7. Notarized certification by a registered land surveyor to the effect that the plat represents a survey made by him/her and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.
8. Notarized certification by owner, and by any mortgage holder of record of the adoption of the plat and the dedication of streets and other public areas.
9. A copy of the Title Opinion or Title Insurance shall be provided to the City.
10. When there is more than one (1) sheet, an index sheet shall be attached, showing the entire Subdivision, including boundary and streets at an appropriate scale. On each sheet there shall be match lines for matching all adjoining sheets.

B. Existing Conditions.

1. Total acreage in said preliminary and individual lots computed to one hundredth (.01) of an acre.

2. Location and names of existing or platted streets or other public ways, parks or other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of one hundred (100) feet beyond the tract.
3. If the proposed Subdivision is a rearrangement or a re-plat of any former plat, the lot and block arrangement of the original plat along with its original name shall be indicated by dotted or dashed lines. Also, any revised or vacated roadways of the original plat shall be so indicated.
4. Upon request of the City, illustrate the location of existing paved streets, railroads, sewers, water mains, quarries, gravel pits, culverts, or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract. In addition, such data as grades, invert elevations and location of catch basins, manholes, and hydrants.
5. Boundary lines of adjoining platted or unplatted land and owners of all tracts of land within one hundred (100) feet.
6. Upon request of the City, a complete topographic map with contour intervals not greater than two (2) feet, watercourses, marshes, rock outcrops, water bodies, streams, and other pertinent features such as swamps, railroads, buildings, parks, cemeteries, drainage ditches, bridges, and other significant features; all superimposed on at least two (2) prints of the preliminary. United States Geodetic Survey Datum shall be used for all topographic mapping. Flood way and flood fringe zones shall be shown as delineated by current flood plain maps.
7. A separate copy of restrictive covenants, if any, of all adjoining Subdivisions.

C. Design Features.

1. Layout of streets, showing right-of-way widths and names.
2. Locations and widths of alleys, pedestrian ways, and utility easements.
3. Proposed centerline grades of streets and alleys, if any, showing both existing and proposed grade lines.
4. Location, size, and approximate gradient of sewer lines.

5. Location and size of water lines.
6. Location and size of drainage facilities and general grading plans.
7. Layout, lot and block numbers, and typical lot dimensions scaled to the nearest foot. Blocks shall be consecutively numbered. All lots in each block shall be consecutively numbered. Outlots shall be consecutively lettered in alphabetically order.
8. Areas other than those mentioned above intended to be dedicated for public use, including size.
9. A draft of proposed restrictive covenants, if any are contemplated.
10. The location, dimensions, and acreage of all property proposed to be set aside for park or playground use, or other public or private areas, with designation of the purpose of those set asides, and conditions, if any, on the dedication or areas.
11. The location and width of proposed easements.
12. Indication of all other lot uses other than residential proposed by the subdivider.
13. Sufficient data acceptable to the City's engineer to determine readily the location, bearing, and length of all lines, and to reproduce such lines upon the ground.

Subdivision 3. Incomplete Application.

The lack of information under any item specified in this section or improper information supplied by the applicant shall be cause for disapproval of a preliminary plat.

Subdivision 4. Public Hearing.

Upon receipt of the above information, if not already set by the Planning Commission, the City Administrator shall call a public hearing for the next scheduled meeting of the Planning Commission to be held within forty-five (45) days of the receipt of the application. The City Administrator shall mail notices to the owners of all property within three hundred fifty (350) feet of the proposed subdivision and shall submit notice for publication in the official newspaper at least ten (10) days prior to the public hearing. The public hearing regarding Preliminary Plats shall be conducted in accordance with Chapter 2, Section 2.07 of the City Code.

Subdivision 5. Review and Action.

The Planning Commission shall within a reasonable time, pass upon the preliminary plat as originally submitted or modified. If approved, the Planning Commission shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its reasons therefore. Such approval or disapproval shall be transmitted to the City Council and the Council shall approve or disapprove the preliminary plat. Approval means the acceptance of the preliminary plat as a basis for preparation of a final plat.

Subdivision 6. Standards of Approval. No preliminary plat of a proposed subdivision shall be approved by the City Council unless the applicant proves by clear and convincing evidence that:

- A. The proposed subdivision meets the design standards as set forth in Section 12.09 of this Ordinance.
- B. The proposed subdivision will not result in the scattered subdivision of land that leaves parcels of land lacking urban services between developed parcels.
- C. The proposed subdivision conforms to all existing zoning regulations applicable at the time that the proposed preliminary plat is submitted for approval.
- D. The subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.
- E. The City receives a copy of the report from Stearns County Environmental Services of their review and approval of any and all wetlands located within the preliminary plat and the street names for any new streets proposed within the preliminary plat.
- F. The required application fee has been paid.

Subdivision 7. Lapse of Preliminary Approval. Approval of a preliminary plat shall become null and void if a final plat application, with payment of required fee, has not been submitted for all or part of the preliminary plat within one (1) year from the approval of the preliminary plat by the City Council.

SECTION 12.08 FINAL PLAT.

Subdivision 1. Plat Submission.

In accordance with Minnesota State Statute 505 and following the approval of the preliminary plat the subdivider may submit an application for approval of the final plat along with three (3) prints or as required of the final plat and one reproducible 8.5"x11" plat. The subdivider shall file with the City Administrator at least ten (10) business days before a regular meeting date of the Planning Commission any required information to include the appropriate application fee, which amount may be set from time to time by the City Council. The Final Plat application shall be submitted within one (1) year of the Preliminary Plat approval or the approval shall become null and void.

Subdivision 2. Specifications for Submitted Final Plat.

The final plat shall substantially conform to the preliminary plat as approved; shall be prepared by a licensed land surveyor at a convenient scale not more than one hundred (100) feet to an inch; shall be prepared upon sheets or of such size as may be acceptable for filing in the office of the Stearns County Recorder, but not to exceed thirty-four (34) inches by forty-four (44) inches in size; and shall include the following information:

- A. Identification and Description.
 1. The name of the Subdivision shall be lettered in prominent print at the top of the plat, together with the name of the city and county wherein the Subdivision lies. The name of the Subdivision shall be simple in nature, easy to pronounce and shall not duplicate in exact name any plat of record in the City of Paynesville or Stearns County.
 2. Location by section, township and range, or by other legal description.
 3. The name of the owner or owners of the land to be subdivided, the name and address of the subdivider if other than owner, and the name of the surveyor.
 4. Graphic scale, not less than one (1) inch to one hundred (100) feet.
 5. North point, designated as true north.
 6. The following notation shall also be shown:
 - a. Identification of drainage easements, if any.
 - b. Identification of site easements, if any.
 - c. Identification of high water mark, top of bluff, and elevations if subdivision abuts public water.

7. Notarized certification by a registered land surveyor to the effect that the plat represents a survey made by him/her and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.
8. Notarized certification by owner, and by any mortgage holder or other party having financial interest of record of the adoption of the plat and the dedication of streets and other public areas.
9. When there is more than one (1) sheet, an index sheet shall be attached, showing the entire Subdivision, including boundary and streets, at an appropriate scale. On each sheet, there shall be match lines for matching all adjoining sheets.
10. Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements," "drainage easements," or "drainage and utility easements".
11. Statement dedicating all streets, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this Plat and not heretofore dedicated to public use are hereby so dedicated.

B. Existing Conditions.

1. Boundary line survey, including measured distances and angles, which shall close by latitude and departure with an error of closure not exceeding one (1) foot in ten thousand (10,000) feet.
2. Total acreage in said preliminary and individual lots, computed to one hundredth (.01) of an acre.
3. Location and names of existing or platted streets or other public ways, parks or other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of one hundred (100) feet beyond the tract.
4. If the proposed Subdivision is a rearrangement or a replat of any former plat, the lot and block arrangement of the original plat along with its original name shall be indicated by dotted or dashed lines. Also, any revised or vacated roadways of the original plat shall be so indicated.
5. Boundary lines of adjoining platted or unplatted land and owners of all tracts of land within one hundred (100) feet.

6. Upon request of the City, illustrate on the plat the location of existing watercourses, marshes, rock outcrops, water bodies, streams, and other pertinent features such as swamps, parks, cemeteries, drainage ditches, bridges, and other significant features.
7. A separate copy of restrictive covenants, if any, of all adjoining subdivisions.
8. Statement from the Stearns County Surveyor's Office stating the plat meets with their requirements for recording purposes.

C. Design Features.

1. Layout of streets, showing right-of-way widths and names.
2. Locations and widths of alleys, pedestrian ways and utility easements.
3. Proposed centerline grades of streets and alleys, if any, showing both existing and proposed grade lines.
4. Layout, lot and block numbers, and typical lot dimensions scaled to the nearest foot. Blocks shall be consecutively numbered. All lots in each block shall be consecutively numbered. Outlots shall be consecutively lettered in alphabetical order.
5. Areas other than those mentioned above intended to be dedicated for public use, including size.
6. A copy of proposed restrictive covenants, if any are contemplated.
7. The 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 of those set asides, and conditions, if any, on the dedication or reservation.
8. The location and width of proposed easements.
9. Indication of all other lot uses other than residential proposed by the subdivider.
10. Sufficient data acceptable to the City's engineer to determine readily the location, bearing, and length of all lot lines, and to reproduce such lines upon the ground; the location of all proposed monuments.
11. The boundary line of the property to be included within the plat is to be fully dimensioned; all angles or bearings of the boundary lines to be indicated; all monuments and surveyor's irons to be indicated as set or found in place; each angle point of the boundary perimeter to be so

monumented. Location and ties of monuments that cannot be set at proper location because of physical hardship shall be delineated on the outside boundary of the final plat. Pipes or steel rods shall be placed at each corner of each lot and at each intersection of street centerlines unless a manhole exists in the center of the street. All lot and block dimensions shall be shown on the plat and all necessary angles or bearings pertaining to the lots and blocks, as an aid to future surveys, shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.

12. Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision, with the purposes indicated therein.

Subdivision 3. Incomplete Application.

The lack of information under any item specified in this section or improper information supplied by the applicant shall be cause for disapproval of a final plat.

Subdivision 4. Public Hearing.

Upon receipt of the above information, if not already set by the Planning Commission, the City Administrator shall call a public hearing for the next scheduled meeting of the Planning Commission to be held within forty-five (45) days of the receipt of the application. The City Administrator shall mail notices to the owners of all property within three hundred fifty (350) feet of the proposed subdivision and shall submit notice for publication in the official newspaper at least ten (10) days prior to the public hearing. The public hearing regarding Final Plats shall be conducted in accordance with Chapter 2, Section 2.07 of the City Code.

Subdivision 5. Review and Action.

The Planning Commission shall within a reasonable time, pass upon the final plat as originally submitted or modified. If approved, the Planning Commission shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its reasons therefore. Such approval or disapproval shall be transmitted to the City Council and the Council shall approve or disapprove the final plat.

Subdivision 6. Signing and Recording of Plat.

Following final approval or disapproval by the City Council, the City Administrator shall notify the subdivider of the Council's action and each final plat, when duly certified, signed and acknowledged by the Planning Commission and the City Council, shall then be recorded by the subdivider in the office of the Stearns County Recorder. After the final plat has been recorded with the county recorder, the subdivider shall provide the City with a Mylar copy of the final plat as executed and a receipt from the county recorder evidencing the date of recording and the document number of the recorded plat. In addition, the

subdivider shall provide the City with an 11"x17" mylar. The subdivider shall file the approved Final Plat with the County Recorder within sixty (60) days of the Final Plat approval, or the approval shall be considered null and void.

If an approved final plat becomes null and void for failure of the owner to record the plat within sixty (60) days, then the City Council may renew its approval of the final plat or, if changes in circumstances since the original approval require reconsideration of the plat, may require the subdivider to submit a new application for approval starting with a concept plan review, followed by application for approval of a preliminary plat, and then by application for approval of a final plat as if the original final plat had never been approved and pay the required application fee. Source: Ordinance No. 74, 2nd Series. Effective Date: 10-21-2004

Subdivision 7. Standards of Approval.

No final plat of a proposed subdivision shall be approved by the Planning Commission unless the applicant proves by clear and convincing evidence that:

- A. The proposed subdivision meets the design standards as set forth in Section 12.09 of this Code.
- B. The proposed subdivision will not result in the scattered subdivision of land that leaves parcels of land lacking urban services between developed parcels.
- C. The proposed subdivision conforms with all existing zoning regulations applicable at the time that the proposed final plat is submitted for approval.
- D. The subdivider has taken every effort to mitigate the impact of the proposed subdivision on public health, safety, and welfare.
- E. The required application fee has been paid and all dedications and conveyances have been made.

SECTION 12.09 DESIGN STANDARDS.

Subdivision 1. General Requirements.

- A. The Planning Commission in its review of a preliminary plat will take into consideration the requirements of the community and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and widths of streets, the general drainage situation, lot sizes and arrangement. All subdivisions shall be consistent with the City's official Zoning Map, Zoning Ordinance, and Comprehensive Plan.

- B. The preliminary plat shall cover all of the subdivided contiguous land, but the final plat may cover only a portion of the preliminary plat, provided it is in conformance with the approved preliminary plat and other requirements herein.
- C. Where the parcel is subdivided into larger tracts than for building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
- D. Drainage shall be provided for in the subdivision by adequate storm drains, ponds or by maintenance of natural drainage channels. The Owner shall be responsible for obtaining a National Pollution Discharge Elimination NPDES storm water permit from the Minnesota Pollution Control Agency for the construction of drainage facilities to control runoff and erosion.
- E. Where surface water run-off will be increased because of proposed development, beyond the capacity of existing storm systems; storm water holding areas, ponds, or existing drainage channels shall be dedicated. The dedication may be subtracted from the total gross acreage for parkland dedication purposes.
- F. Subdivisions showing unplatted strips or private streets controlling access to public ways shall not receive approval.

Subdivision 2. Streets.

- A. The arrangement, character extent, width and location shall conform to the Comprehensive Plan, the approved standard street sections and all applicable ordinances, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety and in their appropriate relation to the proposed uses of the area to be served.

- B. Street right-of-way widths shall be as shown in the Comprehensive Plan and where not shown therein shall be not less than as follows:

<u>Street</u>	<u>Feet Required</u>
Urban Principal Arterial	Special Design
Minor Arterial	100
Collector	80
Local	66
Service Road	50
Alley	16
Sidewalk	10

- C. Minimum street widths shall be as shown in the Comprehensive Plan and where not shown therein, shall be not less than as follows:

<u>Street</u>	<u>Feet Required</u>
Urban Principal Arterial	as determined by traffic needs
Minor Arterial	44
Collector	44
Local	32
Service Road	30
Alley	12
Sidewalk	5

- D. Local streets in planned unit developments may have an approved right-of-way of forty (40) feet under the following conditions:
1. Ten (10) foot utility easements are provided on each side of the right-of-way and ten (10) foot utility easements are provided in the rear of each lot.
 2. Sidewalks and pedestrian paths are built as part of the initial development, off the street right-of-way.
 3. Suitable off-street parking space is provided to compensate off-street parking.
- E. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a railroad or a limited access arterial, a provision shall be made for a service road adjacent to and more or less parallel with said right-of-way, or for a street at a distance suitable for the appropriate use of land between the street and said right-of-way. The service road will be designed with due consideration for outer pavement separation, traffic storage at cross streets, and approach connections to future grade separations.
- F. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portions shall be prepared and submitted by the subdivider with the Concept Plan.
- G. Local streets should be so planned as to discourage their use by non-local traffic. Dead end streets are prohibited, but cul-de-sacs will be permitted where topography or other conditions justify their use. Jogs at intersections shall be avoided whenever possible.
- H. Dedication of half streets will not be permitted.

- I. Cul-de-sacs shall not be longer than six hundred (600) feet as measured along the street centerline from the intersection of origin to the center point of the turn-around. The turn-around shall have a minimum curb radius of fifty (50) feet and a minimum right-of-way radius of sixty (60) feet.
- J. The minimum angle of intersection of streets shall be eighty (80) degrees. Street intersection jogs with an off-set of less than one hundred twenty-five (125) feet shall be prohibited.
- K. The grades on streets in the proposed subdivision shall fall within the following range:

<u>Street</u>	<u>Minimum</u>	<u>Maximum</u>
Principal Arterial	0.04%	5%
Minor Arterial	0.04%	5%
Collector	0.04%	8%
Local	0.04%	8%
Service Road	0.04%	8%
Alley	0.04%	8%
Pedestrian Way	0.04%	5%

Street grades exceeding two percent (2%) will not be allowed within a distance of fifty (50) feet from the near curb or pavement edge of any intersection.

- L. Storm sewers, culverts and ditches shall be designed to accommodate at least a five (5) year frequency storm. At low points in the collection system or where damage potential warrants, the design frequency shall be increased as necessary.
- M. Detention ponds or basins shall, as a minimum, be designed to accommodate the critical duration one hundred (100) year frequency rainfall event. Retention ponds or basins shall, as a minimum, be designed to accommodate the critical duration one hundred (100) year runoff event whether it be from rainfall, snow melt, or a combination thereof. All ponds or basins shall have a one (1) foot freeboard located entirely within the outlet set aside for the pond or basin. Where additional protection is warranted, the above frequencies or freeboard shall be increased as the City's engineer deems necessary.

Irregular shaped ponds or basins are desirable and encouraged. Basin bottoms shall have at least a two percent (2%) slope to the outlet. Side slopes shall not be steeper than 4:1 (four horizontal to one vertical) except

that slopes adjacent to permanent standing water shall not be steeper than 10:1 (ten horizontal to one vertical) for a minimum distance of ten (10) feet from the edge of the standing water. Ponds or basins deeper than six (6) feet (depth to dry bottom or permanent standing water) shall be terraced with ten (10) foot wide surfaces no steeper than 10:1 (ten horizontal to one vertical). A twenty (20) foot access easement shall be provided from a near street to the pond area for maintenance purposes. Ponds shall have a normal water depth of at least four (4) feet and shall have enough surface area to ensure good water quality year round.

- N. All proposed streets shall be offered for dedication as public streets. No private streets will be allowed, except in planned unit developments as described in Chapter 11 of the City Codes.
- O. Subdivider shall be responsible for obtaining a NPDES storm water permit for a project requiring storm water improvements and for complying with rules and regulations of said permit. In the event the City contracts for the public improvements, to include storm water improvements, the City shall be responsible for obtaining said permit. The City may transfer the permit to the subdivider upon completion of the public improvements.

Subdivision 4. Sidewalks.

- A. When in the judgement of the Planning Commission and ultimately the City Council, the installation of sidewalks is necessary for pedestrian traffic and for public safety in general, it shall be required on at least one side of the street. If traffic volumes and/or potential pedestrian traffic warrant it in the opinion of the City Council, sidewalks may be required on both sides of the street.
- B. Sidewalks shall be a minimum of five (5) feet wide and have a boulevard of at least six (6) feet wide as measured from the curb. All sidewalks shall be of concrete construction material.

Subdivision 5. Easements.

- A. Easements shall be provided at least ten (10) feet wide centered on exterior lot lines and five (5) feet wide centered on interior lot lines for purposes of utilities, drainage, etc. Easements shall provide continuity of alignment from block to block and at deflection points. The subdivider shall provide temporary construction easements where determined necessary by the City. Perpetual easements shall be kept free of vegetation or structures, which would interfere with the free movement of utility service vehicles. Where easements are provided for City utilities or for watercourses, the size of lots

on which the easements are placed shall be increased so that minimum dimension and area requirements are met exclusive of the easement areas.

- B. Where a subdivision is traversed by a water course, drainage way, channel or stream, storm water easement or drainage right-of-way conforming substantially with the lines of such water course shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area.
- C. Easements for sanitary sewer, water main, storm sewer, and for related service connections shall be provided as determined necessary by the City. Minimum easement requirements for a single utility are as follows:

<u>Depth of Utility</u>	<u>Required Easement Width</u>
0 – 10 feet	20 feet
10 – 20 feet	30 feet
15 – 20 feet	40 feet

Where two or more utilities are to be installed in the same easement area, a determination of width shall be made by the City.

- D. Detention or Retention Facilities. Where the subdivider proposes to use a pond or basin to control storm sewer runoff, the following requirements shall be met:
 - 1. The area containing the pond or basin shall be platted as an outlot and dedicated to the public for drainage purposes. The outlot shall include the area necessary to accommodate storm water runoff including one (1) foot of freeboard, a twenty (20) foot wide access easement from a near street, and such area as may be determined necessary to provide an emergency overflow to an established outlet.
 - 2. On lots surrounding the pond or basin, a drainage easement shall be provided to include all lot area within one foot of vertical elevation from the edge of the outlot.
 - 3. The City may require the subdivider to install a fence around the entire circumference of the pond. Said fence shall meet City specifications and will be the financial responsibility of the subdivider.

Subdivision 6. Block Standards.

- A. The maximum length of blocks shall be twelve hundred (1,200) feet. Blocks over six hundred (600) feet long may require pedestrian ways and/or easements through the block may be required near the center of the block. The use of additional access ways to schools, parks and other destinations may be required.
- B. The width of blocks shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

Subdivision 7. Lot Standards.

- A. Lot dimensions shall meet the minimum standards as outlined in Chapter 11 of the City Codes.
- B. Side lot lines shall be substantially at right angles or radial to the street line.
- C. Double-frontage or lots with frontage on two (2) parallel streets shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome topographic or other conditions, which render subdividing otherwise unreasonable. Such double-frontage lots shall have an additional depth of at least twenty (20) feet in order to allow space for screen planting along the rear lot line.
- D. Lots intended for commercial, industrial and multiple dwelling unit use shall be designed as such and the lot must be of adequate size to allow off-street parking, loading areas and such other facilities as are required to satisfy the requirements of Chapter 11 of the City Code.
- E. Lots abutting on a watercourse, drainage way, channel, or stream shall have an additional depth or width, as required, to assure building sites that are not subject to flooding at the level of the one hundred (100) year flood, as determined by the U. S. Army Corp. of Engineers.
- F. Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the subdivider can show plans for future use of such remnant.
- G. In the subdivision of land, due regard shall be shown for all natural features which, if preserved, will add attractiveness and stability to the proposed development and which may alter normal lot planning.

- H. Residential lots shall be separated from highways, arterial streets and railroad right-of-way by a fifteen (15) foot buffer strip, which may be in the form of added depth or width of lots backing on or siding on the arterials or railroad right-of-ways.

Subdivision 8. Public Sites and Park Land Dedication.

- A. Except as provided here in, all new subdivisions shall dedicate land for public use such as parks, playgrounds or other open space use according to the following types of subdivision:
 - 1. Residential Subdivision of up to ten (10) dwelling units per gross acre - eight (8) percent of the total gross area, less the acreage devoted to storm water ponds, and defined wetlands.
 - 2. Residential Subdivision in excess of ten (10) dwelling units per gross acre - ten (10) percent of the total gross area, less the acreage devoted to storm water ponds, and defined wetlands.
 - 3. Commercial and Industrial Subdivision – three (3) percent of the gross area, less the acreage devoted to storm water ponds, and defined wetlands.
- B. The term "new subdivision" shall not apply where property lines are being surveyed for the purpose of correcting previous descriptions, situations where individuals are buying and/or selling land only to increase their yard space for individual properties or the re-subdivision of an area where a previous dedication was made.
- C. When in the judgement of the Planning Commission and ultimately the City Council, a subdivision is of insufficient size to include an area for a park or park related facilities, or the subdivision is not designated as an area for a park or park related facilities in the City's Comprehensive Plan, the subdivider, in lieu of property dedication, shall be required to pay to the City a sum of money equal to the required dedication percentage.

Said amount shall be determined by first calculating the total gross area proposed to be platted. Said amount shall be determined by subtracting from the total acreage of the plat any acres defined by Stearns County Environmental Services as wetlands and any acres reserved for storm water ponds. The remaining gross area will then be multiplied by the required dedication percentage. This amount shall then be multiplied by the fair market land value as determined by the County Assessor and the sum shall represent the parkland dedication. For purposes of this ordinance, "fair market land value" is defined as the market value of the land within such plat or subdivision as of the date presented to the City Council for final plat approval.

Example:

Gross area = 30 acres

Wetlands & Storm Sewer Ponds = 5 acres

Remaining Gross area = 25 acres

Dedication Percentage = 8%

Market Value = \$100,000

30 acres - 5 acres = 25 x (8%) = 2 acres

\$100,000 ÷ 30 acres = \$3,333 market value per acre

2 acres x \$3,333 = \$6,666 Parkland Dedication due

- D. Payment to the City of the required open space dedication, whether in dedicated property or monies, shall be accomplished by the subdivider prior to the signing of the final plat. In no case shall the final plat be signed or a building permit issued for any lot within the subdivision until such transfer of property or payment in lieu of property has been completed. Such dedication of land for public use shall be without restrictions and/or reservations. Where money in lieu of land is to be paid to the City, such monies may be paid in a manner established by the City Council. Any monies paid to the City shall be placed in a designated fund to be used for the acquisition of land for parks and park facilities and/or the continued development of the City's current parks, trails and facilities.

SECTION 12.10 BASIC IMPROVEMENTS REQUIRED.

Subdivision 1. General.

- A. Before a final plat is approved by the City Council, the subdivider of the land covered by the said plat shall execute and submit to the City Council a development agreement which shall be binding on his/her heirs, personal representatives and assigns, that he/she will cause no private construction to be made on said plat or file or cause to be filed any application for building permits for such construction until all improvements required under this ordinance have been made or arranged for in the manner following as respect to the streets to which the lots sought to be constructed have access.
- B. Said agreement shall provide that all of the required improvements will be made in accordance with standards established by the City's engineer, and shall include adequate provisions in the form of escrow deposits or other form of deposit acceptable to the City Council; to insure that all improvements accomplished by the subdivider will comply with such standards.

- C. At the discretion of the City Council, said agreement shall provide that the subdivider shall make an advance payment to the City of a percentage of the estimated total costs of those improvements which are to be accomplished by the City, the amount of such advance payment shall be determined by the City Council, terms for payment of the balance of the total cost shall be provided in the agreement.
- D. Approval of the final plat and agreement of the City Council shall be contingent on the deposit of those sums to the City required by the agreement. No signatures indicating the City's approval of the plat will be affixed to the plat until such sums have been deposited with the City.
- E. Before the subdivider makes any sale, conveyance or assignment of any lot or parcel in the subdivision, the City Administrator shall have on file a notarized copy of a concurrence document wherein the subsequent owner acknowledges that he/she has seen and accepted the basic improvements agreement and that he/she agrees to such improvements and the assessment of their cost. Said concurrence document shall be attached to and made a part of the subdivision basic improvement agreement made between the subdivider and the City. Or in the alternative, said acknowledgement could be incorporated into the public improvement/development agreement between the subdivider and City for assessable improvements.

Subdivision 2. Sanitary and Storm Drains.

- A. Sanitary sewers shall be installed to serve all properties in the subdivision where a connection to the City sewer system is available at the boundary of the subdivision.
- B. Storm drains and if necessary, sump pump lines, shall be constructed to serve all properties in the subdivision.
- C. Both storm drains and sanitary sewer shall be installed by the City after City Council approval of a petition for the same by the subdivider. The cost shall be assessed against all lots in the subdivision according to City Code, Chapter 429 of Minnesota Statutes, or otherwise paid in accordance with the development agreement pursuant to City Code Chapter 12, Section 12.10, Subd. 1(A).

Source: Ordinance No. 89, 2nd Series
Effective Date: 03-30-06

Subdivision 3. Water Supply.

- A. Where a connection to the City water system is presently available at the boundary of the subdivision, water distribution facilities, including fire hydrants, shall be installed to serve all properties within the subdivision.
- B. Water mains shall be installed by the City after City Council approval of a written petition for the same by the subdivider. The cost shall be assessed against all lots in accordance with City Code, Chapter 429 of Minnesota Statutes, or otherwise paid in accordance with the development agreement pursuant to City Code Chapter 12, Section 12.10, Subd. 1(A).

Source: Ordinance No. 89, 2nd Series
Effective Date: 03-30-06

Subdivision 4. Right-of-Way Improvements.

- A. Right-of-Way grading, base preparation, curb and gutter, pavement, sidewalks and street lighting for all streets in the subdivision shall be installed in the City after City Council approval of a written petition for the same by the subdivider. The costs shall be assessed against all lots in the subdivision according to City Code and Chapter 429 of Minnesota Statutes, or otherwise paid in accordance with the development agreement pursuant to City Code Chapter 12, Section 12.10, Subd. 1(A).

Source: Ordinance No. 89, 2nd Series
Effective Date: 03-30-06

Subdivision 5. Street Trees.

- A. If the subdivider desires and if space permits, the subdivider can plant a minimum of two (2) trees on each lot within the defined boulevard. For corner lots, a minimum of four (4) trees (two on each side) may be planted on each lot. Trees shall be planted a minimum distance of 25 feet apart and 25 feet from the side of the property line. The cost of all trees to be planted shall be borne by the developer unless otherwise agreed in a development agreement entered into in accordance with Section 12.10, Subd. 1(A).

Source: Ordinance No. 89, 2nd Series
Effective Date: 03-30-06

- B. No trees shall be planted within any utility easement.
- C. Trees shall not be planted within thirty (30) feet of street intersections.

- D. Trees will be a minimum size of one and one-quarter (1 1/4) inches to two (2) inches in diameter. Tree diameter is measured six (6) inches above ground level.
- E. Trees shall not be planted within three (3) feet of any private utility hook-ups, utility mains or services lines, or concrete drives or private walks.
- F. Property owners will be responsible for the care of the trees after initial planting.
- G. Trees used for street planting must be compatible with the local landscape conditions and not presently under disease epidemic. Prohibited tree species include all conifer, evergreen, poplar, box elder, elm, silver maple, fruit bearing trees and any others designated by the City.

Subdivision 6. Private Utilities.

- A. All electrical distribution systems, natural gas distribution systems, telephone transmission systems and community cable television systems serving subdivisions, which are platted pursuant to the provisions of this Ordinance, shall be installed.

SECTION 12.11 SPLITTING OF LOTS.

Subdivision 1. Purpose. To encourage platting of land within the City and to avoid the creation of unbuildable parcels of land by splitting of lots.

Subdivision 2. Spitting of Unplatted Land. There shall be no splitting of parcels of unplatted land within the City except by the preparation and approval of plats. The only acceptable method of splitting of unplatted land shall be by means of approved plats prepared by a registered land surveyor.

Subdivision 3. Splitting Platted Land. Any owner seeking to split a platted lot between two or more owners, or into two or more parcels, shall submit an application for such lot split to the City Administrator, showing such information as may be requested to evaluate the application, including but not limited to the following:

- A. Legal and illustrated description of the site to be split showing the original lot and proposed division.
- B. The reasons supporting the proposed split.
- C. Description of any site or sites to which the split is to be added to.
- D. A scale drawing showing the location of any and all buildings on the site proposed to be split, and any contiguous sites.

- F. A scale drawing showing the location of any proposed new buildings.
- G. Any additional written or graphic data required by the City Administrator.

Subdivision 4. Procedure.

- A. The City Administrator reviews said application and if the proposed split complies with the standards set forth below, then the City Administrator may grant the requested lot split.
- B. In the event that the proposed lot split does not comply with the standards set forth below, or in the event the City Administrator otherwise recommends against approval of the proposed lot split, then said application shall be forwarded to the Planning Commission for its consideration.
- C. In the event that the proposed lot split is referred to the Planning Commission, the Planning Commission shall consider any possible adverse affects of the proposed lot split and make report and recommendation to the City Council.
- D. Upon receiving the report and recommendation of the Planning Commission, the City Council shall set and hold a public hearing. Approval of the lot split by the City Council shall require an affirmative vote of a majority of the City Council. Failure to obtain a majority vote in favor of the lot split shall constitute a denial. The City Council may impose any conditions deemed necessary in granting the lot split.
- E. A request for a lot split shall be made on an application provided by the City and filed with the City Administrator. The application shall be fully completed by the applicant, and signed by all of the owners of the property for which the lot split is requested.
- F. Upon receiving the report and recommendation of the Planning Commission the City Council shall set and hold a public hearing on the request. Notice of such hearing shall be sent not less than ten (10) days in advance nor more than thirty (30) days in advance of the public hearing and shall be sent to the owners of property within three hundred fifty (350) feet of the affected parcel. Such notice shall be published in the official newspaper within the above time period. Failure of a property owner to receive said notice shall not invalidate any such proceeding.
- G. A lot split may be granted by a majority vote of the City Council. Failure to receive a majority vote of the City Council constitutes a denial of the request for lot split.

- H. Within a reasonable time after the hearing, the City Council shall make its resolution deciding the matter and serve a copy of such resolution by mail upon the party requesting the lot split.
- I. The City Administrator shall record the City Council's written decision in granting or denying the lot split requested.

Subdivision 5. Standards.

- A. The lot proposed to be split shall be a platted lot of record in Stearns County.
- B. The split as proposed will not result in the existence of a non-buildable or non-conforming lot within the zoning classification in which the lot is located.
- C. There is a demonstrated need for splitting the lot.
- D. The proposed use is in compliance with the City's Comprehensive Plan adopted by the City.

Subdivision 6. Fees. To defray administrative costs of proceedings, applications for a lot split shall be accompanied by a non-refundable fee to be paid by the applicant at the time the application is completed and returned to the City. The amount of the fee shall be set by the City Council, adopted by resolution, and uniformly enforced. If a public hearing is required a non-refundable fee shall be imposed in an amount to be set by the City Council, adopted by resolution and uniformly enforced. This fee may, from time to time, be amended by the City Council by Resolution.

SECTION 12.12 VARIANCES.

Subdivision 1. General Conditions.

- A. The Planning Commission may recommend to the City Council a variance from the provisions of this Ordinance when, in its opinion, unusual hardship may result from strict compliance. In granting any variance, the City Council shall take into account the nature of the proposed use of land, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the City Council finds:
 - 1. That there are special circumstances or conditions affecting said property such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of their property.
 - 2. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

3. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which said property is situated.
 4. That strict application of the subdivision regulations would create an unusual hardship on a property owner as opposed to a mere inconvenience.
- H. Recommendations of variances to the City Council shall list findings of fact and reasons substantiating the findings of fact.
- I. Request for variances shall follow the same procedures as described in Chapter 11 of the City Codes.

Subdivision 2. Procedure.

- A. A request for a variance from the provisions and strict requirements of Chapter 12 may be filed with the City Administrator and shall be accompanied by a non-refundable fee in an amount to be set by the City Council, adopted by resolution and uniformly enforced. This fee may, from time to time, be amended by the City Council by Resolution. A request for a variance from the requirements of Chapter 12 shall be submitted on an application provided by the City. The request for variance application shall be fully completed by the applicant, signed by all of the owners of the property for which the variance is requested.
- B. The Planning Commission shall consider the request for variance from the provisions of this Chapter as soon as is practical and shall make report and recommendation to the City Council.
- C. Upon receiving the report and recommendation of the Planning Commission the City Council shall set and hold a public hearing on the request. Notice of such hearing shall be sent not less than ten (10) days in advance nor more than thirty (30) days in advance of the public hearing and shall be sent to the owners of property within three hundred fifty (350) feet of the affected parcel. Such notice shall be published in the official newspaper within the above time period. Failure of a property owner to receive said notice shall not invalidate any such proceeding.
- E. A variance from the requirements of this Chapter may be granted by a majority vote of the City Council. Failure to receive a majority vote of the City Council constitutes a denial of the request for variance.
- F. Within a reasonable time after the hearing, the City Council shall make its resolution deciding the matter and serve a copy of such resolution by mail upon the party requesting the variance.

- G. The City Administrator shall record the City Council's written decision in granting or denying the variance requested.

SECTION 12.13 CONFORMANCE WITH ZONING ORDINANCE.

Final approval of any plat or registered land surveys under the provisions of this Ordinance shall not relieve the subdivider of any obligation to meet all requirements contained in the City's Zoning Ordinance and any other relevant portions of the City Codes. In the event that the City Code contains one or more provisions in which one provision conflicts with one or more other provisions, the provision, which is more restrictive, shall apply.

SECTION 12.14 EXTENSION OF SUBDIVISION REGULATIONS.

The City of Paynesville, as enabled by Minnesota Statutes Section 462.358, Subdivision 1a, hereby extends the subdivision regulations of this Ordinance to unincorporated territory located within two (2) miles of the Paynesville City limits.

SECTION 12.15. TRUNK CHARGES FOR SANITARY SEWER, WATER MAIN AND STORM WATER MANAGEMENT PLANNING

As a condition to the approval of any plat or subdivision, the subdivider shall be required to pay a trunk sanitary sewer fee, a trunk water main fee and a storm water management planning charge to the City of Paynesville to fund sanitary sewer and water main improvements required by the proposed development and the cost of storm water management planning and storm water detention required by the proposed development.

The City shall establish the trunk sanitary sewer fees, trunk water main fees and storm water management fees by resolution based upon the subdivision's acreage and shall periodically update the fees to account for changes in costs and revenues. The City shall incorporate these fees into a development agreement with the subdivider.

Source: Ordinance No. 87, 2nd Series
Effective Date: 05-04-06

SECTION 12.99 VIOLATION A MISDEMEANOR.

Any person who violates a provision of this Chapter by performing an act thereby prohibited or declared unlawful, or fails to act when such failure is prohibited or declared unlawful, upon conviction thereof, shall be punished for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: Ordinance No. 86, 2nd Series
(entire Ordinance re-done)
Effective Date: 11-03-2005