

SECTION 4. CONSTRUCTION STANDARDS

Subdivision

- 4.01 Monuments
- 4.02 Streets and Alleys
- 4.03 Sidewalks
- 4.04 Public Utilities Design
- 4.05 Water Supply
- 4.06 Sewage Disposal
- 4.07 Drainage
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- 4.09 Utilities Location
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4.01 MONUMENTS:

- A. Monuments shall be placed at all block and lot corners, angle points, points of curves in streets and at intermediate points as shall be required by the City. Monuments shall be metal and shall be placed by a Registered Engineer or Registered Land Surveyor. Monument placement shall meet the current accepted standards of practice for surveying including the Stearns County Surveyor requirements.
- B. All lot corners and survey control monuments shall be set and in place at the time the plat is recorded. An exception to this requirement may be granted for up to one (1) year by the City Council, provided such approval is made part of the development contract and a financial guarantee in a form determined by the City Attorney is provided.
- C. Stakes showing the locations of easements shall be provided by the applicant upon request of the City. The stakes shall be wood laths and will be used only to insure the proper location of utilities on the easements. The stakes shall not be intended to be permanent survey monuments.

4.02 STREETS AND ALLEYS:

- A. Grading: The full width of the right-of-way of each street and alley dedicated in the plat shall be cleared and graded in accordance with the plan approved by the City Engineer. Boulevards shall be graded to an approved gross slope not less than two (2) percent, nor more than six (6) percent.
- B. Paving: All streets and alleys shall be improved with a concrete or bituminous

surface. Streets to be paved shall be surfaced for a nine (9) ton axle weight capacity using current Minnesota Highway Department design standards and in accordance with City standard design detail plates. No building permit shall be issued for any lot or parcel in a subdivision prior to the installation of the first lift (base course) of bituminous surfacing or concrete surfacing on the streets thereof. Exceptions to this provision may be granted by the City Council at their discretion as part of a development contract.

- C. Soil Investigation: To determine subgrade soils classification and bearing capacity of the soils in the proposed development, a soil investigation report shall be prepared under the supervision of a soils engineer associated with a qualified soils testing service. Report of the results of the soils investigation shall be provided to the City Engineer. The report shall contain the design recommendation for street section based on nine (9) ton design. In proposed streets, soils investigation shall be performed at intervals not to exceed three hundred (300) lineal feet. The soil borings completed during the investigation shall be at least ten (10) feet in depth below the proposed finished grade. Ground water levels shall be reported at each boring. Elevations shall be in mean sea level datum. Locations of borings shall measure in the field and accurately shown on the plans.
- D. Concrete Curb and Gutter: All curb shall be concrete with integral gutter. The standard curb shall be vertical face (Type B-6-18) in accordance with City standard design templates. In new residential developments where access locations to lots are not known, a surmountable curb (Type D418) in accordance with City standard design templates may be used subject to the approval of the City Council if the radius of curvature of the street is two hundred (200) feet or larger and except at intersections and catch basin inlets.
- E. Boulevards: All boulevards shall have four (4) inches of topsoil (black dirt) placed on them and then shall be sodded or seeded.

4.03 SIDEWALKS: Sidewalks shall be concrete, a minimum of six (6) feet in width, and shall be constructed in accordance with the City standard design detail plates.

4.04 PUBLIC UTILITIES DESIGN: Where public utilities are available and/or are to be installed, the following minimum design standards shall apply:

- A. Water Main:
 - 1. Water main size shall be a minimum six (6) inches diameter. Water main size up to eight (8) inches may be utilized as a standard and minimum distribution size along with six (6) inches. Water main shall be ductile iron pipe and shall meet all the requirements of the City Engineer's Association of Minnesota standard utility specification for Water main and service line installation and American Water Works Association standard, as may be

amended.

2. Mains shall be valved at intervals not to exceed eight hundred (800) feet. Wedge gate valve shall be installed as main valves. Valve shall also be installed at street intersection and branches in the distribution system or in locations as determined by the City Engineer.
 3. "Dead end" mains shall be looped if exceeding the allowed length of a cul-de-sac. The distribution system may require installing a larger main to benefit the entire water service in the City. The City Engineer shall determine location and size of main larger than six (6) or eight (8) inches in residential area. In commercial/industrial areas, Water main up to twelve (12) inches may be required to meet normal distribution required in the development. The cost of normal distribution size and appurtenances shall be the responsibility of the developer. Size of pipe over and above normal distribution shall be installed and financed in accordance with City policy.
- B. Fire Hydrants: Installation shall be pursuant to plans approved by the City Engineer and local fire fighting authority and shall be located in accordance with Insurance Service Office (ISO) standards.
- C. Sanitary Sewer:
1. Sanitary sewer shall be a minimum of eight (8) inch pipe and shall be of a material approved for use in the City by the City Engineer. Sanitary sewer grades and installation shall conform to the Recommended Standards for Sewage Works latest edition by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers and the City Engineer's Association of Minnesota standard utilities specification for sanitary sewer. Main size will be determined by the sewage flow and grade in accordance with the recommendations of the City Engineer.
 2. Size of pipe shall be determined by lateral service and/or trunk service. Trunk service shall be the responsibility of the property served and City Council shall establish cost distribution policy. Lateral service shall be the responsibility of the property serviced and cost shall be borne by the serviced property.
 3. Sanitary sewer service shall be a minimum of four (4) inches and shall be installed in accordance with the City's standard detail templates.
- D. House Services: Each house service shall be run from the main to the property line, where a cap or plug shall be placed until the service is extended to the structure. A one (1) inch Type K copper water service, or approved equal; corporation cock, curb box and stop; and four (4) inch PVC plastic pipe, or approved equal, sewer service shall be the minimum requirements. All product types shall be approved by the City Engineer.

- E. Reproducible "as-built" drawings showing all utilities and improvements shall be furnished to the City by the applicant of all required improvements in developments where the applicant has been responsible for improvements. Such "as-built" drawings shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.

4.05 WATER SUPPLY:

- A. Water lines shall be installed and connected to the public system to serve all lots within the proposed subdivision under the provisions of applicable statutes and ordinances. The City Council shall require the installation of water mains, at the applicant's expense or under the provisions of applicable statutes and ordinances, unless said applicant can prove to the City Council that extension of the existing water system is not feasible in the development of the subdivision and that adequate water facilities will be otherwise provided, in which case the City Council may permit the installation of individual wells.
- B. An individual well, if permitted by the City Council, shall be constructed in accordance with the Minnesota State Well Code. The applicant shall provide evidence that lots proposed for individual wells will have a good chance of securing an adequate supply of potable water.

4.06 SEWAGE DISPOSAL:

- A. Sanitary sewer lines shall be installed and connected to the public system to serve all lots within the proposed subdivision under the provisions of applicable statutes and ordinances. The City Council shall require the installation of sanitary sewer mains, at the applicant's expense or under the provisions of applicable statutes and ordinances.
- B. When a subdivision will be able to be served by sanitary sewer within six (6) years, the City may require that sewer mains and service connections be installed within the subdivision and the entire system connected to a temporary, private central sewage treatment mechanism. The cost for such improvements is to be borne by the applicant.
- C. In areas being developed for building sites with lots totaling twenty thousand (20,000) square feet or more for soil absorption sewage disposal and the City does not have plans to provide public sewer and water within six (6) years, individual on-site sewage disposal systems may be provided for each lot.
- D. There shall be no overflow outlets from septic tanks or seepage pits allowing effluent to flow to any waterway, drainage way or roadside ditch.
- E. The applicant or owner shall be required to provide appropriate soil borings and

percolation tests in order to determine proper sewage system design. Where on-site residential sewer systems are to be installed, the rules and regulations of the Minnesota Pollution Control Agency, Minnesota Individual Sewage Treatment Systems Standards (Minnesota Rules, Chapter 7080) as may be amended.

- F. Any means or methods of sewer disposal including septic tanks and seepage pits in the subdivision shall be allowed to exist only if in compliance with Federal Emergency Management Agency (FEMA) rules and regulations, requirements of the Minnesota Pollution Control Agency, and Minnesota Rules 7080, as may be amended.

4.07 DRAINAGE: All surface and underground drainage systems shall be installed by the applicant to adequately remove all natural drainage that accumulates on the developed property. All such systems shall provide complete removal and a permanent solution for the removal of drainage water and shall be subject to City review and approval.

4.08 BUILDING SITE IMPROVEMENTS FOR FLOOD-PRONE AREAS:

- A. No lot will be sold or building constructed in an area subject to flood prior to completion of all flood protection works or measures planned for such lot and necessary facilities.
- B. No subdivision shall be approved for floodway areas if anticipated levees, fill, structures or other features will individually or collectively increase flood flows or damages. The City Council shall reasonably assume an equal degree of encroachment on the opposite side of the watercourse in calculating possible effects of the proposed uses.
- C. New building sites for any structures, residences, motels, resorts and all manufactured home parks/subdivisions, and similar uses for human occupation shall not be permitted in floodway areas. These uses may be permitted outside the floodway if building sites are filled to a height not more than one (1) foot above the regulatory flood protection elevation for the particular area. Required fill areas shall extend fifteen (15) feet beyond the limits of extended structures. If the subdivision is not to be serviced with sewer, it shall include areas for on-site waste disposal at or above the flood protection elevation in accordance with FEMA rules and regulations.
- D. Building sites for structures other than those used for human occupancy outside of floodway areas shall ordinarily be filled as provided above. However, the City Council may allow subdivision of areas for commercial and industrial use at a lower elevation if the applicant protects the areas to the regulatory flood protection elevation by levees, flood walls, channels modifications or other protective techniques; or if the applicant agrees to protect uses through structural floodproofing, flood warning systems or other techniques specified in this

Ordinance.

- E. Should the City Council determine that only a part of a proposed plat can be safely developed, it shall limit development to that part and require that the specifications for development be consistent with its determination.
- F. When someone other than the applicant intends to develop the plat, and the City Council determines that additional use controls are required to insure safe development, it may require the applicant to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on the face of the final recorded plat.

4.09 UTILITIES LOCATION: Except as expressly allowed by the City, all utilities shall be placed underground. All underground work shall be completed prior to street surfacing. All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles.

4.10 STREET LIGHTING REQUIREMENTS: The need to install street lighting shall be determined by the City Council. Where required, the minimum requirement for street lighting facilities shall be one (1) eight thousand (8,000) lumen light, or equal, at each street intersection within or abutting the subdivision. At least one (1) street light shall be erected within blocks having a length of nine hundred (900) feet or greater and no street light shall be located within two hundred fifty (250) feet of another street light except for white-way areas. Light standards must be approved by the City.

4.11 INSPECTION: All required improvements shall be inspected by the City Engineer or City approved consultant during construction, at the expense of the applicant.

4.12 CERTIFICATE OF OCCUPANCY: No certificate of occupancy shall be issued by the City Building Official for any building in the subdivision prior to all improvements outlined in the development contract having been installed. Exceptions to this provision may be granted by the City Council at their discretion as part of the development contract.

SECTION 5. REQUIRED IMPROVEMENTS AND FINANCIAL ARRANGEMENT

Subdivision

- 5.01 Improvements Required
- 5.02 Construction Plans, Inspection and Warranty
- 5.03 Installation of Improvements
- 5.04 Development Contract
- 5.05 Financial Guarantee
- 5.06 Improvements Completed Prior to Approval of the Final Plat

5.01 IMPROVEMENTS REQUIRED: Prior to the approval of a final plat by the City Council, the applicant shall have agreed, in the manner set forth below, to install the following improvements on the site when required by the City Council, in conformity with approved construction plans and in conformity with all applicable standards and ordinances:

- A. **Monuments:** Monuments are to be placed in the subdivision in accordance with Section 4.01 of this Ordinance.
- B. **Grading:** The full width of the right-of-way of each street dedicated in the plat shall be cleared and graded as outlined in Section 4.02.A of this Ordinance.
- C. **Pavement:** All streets shall be improved with concrete or bituminous surface, except as may be approved by action of the City Council as part of a development contract. Pavement standards are outlined in Section 4.02.B of this Ordinance.
- D. **Public Water:** Public water facilities shall be installed in accordance with the standards and specifications as outlined in Section 4.04.A of this Ordinance and subject to the approval of the City Engineer, at the expense of the applicant.
- E. **Public Sanitary Sewer:** Public sanitary waste disposal systems shall be installed in accordance with the standards and specifications as outlined in Section 4.04.C of this Ordinance and subject to the approval of the City Engineer, at the expense of the applicant.
- F. **Curb and Gutter:** Concrete curb and gutter, as recommended by the City Engineer and approved by the City Council, shall be installed along both sides of all streets to the standards listed in Section 4.02.D of this Ordinance.
- G. **Drainage Facilities:** Such facilities and easements shall be installed at the expense of the applicant under City approval as will adequately provide for the drainage of surface waters, and storm sewer system may be required. Drainageway easements or land dedication may be required when such easements or land is needed in the public interest for purposes of flood plain management, proper drainage, wetland protection, prevention of erosion, pedestrian access to water bodies, or other public purpose.

- H. Utilities: All utilities, including but not limited to telephone, cable television, electric and/or gas lines, shall be placed as outlined in Section 4.09 of this Ordinance.
- I. Larger Facilities: Where a larger size water main, sanitary sewer, storm sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility shall be constructed at the applicant's expense unless provided for as outlined in Section 5.03.A of this Ordinance.
- J. Miscellaneous Facilities: Tree plantings, street name signs, traffic control signs, pavement marking and other improvements may be required and be installed at the expense of the applicant.

5.02 CONSTRUCTION PLANS, INSPECTION AND WARRANTY:

- A. Construction plans for the required improvements conforming in all respects with the standards and ordinances of the City shall be prepared at the applicant's expense by a professional engineer who is registered in the State of Minnesota, and said plans shall contain professional certification. Such plans together with the quantities of construction items shall be submitted to the City Engineer for an estimate of the total costs of the required improvements and recommendation to the City Council. Upon City Council approval, such plans shall become a part of the required written agreement. The tracings of the plans approved by the Engineer, plus two (2) prints, shall be furnished to the City to be filed as a public record.
- B. All required improvements on the site that are to be installed under the provisions of these regulations shall be inspected during the course of construction by the City Engineer at the applicant's expense, and acceptance by the City shall be subject to the City Engineer's certificate of compliance with the contract.
- C. The applicant and/or developer shall provide to the City a written warranty that all required improvements on the site meet or exceed all City standards and that such improvements have been inspected and tested in regards to the City standards. The applicant and/or developer shall be responsible for having all such inspections and testing completed at their expense.

5.03 INSTALLATION OF IMPROVEMENTS:

- A. Payment: The required improvements as listed are to be furnished and installed at the sole expense of the applicant. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such lands, to be allocated in accordance with City policies.

- B. City Installation Right: The City reserves the right to elect to install all or any portion of the improvements required under this section pursuant to Minnesota Statutes, as may be amended. The City may require the applicant to post a financial guarantee as outlined in Section 5.05 of this Ordinance to ensure payment of assessments for the costs of installing the required improvements.

5.04 DEVELOPMENT CONTRACT:

- A. Private Installation of Improvements:
1. Prior to the installation of any required improvements by the applicant and prior to approval of the plat, the applicant shall enter into an agreement in writing with the City requiring the applicant/developer to furnish and construct said improvements at their sole cost and in accordance with plans and specifications and usual contract conditions. This shall include provision for observation of details of construction by the City Engineer and shall grant to the City Engineer authority to coordinate the work and improvements to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the City in the vicinity. The agreement shall require all public and private utility material standards and installation requirements be met and shall be approved by the City Engineer.
 2. The agreement shall require the applicant to make an escrow deposit or furnish an irrevocable letter of credit or a certified check as is determined by the City. The amount of the deposit or penal amount of the security is to be based on the City Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. The deposit or penal amount shall equal one hundred fifty (150) percent of the City Engineer's estimate.
 3. On request of the applicant, but at the sole discretion of the City, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat. In such event, and if evidence is presented that the described work and improvements have been paid for, the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat.
 4. The time for completion of the work and the several parts thereof shall be determined by the City Council, upon recommendation of the Engineer after consultation with the applicant. It shall be reasonable with relation to the work to be done, the seasons of the year, and proper coordination with construction activities in the plat and subdivision.
 5. Improvements shall be constructed only in platted real estate.

6. No applicant/developer shall be permitted to start work on any other subdivision improvements without special written approval of the City Council.

B. City Installation of Improvements:

1. Any person desiring to have utility and street improvements installed may request the City to install them, subject to the following conditions and to the approval and authorization thereof by the City Council and as authorized by State law.
2. If so approved by the City Council, the person requesting the installation of said utility and street improvements shall supply a security approved by the City running to the City guaranteeing payment for the installation of the improvements in an amount based on the City Engineer's estimate of the total cost of the improvements to be installed. The deposit or penal amount shall equal one hundred fifty (150) percent of the City Engineer's estimate of the cost of installation of the improvements. The security to be supplied the City shall be payable on such terms and conditions as found by the City Council to be reasonable and necessary to insure that the costs of the improvements are properly secured and paid.
3. Improvements shall be constructed only in platted real estate.
4. The provisions of Section 5.04.B do not apply to any improvement installed in a platted block upon which at least fifty (50) percent of the lots thereof have a dwelling or other building constructed and occupied.
5. No applicant/developer shall be permitted to start work on any other subdivision improvements without special approval of the City Council.

5.05 FINANCIAL GUARANTEE:

- A. The contract provided for in Section 5.04 shall require the applicant to make an escrow deposit or provide a certified check or irrevocable letter of credit as determined by the City. The escrow deposit, certified check or irrevocable letter of credit shall conform to the requirements of this section.

B. Escrow Deposit, Certified Check:

1. If an escrow deposit or certified check is required, the escrow deposit or certified check shall be made with the City Treasurer in a sum equal to one hundred fifty (150) percent of the total costs calculated as provided in Section 5.04, as estimated by the City for all the improvements to be furnished and installed by the applicant pursuant to the contract, which have

not been completed prior to approval of the plat. An additional cash deposit shall be furnished for costs of City inspections, and any necessary review by the City Engineer and City Attorney. Such deposit shall be equal to a sum determined by the City Engineer.

2. The City shall be entitled to reimburse itself out of said deposit or check for any cost and expense incurred by the City for completion of the work in case of default of the applicant under said contract, and for any damages sustained on account of any breach thereof.
3. Upon completion of the work and termination of any liability, the balance remaining in said deposit or check from Section 5.05.B above shall be refunded to the applicant.

C. Irrevocable Letter of Credit:

1. If the applicant is required to furnish an Irrevocable Letter of Credit, the penal sum shall be payable to the order of the City and delivered to the City in an amount calculated as provided in Section 5.04, as estimated by the City Engineer of all the improvements to be furnished and installed by the applicant pursuant to the contract, which have not been completed prior to the approval of the plat. An additional cash deposit shall be furnished for costs of City inspections. Such deposit shall be equal to a sum determined by the City Engineer.
2. The Irrevocable Letter of Credit shall be approved as to form by the City Attorney and filed with the City Treasurer.
3. The City shall be entitled to reimburse itself out of said letter of credit for any cost and expense incurred by the City for completion of the work in case of default of the applicant under said contract, and for any damages sustained on account of any breach thereof.

5.06 IMPROVEMENTS COMPLETED PRIOR TO APPROVAL OF THE FINAL PLAT:

Improvements within a subdivision which have been completed prior to application for approval of the final plat, or execution of the contract for installation of the required improvements, shall be accepted as equivalent improvements in compliance with these requirements only if the City Engineer certifies that the existing improvements conform to applicable standards and if evidence of payment for the work that has been completed is presented in such form as the City reasonably requires.

SECTION 6. ADMINISTRATION AND ENFORCEMENT

Subdivision

- 6.01 Non-platted Subdivisions
- 6.02 Variances, City Council Approval, Standards
- 6.03 Violations and Penalty
- 6.04 Schedule of Administrative Fees, Charges, and Expenses

6.01 NON-PLATTED SUBDIVISIONS

- A. Registered Land Surveys: All registered land surveys shall be filed subject to the same procedures as required for the filing of a preliminary plat for platting purposes. The standards and requirements set forth in these regulations shall apply to all registered land surveys.
- B. Metes and Bounds: Except in highly unique situations as may be allowed by the City Council, conveyances by metes and bounds shall be prohibited where any lot or lots involved are less than ten (10) acres in area or have a width of less than three hundred thirty (330) feet at the building setback line.

6.02 VARIANCES, CITY COUNCIL APPROVAL, STANDARDS:

- A. Findings: The City Council may approve a variance from the minimum standards of this Ordinance (not procedural provisions) when, in its opinion, exceptional and undue hardship may result from strict compliance. In approving any variance, the City Council shall prescribe any conditions that it deems necessary to or desirable to the public interest. In making its approval, the City Council shall take into account the nature of the proposed use of land and 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. A variance shall only be approved when the City Council finds that each and every one of the following apply:
 - 1. That there are special circumstances or highly unique conditions affecting the property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land.
 - 2. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which property is situated.
 - 3. That the variance is to correct inequities resulting from an extreme physical hardship such as topography.

4. Hardships relating to economic difficulties shall not be considered for the purpose of granting a variance.
5. That the hardship is not a result of an action or actions by the owner, applicant or any agent thereof.
6. The variance will not in any manner vary the provisions of the Zoning Ordinance or Official Zoning Map.

B. Procedures:

1. Pursuant to Minnesota Statutes 15.99, as may be amended, an application for a variance shall be approved or denied by the City Council within sixty (60) days from the date of its official and complete submission unless notice of extension is provided by the City or a time waiver is granted by the applicant. If applicable, processing of the application through required State or Federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. If the variance request is not approved, the reasons for such action shall be recorded in the official proceedings of the City and shall be transmitted to the applicant.
2. Request for variances, as provided within this Section, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. Such application shall also be accompanied by fifteen (15) copies of detailed written and graphic materials fully explaining the proposed change, development, or use. The request for variance shall be placed on the agenda of the first possible Planning Commission meeting. The request shall be considered as being officially submitted when all the information requirements are complied with.
3. Upon receipt of said application, the City shall set a public hearing following property hearing notification as applicable. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description of request, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within one-quarter (1/4) mile of the property in question. The Zoning Administrator shall have the right to provide additional property owners notification beyond the one-quarter (1/4) mile distance if it is judged that the request will have impact upon additional properties. The County Assessors records shall be deemed sufficient for determining the location and ownership of said property. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding. In the case of a proposed subdivision which abuts a municipal

boundary, notices shall be sent to the appropriate City Board of Supervisors.

4. For properties within the Shoreland Overlay or Scenic River District or one hundred (100) year floodplain, the City shall submit to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
5. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance, provided a bona fide attempt has been made to comply with the notice requirements of this Section.
6. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.
7. The Planning Commission and Zoning Administrator shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure of an applicant to supply all necessary supportive information may be grounds for denial of the request.
8. The applicant or representative thereof shall appear before the Planning Commission to answer questions concerning the proposed variance.
9. The Planning Commission shall make findings of fact and recommend approval or denial of the request. The Planning Commission shall reach a decision within sixty (60) days after the first regular meeting at which the variance request was considered by the Commission, unless a delay in action is requested by the applicant. The Commission's recommendation and the City staff's report shall be presented to the City Council.
10. The City Council shall not grant a variance until they have received a report and recommendation from the Planning Commission. If, however, the Planning Commission has not acted upon the request after sixty (60) days from the first regular meeting at which the request was considered, the City Council may proceed with its consideration and action on the request.
11. Upon receiving the report and recommendation of the Planning Commission, the City shall place the report and recommendations on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

12. The City Council shall review the application and may at its option conduct a public hearing on the request.
13. A variance of this Ordinance shall be by a majority vote of the entire City Council.
14. All decisions by the City Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Stearns County District Court.
15. A copy of all decisions granting variances for properties in the Shoreland Overlay, Scenic River District, or one hundred (100) year floodplain shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.
16. Whenever a variance has been considered and denied by the City Council, a similar application and proposal for the variance affecting the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial, except as follows:
 - a. If the applicant or property owner can clearly demonstrate that the circumstances surrounding the previous variance application have changed significantly.
 - b. The City Council may reconsider such matter by a majority vote of the entire City Council.
17. If a request for a variance receives approval of the City Council, the applicant shall record such with the Stearns County Recorder within thirty (30) days of the City Council approval date. The applicant, immediately upon recording such, or as soon as is reasonably possible, shall furnish the City proof of recording. No building permits for the property in question will be granted until such proof of recording is furnished to the City.

6.03 VIOLATIONS AND PENALTY:

- A. Sale of Lots from Unrecorded Plats: It shall be a misdemeanor to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or replat of any subdivision or area located within the jurisdiction of this Ordinance unless said plan, plat or replat shall have first been recorded in the Stearns County Recorder's office.
- B. Receiving or Recording Unapproved Plats: It shall be unlawful for a private individual to receive or record in any public office any plans, plats of land laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots

fronting on or adjacent thereto, and located within the jurisdiction of this Ordinance, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.

- C. Misrepresentations: It shall be a misdemeanor as set forth in Minnesota Statutes 606.02, Subd. 3 for any person owning an addition or subdivision of land within the City to represent that any improvement upon any of the streets, alleys or avenues of said addition or subdivision or any sewer or utility in said addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the City, when such improvements have not been so constructed, supervised or inspected.
- D. Penalty: Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor as set forth in Minnesota Statutes 606.02, Subd. 3. Each day during which compliance is delayed or such violation continues or occurs shall constitute a separate offense and may be prosecuted as such.

6.04 SCHEDULES OF ADMINISTRATIVE FEES, CHARGES AND EXPENSES:

- A. Fees and charges, as well as expenses incurred by the City for engineering, planning, attorney, and other services related to the processing of applications under this Ordinance shall be established by resolution of the City Council and collected by the Zoning Administrator for deposit in the City's accounts. Fees for the processing of requests for platting, major and minor subdivisions, review of plans, and such other subdivision-related procedures may from time to time be established by City Council resolution. The City Council may also establish fees by resolution for public hearings, special meetings, or other such City Council or Planning Commission actions as are necessary to process applications.
- B. Such fees, charges and estimated expenses (as well as a deposit, if so required by the Zoning Administrator) shall be collected prior to City action on any application. All such applications shall be accompanied by a written statement between the City and the applicant/owner (when the applicant is not the same person or entity as the landowner, both the owner and the applicant must sign the agreement) whereby the applicant/owner agrees to pay all applicable fees, charges and expenses as set by City resolution as provided above, and which allows the City to assess the above fees, charges and expenses against the landowner if such monies are not paid within thirty (30) days after a bill is sent to the applicant/landowner.
- C. These fees shall be in addition to building permit fees, inspection fees, trunk storm water facility costs, zoning fees, charges, expenses and other such fees, charges and expenses currently required by the City or which may be established by City Council resolution in the future.