

CHAPTER V

PLANNING AND LAND USE REGULATIONSSection 500 - Plats; subdivision regulations

500.01. Definitions. Subdivision 1. For purposes of this section the terms defined in this subdivision have the meanings given them.

Subd 2. "Subdivision" means:

(a) a division of land by platting, conveyance, registered land survey or other means, into two or more lots, plats, sites or other divisions, any of which is less than five acres in area;

(b) a division of land, regardless of area, if such division or plat provides for the granting or dedicating of a public street; or

(c) a re-subdivision of land previously divided or platted into lots, sites or parcels, where the total area of the land being re-subdivided is one acre or more.

Subd. 3. "Street" means any street, avenue, boulevard, road, lane, alley, place, viaduct or other public way.

Subd. 4. "Major street" means a street designated as a state trunk highway, a state aid road, a county aid road, an urban expressway, or an arterial city street.

Subd. 5. "Boulevard reserve" means an easement established adjacent to a dedicated street for the purpose of establishing open space adjacent to the street and which area is designated on the recorded plat as "boulevard reserve".

Subd. 6. "Common element residential subdivision" means a subdivision of land into two or more lots constituting individual dwelling units designated for separate ownership and containing designated common areas or facilities owned in common by the owner of the lots with each owner having an undivided interest in the whole of the common areas or facilities.

Subd. 7. "Common areas and facilities" means and includes any of the following:

(a) the land on which the buildings are located;

(b) the foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances, and exits of the buildings;

(c) the basements, yards, gardens, parking areas, and storage spaces;

(d) the premises for the lodging of janitors or persons in charge of the property;

(e) installations of central services such as power, light, gasp hot and cold water, heating and refrigeration, air conditioning and incinerating;

(f) the elevators, tanks, motors, fans compressors, ducts, and in general, all apparatus and installations existing for common use; and

(g) all other parts of the property necessary or convenient to its maintenance and safety, or normally in common use.

Subd. 8. "Limited common areas and facilities" means those common areas and facilities reserved for use only by certain owners to the exclusion of other owners.

500.03. General provisions. Subdivision 1. Application. Plats and subdivisions of land in the city shall be made in accordance with the provisions of this section.

Subd. 2. Council approval; platting authority. All plats or subdivisions of land in the city must be approved by council resolution pursuant to the provisions of Minnesota Statutes section 462.357; the council is the platting authority as defined in that section.

500.05. Conveyances by metes and bound. Subdivision 1. Conveyances prohibited. No conveyance of land that constitutes a subdivision within the meaning of this section may be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an approved registered land survey made after April 21, 1961 or to an unapproved plat. (Amended, Bill No. 2005-11)

Subd. 1a. Subdivision 1 does not apply to a conveyance if the land described:

(a) was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, Chapter 287, whichever is the later, or of the adoption of subdivision regulations pursuant to a home rule charter, or

(b) was the subject of a written agreement to convey entered into prior to such time, or

(c) was a separate parcel of not less than 2-1/2 acres in area and 150 feet in width on January 1, 1966, or

(d) was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980, or

(e) is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width, or

(f) is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width; or

(g) is an adjustment of a lot line by the relocation of a common boundary, where the conveyance does not create an additional lot or space sufficient to construct an additional residence thereon.

(Added, Bill No. 2005-11)

Subd. 2. Subdivision waiver. In any case in which compliance with subdivision 1 will result in an unnecessary hardship and failure to comply does not interfere with the purpose of the platting regulations of this section, the council may waive such compliance by adoption of a resolution to that effect, and the conveyance may then be recorded. The council may at its option refer such questions to the planning commission for recommendation before council action.

Subd. 3. Noncompliance: penalty. Any owner or agent of any owner of land who conveys a lot or parcel in violation of this subsection shall forfeit and pay to the city a penalty of \$100 for each lot or parcel so conveyed as provided by law. Any penalty so levied may be collected by the city by action in a court of competent jurisdiction.

Subd. 4. Noncompliance: injunction. The city, in addition to imposing the penalty provisions of subdivision 3, may bring appropriate proceedings to enjoin any conveyance not complying with this subsection.

Subd. 5. (Repealed, Bill No. 2005-11)

Subd. 6. Application fee. Applications for plat or subdivision approval or for waiver of preliminary platting procedures shall be accompanied by the fee provided in appendix D of this code.

500.07. Specific conditions of plat approval. Subdivision 1. Streets. Before the approval of any plat or subdivision, the proposed plat shall be checked as to measurements of all lots, streets and public lands. Proposed streets on such plat or subdivision shall conform to the street plan of the city as hereinafter specified. In considering requirements for the location and width of streets, consideration may be given to the prospective character of the development, and reasonable conditions and requirements for the establishment of such streets may be required by the council as a condition precedent to approval of the plat or subdivision.

Subd. 2. Grades, utilities, etc. As a condition precedent to the approval of the plat of lands located within the city, the council may prescribe requirements of the extent to which and the manner in which streets shall be granted and improved, utilities installed, and any other matters reasonably related to the manner in which the area being subdivided or platted shall be developed.

Subd. 3. Dedication of park land. In appropriate plats or subdivisions to be developed for residential uses, the council may require that a portion of such land of sufficient size and character be set aside and dedicated to the public for public use as parks and playgrounds. The subdivider may, however, contribute an equivalent amount in cash as determined by the council and all such payments received by the city shall be placed in a special fund and used only for the acquisition of land for parks and playgrounds.

Subd. 4. Contract and bond. In lieu of the completion of work required as a condition precedent to approval of a subdivision or plat, the council may give approval upon the execution of a contract and bond in form and amount satisfactory to the council, providing for and securing to the city the actual construction and installation of such improvements, utilities and other developments within the period specified in the contract and bond not exceeding two years.

Subd. 5. Public improvements: limitation. Except as otherwise provided in this subsection, no electric or gas distribution lines and piping, roadways, walks, curbs and other similar improvements shall be constructed on any street until the street has been approved by being designated upon a plat or subdivision duly approved and accepted by the council or previously accepted as a public street by the council.

Subd. 6. Issuance of building permits: condition. No permit for the erection of any building may be issued by the city unless the building is to be located on a street or highway giving access thereto which has been duly approved and made a part of the street plan of this city and unless such building conforms to the building line established upon the street or proposed street where it is to be located. No permit for the erection of any building may be issued unless the building is to be located upon a full width, improved street or highway, and at such an elevation that such building can be served by the municipal sanitary sewer system by gravity flow, unless the permission of the council is first obtained. This provision is applicable to building permits issued for any parcel of land whether heretofore or hereafter platted or subdivided.

Subd. 7. Building permits. No building permit may be issued for the construction of any building on a parcel conveyed in violation of this subsection.

500.09. Common element residential subdivisions. Subdivision 1. General rule.

Common element residential subdivisions are permitted in the R, MR-1, MR-2, MR-3, PR, P-MR or PMR-1 districts of the city.

Subd. 2. Submissions required. An applicant requesting a common element residential subdivision shall submit a subdivision plan showing the following:

- (a) the number and location of each living unit assigning an identifying number to each;
- (b) the dimensions and locations of all existing structural improvements and roadways;
- (c) the intended location and dimensions of all common areas and facilities to be constructed labeled either MUST BE BUILT or NEED NOT BE BUILT;
- (d) the extent of any encroachment by or upon the buildings;
- (e) the location and dimensions of all recorded easements within the subdivision serving or burdening any portion of the subdivision;
- (f) the location and dimensions of any limited common areas or facilities;

(g) the location and dimensions of the vertical boundaries of each unit and that unit's identifying number;

(h) the location and dimensions of the horizontal unit boundaries with reference to assumed datum and each unit's identifying number.

The subdivision plan shall become part of the plat and shall contain a certification by a registered professional engineer, surveyor, or architect that the subdivision plan accurately depicts all information required by this subdivision.

Subd. 3. Special regulations. Common element subdivisions permitted by this subsection shall comply with the following requirements:

(a) all necessary conditional use permits and apartment use permits have been or will be obtained prior to the filing of the plat; and

(b) the proposed development shall meet all requirements established as part of the zoning code for the zoning district in which the subdivision is to be located.

Subd. 4. Conditions governing approval. In approving common element subdivisions the city council shall find that such approval would not adversely affect the public health, safety or general welfare and that the intent and spirit of these regulations would be preserved. In approving common element subdivisions, the council may require that conditions including the following be placed upon the plat, together with conditions which are contained elsewhere in this subsection:

(a) no owner may remove or alter any intervening common wall separating two units for the purpose of joining such units without amending the plat to permit such joinder;

(b) except to adjust for settling or lateral movement of structures, the boundaries between adjoining units may not be relocated without amending the plat;

(c) units may not be subdivided without amending the plat;

((d) common areas or facilities may not be subdivided without amending the plat;

(e) in the event that any unit is damaged or destroyed, it must be rebuilt to the boundaries of that unit as described in the subdivision plan; and

(f) common areas may not be used for any purpose other than the purposes described in the subdivision plan and contained in the plat.

500.11. Streets, alleys and easements: conditions. Subdivision 1. Arrangement of streets. The arrangement of streets in new subdivisions or plats shall be so laid out as to provide a continuation of existing streets of adjoining areas, whether in the city or in adjoining municipalities or the projection of east-west or north-south streets of the city if there are no adjoining streets. The width of streets in new subdivisions shall be not less than the minimum street width established herein. Offset or irregular streets are prohibited unless the topography of the area concerned makes the construction of regular streets impossible or impractical.

Subd. 2. Minor streets: angles. Minor streets of irregular nature should approach any major street except major diagonal streets hereinafter named at an angle of between 80 degrees and 100 degrees.

Subd. 3. Major streets: designation, width. Major streets include: Penn Avenue, Lyndale Avenue, Nicollet Avenue, Portland Avenue, Cedar Avenue, Standish Avenue and 66th Street. All major streets designated herein shall be 100 feet in width, except where existing conditions make a street of less width more suitable as determined by the council.

Subd. 4. Other streets: width. The following streets shall have a width of 66 feet: Xerxes Avenue, Chicago Avenue and 12th Avenue.

Subd. 5. Minor streets: width. The minimum width for minor streets shall be 60 feet except that where existing conditions make a street of less width more suitable, the council may permit a street of less width. When streets abut undivided property, a half street may be dedicated. When topographic conditions are unfavorable to the construction of a half street, the subdivider may be required to provide additional land to construct a street of adequate width.

Subd. 6. Alleys: width. The minimum width of an alley in a residential block shall be 15 feet. Alleys shall not be required for any block except when topographic conditions make them necessary. Alleys may be required in the rear of all business lots and, if required, shall be at least 20 feet wide. A five foot cutoff shall be made to acute alley intersections.

Subd. 7. Off-street Parking requirements. Adequate provisions for offstreet parking shall be provided in connection with all subdivisions for business development where the subdivider indicates that such is the purpose of the subdivision and has made application for a building permit for business development.

Subd. 8. Easements. Where alleys are not provided, easements of not less than five feet in width shall be provided on each side of all rear lot lines and along side lot lines where necessary for any anchors, poles, wires, conduits, sewers, pipes or mains for any public utility. Easements of greater widths may be required under extraordinary conditions of topography or utility line groupings.

500.13. Minimum lot area. The minimum area and minimum width of any lots in a plat or subdivision shall conform to the standards of the zoning district in which the parcel falls. Where corner lots rear upon lots facing the side street, the corner lots shall have extra width sufficient to permit the establishment of front building lines on both the front and side of the lots adjoining the streets. Extra width shall be provided on all corner lots irrespective of whether they rear upon lots facing the side streets. (Amended, Bill No. 2005-11)

500.15. Performance bonds. When a contract and bond for the development of a plat or subdivision is provided in lieu of performance of conditions precedent to council approval as provided in subsection 500.07, subdivision 4, the contract and bond shall provide for performance within two years of the date of approval of the plat. The bond shall be in an amount of one and one-half times the actual established cost of the improvements required with form and sureties satisfactory to the council. When no lots have been sold, the subdivider may vacate the plat prior to the time that the improvements covered by the contract and bond are installed, and when the plat is vacated, the bond shall be returned to the subdivider and the contract cancelled.

500.17. Street Opening. The opening and construction of any street may not be started until agreement has been reached between the council and the property owner or developer upon the conditions under which the subdivision, plat, or street is to be developed.

500.19. Utilities. The subdivider shall make adequate provision for water supply and for sewerage and storm water disposal. The subdivider shall provide the city with such information as may be necessary to a determination of the adequacy of the facilities proposed to be used for such purposes. The council may require the construction of water lines, sanitary sewer lines or storm sewer lines although connection to other lines outside the area may not be possible immediately where plans for the installation of such lines in the area have been prepared by the engineer or other competent person and construction of such a system or utility has already commenced or completed in other areas of the city. The council may require that such lines be constructed outside the area being platted or subdivided where necessary in order to properly serve the area being subdivided or platted. Two or more owners, subdividers or platters may enter into contracts with the city for the improvement of several subdivisions, parcels or plats at the same time when such water, sewer or storm lines would pass through and serve the several areas concerned and could possibly be constructed as a single project.

500.21. Variations. Whenever the tract to be subdivided or platted 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 section would result in a substantial hardship or injustice, the council may vary or modify such requirements so that the subdivider is allowed to develop his property in a reasonable manner, but in such a manner that the public welfare and interests of the city and surrounding area are protected and the general intent and spirit of this section is preserved.

500.23. Plats: preliminary approval. Subdivision 1. Submission to council. A person wishing to subdivide land into building lots, or to dedicate streets, alleys or land for public use or to subdivide land into building lots together with the dedication or reservation of public or private streets respectively, shall submit ten copies of the preliminary sketch plan, preferably black and white prints, to the council before submission of the final plan. Plats containing three lots or less may be exempted by the council from the provisions of this subsection.

Subd. 2. Contents of submission. The preliminary plan is to be drawn to a scale of not more than 100 feet to the inch and shall show:

(a) the location of present property and section lines, streets, buildings, water courses and other existing features within the area to be subdivided;

(b) the proposed location and width of streets, lots, buildings, and set back lines and easements;

(c) existing sanitary and storm sewers, water mains, culverts and other underground structures, within the tract or immediately adjacent thereto. The location and size of the nearest water main and sewer or outlet are to be indicated in a general way upon the plat;

(d) the title under which the proposed subdivision is to be recorded and the name of the subdivider platting the tract;

(e) the names of all adjoining subdivisions or a description of unplatted areas and the layout of their streets;

(f) the council may require a contour map to be made, having contour intervals of not more than two feet;

(g) north point, seal and date;

(h) plans or written and signed statements regarding the width of all types of pavement, location, size and type of sanitary or other sewerage disposal facilities, water mains and hydrants or other utilities, storm water drainage facilities and other proposed improvements such as sidewalks, planting and parks and grading of individual lots. Preliminary plans not containing all of the above data will not be approved by the council.

Subd. 3. Procedures for approval. Approval of the preliminary plans shall not constitute an acceptance of the subdivision by the council. One copy of the approved preliminary plat, signed by the mayor and the manager, shall be retained in the office of the director of community services. One signed copy shall be given to the subdivider. Receipt of this signed copy shall be authorization for subdivider to proceed with the preparation of plans and specifications for the minimum improvements required and with the preparation of the final plat. Prior to the construction of any improvements required or to the submission of any bond, the subdivider shall furnish the council with all plans, information and other data necessary for said improvements. The plans shall be examined by the engineer and will be submitted for approval by the council if in accordance with the requirements of this code. If approved, a contract will then be prepared setting forth the conditions under which the improvements will be accomplished, based upon the approved plans and specifications for this work.

Subd. 4. Additional requirements. The following additional requirements apply:

(a) surveys and plans shall be prepared in accordance with rules and regulations established by the director of community services; detailed construction specifications approved by the engineer shall apply to all items of work included in the improvement;

(b) the subdivider or developer shall furnish estimates of the cost of the improvements based upon bids or upon firm prices from contractors. Following the posting of a bond equal to one and one-half times the estimated cost of the work and the signing of the contract documents, work on construction may be started; and

(c) any and all costs to be borne by the city or any costs to be paid for by special assessment against property benefitted, shall be specifically outlined in the contract documents.

500.25. Final approval of plats. Subdivision 1. Submission to council. The final plan on mylar and two prints thereof, together with two copies of any deed restrictions when such are too lengthy to be shown on the plat or plan, and two prints of the certified plans showing the improvements as built or as they are to be built within the subdivisions shall be submitted to the council. Before approving the final plat or plan of all or part of a proposed subdivision, the council will require proof that the improvements and revisions thereof required have been satisfactorily completed or their construction secured by contract and bond. The final plat accepted shall cover only that part of the subdivision upon which all improvements have been completed or secured. (Amended, Bill No. 2005-11)

Subd. 2. Contents of submission. The final plat shall show:

(a) the boundary lines of the area being subdivided with accurate distances and angles or bearings; all section lines, and the names of all adjoining subdivisions or a description of unplatted areas and layout of their streets;

(b) the lines of all proposed streets and alleys with their width and names;

- (c) the accurate outline of any property which is offered for dedications for public use;
- (d) all lot lines and an identification system for all lots and blocks;
- (e) building lines and easements for rights of way provided for public use, services, or utilities with figures showing their dimensions;
- (f) all dimensions both linear and angular, necessary for locating boundaries of subdivisions, lots, streets, alleys, easements for building lines and of any other areas for public or private use; the linear dimensions are to be expressed in feet and decimals of a foot;
- (g) monuments or iron pipe not less than three-fourths of an inch in diameter and two feet in length shall be placed at all street corners, and at all changes in alignment in street lines. The monuments shall be shown on the plat with the distances between them and with sufficient curve data plainly marked;
- (h) name of subdivision, points of compass, scale of plan and name of owner or owners or the subdivider;
- (i) private restrictions and trusteeships and their periods of existence; should such restrictions and trusteeships be of such length as to make the lettering of same on plat impracticable, and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat and the book and page number referring to the instrument shall be added to the plat after the restrictions or trusteeship have been recorded; plats shall contain proper acknowledgements of owners and the consent by the mortgagee to the plat and restrictions;
- (j) the surveyor's certificate, which contains the description of the land included in the plat and all necessary explanations of dimensions and references to monument to supplement the figures on the plat itself;
- (k) an acknowledgement before a notary as to all signatures required; and
- (l) attorney's approval of title.

500.27. Public hearings: preliminary and final plats of subdivision. Whenever a copy of a preliminary or final plat or subdivision is filed with the city for approval, published notice shall be given in the official newspaper of the city of a public hearing to be held not less than ten days thereafter. At such hearing, all persons interested herein may be heard and the council may thereafter approve or disapprove the plat or subdivision. Approval or disapproval shall be given not more than 60 days after the filing of any final plat or subdivision with a formal request for its approval. Failure to act within 60 days is deemed approval. The grounds for any refusal to approve a plat or subdivision shall be set forth in the proceedings of the council and reported to the person or persons applying for such approval. Plats and subdivisions, after approval, may be recorded as provided by law.

500.29. Miscellaneous requirements. Subdivisions 1. Filing of plats. Three copies of surveys of land subdivided by metes and bound and one copy of registered plats shall be filed with the engineer upon approval by the council.

Subd. 2. Deeds to city. City land for streets shall be deeded to the city in accordance with the provisions of this code when land is subdivided by metes and bounds or registered land survey. No grant of a public street to the city by deed may be filed without the approval of the council by resolution.

Subd. 3. Recording of plats. Plats approved by the council shall be filed within 30 days unless an extension of the time for filing is granted by the council upon good cause shown, within said 30-day period. Unreasonable delay in the filing of any subdivision or plat after approval by the council is grounds for revocation of approval.

Subd. 4. Vacation of various parcels. The council may direct the vacation of any publicly owned utility easements or boulevard reserves or any portion thereof, which are not being used for sewer, drainage, electric, telegraph, telephone, gas and steam purposes or for boulevard reserve purposes in the same manner as provided in this code for the vacation of streets.

500.31. Administrative rules. The director of community development shall prepare instructions and rules for the administration of this section so that the public will be informed and approval of subdivisions and plats will be expedited. The regulations shall be in conformity to Minnesota Statutes, sections 462.351 to 462.364. Applications for subdivisions of land shall be made at the office of the director. The director's recommendation shall accompany each application at the time of its presentation to the council for approval.