

**City of Pine Island  
Planning and Zoning Commission**

**Agenda**

**Tuesday – November 8<sup>th</sup> 2011**

**7:00 PM**

Second Floor – City Hall  
250 South Main Street

- I. Roll Call
- II. Pledge of Allegiance.
- III. Minutes of October 11, 2011
- IV. Chapter 12 – Review
- V. Park Dedication Requirements
- VI. IUP criteria for Temporary Concrete plant for the interchange project
- VII. Adjourn.

**City of Pine Island**  
**Planning and Zoning Commission**  
**Minutes**  
**Tuesday, October 11<sup>th</sup> 2011**  
**7:00 PM – City Hall**

Roll Call: Meeting called to order by Chairman Hames at 7:00 PM

Present: Roy Larson, Ken Hames, T.J. Schutz, and Harlan Pahl

Absent: None.

Also present: Council Liaison – Rod Steele, John Anderson, and Abraham Algadi.

Minutes of September 13<sup>th</sup>, 2011 meeting: Motion by Schutz and second by Larson to approve the minutes. Motion carried 4-0-0.

John Anderson went through subdivision design standards starting at page 9 of the draft starting with soil erosion. Commission members discussed Tree Preservation language and opted to strike out the proposed subdivision language. Commission member Schutz asked that staff pay attention to the City's position on tree preservation in comparison to other communities of similar size. Algadi suggested reserving this section's title for future consideration.

John went over details of the draft tables for park dedication within residential areas. John also shared language on park dedication requirements within commercial and industrial areas. Discussion flowed and Commission members agreed to research whether park dedication is a common practice within other communities.

Steele discussed the proposed percentage of developed land (5%) within industrial areas and suggested that the proposed formula may place heavier burden on commercial and industrial land uses, over residential. Such land uses, he added, are located away from population densities, and generally do not place the same burden on public park spaces as residential land use.

Algadi stated that if the objective is to have industrial/commercial uses share the cost of park development, then following the established criteria, the Commission may recommend a new/different approach.

Abraham Algadi shared with Commission members that MDG will start working on updating sign code to match newly adopted zoning districts. He added that the City Council is expected to adopt the City official Zoning map by Ordinance 113 on October 18<sup>th</sup> 2011.

John Anderson will follow up on above items after conducting his research Park dedication in Industrial/Commercial areas, and complete Subdivision 12 review during the November 8<sup>th</sup> 2011 Planning & Zoning Commission meeting.

There being no further business to come before the Commission, meeting was adjourned at 9:10 PM.

Respectfully Submitted,

Carol Krueger, Internet, Web Site, and Office Specialist

**SEC. 12.31 REQUIRED IMPROVEMENTS FOR ALL SUBDIVISIONS.**

**~~Subd. 1 General Improvements Required for All Subdivisions.~~**

~~The subdivider developer shall be required to provide the following improvements to residential subdivisions unless the Council elects to do so under special assessments.~~

**Subd. 1 General Provisions.**

**A.** Before a final plat is signed by the City, the subdivider shall pay all applicable fees and enter into a development contract setting forth the conditions under which the plat is approved.

**B.** Before a final plat is signed by the City, the subdivider shall also furnish the City financial security in the form of a cash escrow or letter of credit. Letters of credit must be from a state or federally chartered bank or savings and loan association, insured by the Federal Deposit Insurance Corporation, that has an office in the state of Minnesota or a subsidiary of such bank or savings association with an office in the state of Minnesota. If the subdivider fails to perform any obligations under the development contract, the City may apply the security to cure the default.

**1.** If the developer is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

- a.** Utilities.
- b.** Streets.
- c.** Streetlights.
- d.** Erosion control.
- e.** Engineering, to include developer's design, surveying and construction observation.
- f.** Landscaping.
- g.** Principal amount of special assessments previously levied against the property together with one year of interest.
- h.** Real estate tax for one year, if there are special assessments.
- i.** City engineering fees.
- j.** Wetland mitigation.
- k.** Custom graded lots.
- l.** Removal of buildings, encroachments and temporary improvements as required.
- m.** Lot corners/iron monuments.
- n.** Retaining walls.
- o.** Site restoration.

- p.** Private signage and pavement markings.
- q.** Record drawings.
- r.** Grading certification.
- s.** Stormwater basins.
- t.** City legal expenses.
- u.** Abandonment of any wells or septic systems.
- v.** Undergrounding of utilities.
- w.** City planning expenses.

**2.** If the City is going to install the public improvements, the required security shall be the sum of the following fixed or estimated costs:

- a.** Principal amount of special assessments for public improvements to be installed together with one year of interest.
- b.** Streetlights.
- c.** Erosion control.
- d.** Landscaping.
- e.** Real estate tax for one year.

**C.** No final plat shall be approved by the City Council without first receiving a report from the City Engineer that the improvements described therein together with the agreements and documents required under this section, meet the requirements of the City.

The City Administrator shall also certify that all fees required to be paid to the City in connection with the plat have been paid or that satisfactory arrangements have been made for payment.

**D.** The City shall require of a subdivider submission of a warranty/maintenance bond in the amount equal to the original cost of the improvements or such lesser amount as agreed to by the City Engineer. The required warranty period for materials and workmanship from the utility contractor installing public sewer and water mains shall be two (2) years from the date of final acceptance by City Council or one year following final acceptance by City Council of the final bituminous wearing surface for City streets as approved by the City Engineer. The required warranty period for materials and workmanship from the street contractor installing public streets shall be one year from the date of final acceptance by City Council of the final bituminous wearing course. The required period for sod, trees and landscaping shall be two (2) years.

**E.** The subdivider is required to submit the final plat in electronic format. The electronic format shall be either AutoCAD.DWG file or a .DXF file. All construction record drawings (e.g., grading, utilities, streets) shall be in electronic format in accordance with standard city specifications. The subdivider shall also submit one complete set of reproducible construction plans on mylar.

F. All of the required improvements to be installed under the provisions of this chapter shall be approved by and subject to the inspection of the City Engineer. All of the City's expenses incurred as the result of the requirement improvements shall be paid either directly, indirectly or by reimbursement to the City by the subdivider.

G. Prior to the release of the required grading security, an as built certificate of survey shall be submitted to verify that the final as built grades and elevations of the lot and building and building setbacks are consistent with the approved grading plan for the development and amendments as approved by the City Engineer and that all required property monuments are in place.

### **Subd. 2 Monuments.**

A. Official monuments, as designated and adopted by the county surveyor's office and approved by the county district court for use as judicial monuments, shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as approved by the City Engineer. The boundary line of the property to be included with the plat to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor's irons to be indicated, each angle point of the boundary perimeter to be so monumented.

B. Pipes or steel rods shall be placed at each lot corner. All United States, state, county or other official bench marks, monuments or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles 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.

C. To ensure that all irons and monuments are correctly in place following the final grading of a plat and construction of utilities, financial security will be required as determined by the City Engineer. Proof of the second monumentation shall be in the form of a surveyor's certificate.

~~A. Monuments. Steel monuments shall be placed within six inches of final elevation at all lot corners, block corners, angle points, points of curves in streets and at intermediate points as shown on the Final Plat. Such installation shall be the subdivider's expense and responsibility. All U.S., State, County or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position.~~

### **Subd. 3 Streets.**

#### **B. Streets.**

A. The full width of the right of way shall be graded in accordance with the provisions for construction as outlined in section 12.30 of this chapter.

B. All streets shall be improved in accordance with the standards and specifications for street construction as required by the City Council.

C. All streets to be surfaced shall be of an overall width in accordance with the standards and specifications for construction as approved by the City Council. The portion of the right of way outside the area surfaced shall be sodded or seeded by the developer if deemed necessary by the City Engineer.

D. Where required, the curb and gutter shall be constructed in accordance to the standards and specifications for street construction as set forth and approved by the City Council.

**E.** The grading and drainage requirements for each plat shall be approved by the City Engineer at the expense of the applicant. Every plat presented for final signature shall be accompanied by a report from the City Engineer that the grading and drainage requirements have been met. In an area not having municipal storm sewer trunk, the applicant shall be responsible, before platting, to provide for a stormwater management plan, without damage to properties outside the platted area, and said stormwater management plan shall be submitted to the City Engineer, who shall report to the City Council on the feasibility of the plan presented. No plat shall be approved before an adequate stormwater management plan is presented and approved by the City Engineer and City Council. The use of dry wells for the purpose of stormwater disposal is prohibited.

**F.** Trees and boulevard sodding shall be planted in conformance with the standards and specifications as required by the City Council.

**G.** Street signs of the design approved by the City Council shall be installed.

**H.** Driveway aprons and sidewalks of standard design or pedestrian pathways as may be required by the City Council shall be installed.

**I.** Street lighting fixtures as may be required by the City Council shall be installed.

~~1. Grading. Streets shall be graded to the full width of the right of way in accordance with street grades submitted to and approved by the City Engineer. All street grading and gravel base construction shall be in accordance with specifications on file in the City Engineer's office. Grading shall be complete prior to installation of applicable underground utilities, either private or public in nature. Gravel base construction shall be undertaken after completion of the installation of underground utilities.~~

~~2. Surfacing. Following the City Engineer's approval of street grading and after utility installation, streets shall be surfaced and provided with concrete curbs and gutters in accordance with the latest recommended plans and specifications prepared by the City Engineer, and approved by the Council.~~

#### **Subd. 4 Future Street Improvements.**

As a condition of plat approval, when property being platted is adjacent to an existing collector road, highway, or substandard streets which need improvement, the developer shall dedicate land for the widening or improvement and shall post a cash escrow acceptable to the City for the cost of the improvement. This provision shall only apply when the need for the improvement is caused by the plat or surrounding development.

#### **Subd. 5 Municipal Utilities.**

**A. Sanitary Sewer.** Sanitary sewer facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the City Engineer and shall meet the requirements of the sanitary sewer master plan for sanitary sewer extensions and improvements of the City. All new construction shall be connected to the City sewer system. The use of sanitary sewer ejector pumps for service to individual lots shall not be allowed unless approved by the City Engineer as a private utility fixture prior to installation.

**B. Water Facilities.** ~~Lines.~~ Water facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the City Engineer and shall meet the requirements of ~~se~~ the water facilities master plan for watermain extensions and improvements of the City. All new construction shall be connected to the City water system.

C. Stormwater Facilities. Storm sewer and/or other surface drainage facilities shall be installed as determined to be necessary by the City Engineer for the proper drainage of surface waters.

D. Where City sanitary sewer and water facilities are not available for extension to service existing properties, the City Council may permit the use of individual water and sewer systems in accordance with all appropriate state and local regulations.

**D. Utilities.**

~~1. Sanitary Sewer. Sanitary sewer facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the City Engineer and shall meet the requirements of the master plan for sanitary sewer extensions of the City. All new construction shall be connected to the City sewer system. (Amended, Ord. No. 84, 2-20-07)~~

~~2. Stormwater Facilities. Storm sewer and/or other surface drainage facilities shall be installed as determined to be necessary by the City Engineer for the proper drainage of surface waters.~~

~~3. Water Lines. Water facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the City Engineer and shall meet the requirement so the master plan for watermain extensions of the City. All new construction shall be connected to the City water system. (Added, Ord. No. 84, 2-20-07)~~

**Subd. 6 Public Utilities.**

Telephone, electric, communication cable, and/or gas service lines are to be placed underground in accordance with the provisions of all applicable City ordinances.

**Subd. 7 Election by City to Install Improvements.**

It is the subdivider's responsibility to install all required improvements except that the City reserves the right to elect to install all or any part of the improvements required under the provisions of this chapter pursuant to Minnesota statutes chapter 429, as amended. If the City elects to install the improvements the City may require the developer to post a cash escrow or letter of credit guaranteeing payment of the assessments.

**Subd. 8 Sidewalks and Driveways.**

Driveways shall be constructed from the curb and gutter to the property line or property side of sidewalk. In cases where driveways are constructed after curbing and sidewalks are in place, the sidewalk shall be reconstructed in accordance with driveway specifications to the width of the driveway.

**Subd. 9 Specifications and Inspections.**

Unless otherwise stated, all of the required improvements shall conform to engineering standards and specifications as required by the City Council and City Engineer. Such improvements shall be subject to inspection and approval by, and shall be made in sequence as determined by the City Engineer.

Source: Ordinance No. 259

Effective Date: 7-29-87

**SEC. 12.32 - 12.39 RESERVED FOR FUTURE EXPANSION.**

~~(Sections 12.32 through 12.39, inclusive, reserved for future expansion.)~~

## SEC. 12.40 PAYMENT FOR INSTALLATION OF IMPROVEMENTS.

### Subd. 1 Payment for the Installation of Improvements.

**A.** All the required public improvements for new subdivisions as required listed in this chapter are to be furnished and installed at the sole expense of the subdivider and/or owner or at the option of the City Council by the City through an agreement for special assessments. 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 and shall be outlined in the development agreement. Further provisions may be made for the City to pay through a general tax levy or other means any portion of the project cost which in the opinion of the Council do or may provide substantial benefit to land beyond the boundaries of the subdivision. In such instances the subdivider and/or owner will be required to pay or agree to special assessments for only such portion of the cost which represent benefit to property within the subdivision.

### Subd. 2 Agreement for Providing the Installation of Improvements.

**A.** Prior to installation of any required improvements by the subdivider and/or owner and prior to approval of the final plat, the subdivider and/or owner shall enter into a development contract and provide cash escrow, letter of credit, or similar guarantees to the City related to performance, and/or for installation of public improvements, and/or subdivider and/or owner to install improvements. ~~Prior to the installation of any required improvements and, generally, prior to the acceptance of a Final Plat, the subdivider shall enter into an agreement with the City to have such improvements constructed or to have the City construct such:~~

**B.** The subdivider and/or owner shall furnish and construct improvements at the subdivider and/or owner sole cost and in accordance with plans and specifications and usual development contract conditions. This shall include provision for supervision 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 development 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 to be met and shall be approved by the City Engineer.

**C. Owner to Construct.** If the improvements are to be constructed by the subdivider and/or owner, the agreement shall require the subdivider and/or owner to make an escrow deposit or furnish an irrevocable letter of credit as required by this section and as determined by the City. The amount of the escrow deposit or irrevocable letter of credit is to be based on the City Engineer's estimate of the total cost of the improvements to be furnished and installed by the subdivider and/or owner under the development contract, including the cost of inspection by the City. The amount of the escrow deposit or irrevocable letter of credit shall be equal to one hundred and twenty-five percent (125%) of the City Engineer's estimate. ~~such agreement between the owner and City shall include a requirement for an escrow deposit or performance bond equal to 125% of the City Engineer's estimate of the cost. The Council may, however, at its option reduce said amount to 100% of the cost.~~

**D.** On request of the subdivider and/or owner, but at the sole discretion of the City, the development 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 may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat.

**E.** Required improvements shall be completed by the subdivider and/or owner within the time specified within the approved development contract; provided that the City Council for good cause may extend the period of time in which the improvements must be installed.

**F.** If the required improvements are not completed within the specified time period or a period approved by the City Council as hereinabove provided, all financial securities shall be turned over to the City and applied toward the cost of the required improvements. Any balance after the improvements have been made shall be returned to the subdivider and/or owner upon written request.

**G.** No subdivider and/or owner shall be permitted to start work on any other subdivision improvements without special written approval of the City Council.

**H. City to Construct.** If the City has agreed to construct said improvements, an agreement for special assessments must be entered into. Such agreement shall require the **subdivider and/or owner** (~~subdivider~~) to provide an escrow deposit or irrevocable letter of credit to the City for not less than twenty-five (25%) nor more than fifty percent (50%) of the total assessable cost of the improvement.

1. By providing such escrow **deposit or irrevocable** letter of credit the **subdivider and/or owner** expressly understands that any amount, up to one hundred percent (100%) of the amount, shall be forfeited by **the subdivider and/or owner** ~~him~~ should any annual assessment for one or more parcels still owned by the subdivider **and/or owner** become delinquent per the **subdivider and/or owner's** tax statement(s).

2. The City may, at its option, from time to time reduce the escrow **deposit** or amount of the irrevocable letter of credit as the **subdivider and/or owner** ~~developer~~ constructs houses and sells such to private third parties who have assumed responsibility for such assessments. The subdivider shall be responsible for providing proof of sale and assumption of such assessments.

**3. Waiver of Hearing.** By entering into a special agreement with the City, the subdivider **and/or owner** waives all right to an assessment hearing and subsequent rights of appeal for any default costs associated with a project covered by agreement.

### **Subd. 3 Financial Guarantees.**

The development agreement requires the subdivider and/or owner to make an escrow deposit or provide a certified check or irrevocable letter of credit as determined by the City. The escrow deposit or irrevocable letter of credit shall conform to the requirements of this section. ~~The agreements referenced in Subdivisions 1 and 2, above, require financial guarantees by the subdivider. These guarantees shall conform to the following requirements.~~

#### **A. Escrow Deposit.**

1. If an escrow deposit is required, the escrow deposit shall be made with the City Administrator in an amount based on the City Engineer's estimate as required in this section.

2. The City shall be entitled to reimburse itself out of said escrow deposit or for any cost and expense incurred by the City for completion of the work in case of default of the subdivider and/or owner under said development 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 escrow deposit shall be refunded to the subdivider and/or owner.

4. Interest on Escrow Deposits. ~~Accounts.~~ Any interest earned from escrow accounts or funds in letter of credit shall be paid to the **subdivider and/or** owner.

~~A. Escrow Deposits are to be made with the City Treasurer or a designated depository of the City in the amount specified in the agreement. The City shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by it for completion of the work in case of default by the subdivider for damages sustained and/or for failure of the developer to pay special assessments.~~

~~B. Performance Bonds may be used in lieu of an escrow deposit. The bond shall be a surety bond with the City as named insured. The form of the bond shall be approved by the City Attorney and shall be filed with the City Clerk.~~

#### **B. Irrevocable Letter Of Credit.**

1. If the subdivider and/or owner is required to furnish an irrevocable letter of credit, the sum shall be payable to the order of the City and delivered to the City in an amount based on the City Engineer's estimate as required in this section.

2. The irrevocable letter of credit shall be approved as to form by the City Attorney and filed with the City Administrator.

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 work (including legal fees) in case of default of the applicant under said development contract, and for any damages sustained on account of any breach thereof.

~~C. Letter of Credit may be used if such is irrevocable in form and so approved by the Council.~~

C. Default. In the event the subdivider shall default in the terms of the **development** contract with the City, the City may complete such improvements or pay for such assessments and collect such claims together with damages and reasonable fees from the instrument of guarantee. Should the default result in costs to the City beyond the limits of financial guarantee, the City may assess those excess costs against the property being subdivided and collect such as if it were any other special assessment levied by the City against real property.

#### **Subd. 4 Construction Plans and Inspection.**

A. Construction Plans: A minimum of four (4) full size copies, one 11-inch by 17-inch copy, and one electronic copy of the construction plans shall be furnished to the City Engineer for review and approval. Additional copies may be required by the City. Construction plans for the required improvements shall conform in all respects with all applicable ordinances and standards of the City. Construction documents shall be prepared, at the expense of the subdivider, 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 approval and for an estimate of the total cost of the required improvements. Upon approval, they shall become a part of the development contract. ~~Construction plans for the required improvements conforming in all respects with the standards and City Code provisions shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota, and said plans shall contain his certificate. Such plans together with the quantities of construction items shall be submitted to the City Engineer for his approval and for his estimate of the total costs of the required improvement. Upon approval, such plans shall become a part of the required contract. The tracings of the plans approved by the City 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 this ~~chapter regulation~~ shall be inspected during the course of construction by the City Engineer at the subdivider's expense, and acceptance by the City shall be subject to the City Engineer's certificate of compliance with the development contract.

**C. Warranty:** The subdivider 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 regard to the City standards. The subdivider is responsible for having all such inspections and testing completed at the subdivider's expense.

#### **~~Subd. 6 Improvements Completed Prior to Approval of the Plan.~~**

~~Improvements within a subdivision which have been completed prior to application for approval of the plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements only if the engineer shall certify that he is satisfied that the existing improvements conform to applicable standards.~~

#### **Subd. 5 Development Contract.**

**A.** Prior to commencing grading or the installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a written development contract with the City requiring the subdivider to furnish, construct, and complete said grading and improvements in accordance with plans and specifications and usual agreement conditions and/or pay appropriate costs for improvements or other costs associated with the plat. Further, the development contract shall provide for the development of any restrictions, covenants, easements, signage, park or open space requirements, or other conditions of the approved preliminary plat, and provide for proper execution, recording, and other action required. Approval of the development contract shall be by City Council resolution.

**B.** For a project involving a phasing plan, the initial development contract shall allow for grading, wetland mitigation, and installation of stormwater management facilities on the entire site included in the approved preliminary plat. Such work may begin after approval of the preliminary plat but only after approval, execution, and recording of the development contract and payment of financial securities. Such work shall comply with the approved grading plan.

**C.** The construction of streets, facilities for sanitary sewer and water, and other improvements beyond grading, wetland, and stormwater facilities shall not begin until approval of a final plat. Each subsequent phase shall require a separate development contract for improvements beyond those covered in previous development contracts. Improvements in each phase shall not begin until the final plat for that phase is approved and the development contract for the phase is approved, executed, and recorded.

**D.** The initial development contract (for grading) may address construction of streets and facilities for sanitary sewer and water for the first phase and list the financial securities and other requirements. However, the development contract shall stipulate that the work on these improvements shall not begin until approval of the final plat for the first phase and the provision of all financial securities by the subdivider.

**E.** Each approved and executed development contract shall be recorded. Each development contract shall state that it is binding upon the subdivider, his/her or their heirs, personal representative, and assigns. It shall stipulate that:

**1.** All improvements called for in the plat, or in any supplementary development contracts, shall be complete within the time specified by the City.

2. No private construction shall be conducted on any lots in the plat or filing of applications for building permits for construction on said lots until all improvements required under City regulations for the proposed subdivision have been made or arranged in a manner provided in this section.

**F.** The development contract shall include provisions for construction work inspection by the City and assurance that the subdivider will conform with current testing requirements and quality control procedures of the City. The subdivider shall provide documentation from a qualified testing laboratory and/or registered professional engineer that all improvements have been constructed in accordance with the requirements of the approved plans and specifications.

**G.** The development contract shall require the subdivider to provide a certification from a land surveyor or engineer that the land included in the plat has been graded in conformance with the approved grading plan prior to the issuance of building permits.

**H.** The development contract shall require the subdivider to provide a financial security to ensure payment of fees related to the subdivision and completion of all improvements.

**I.** A time schedule for completion of the work shall be determined by the City upon recommendation of the City Engineer after consultation with the subdivider and shall be reasonable in relation to the work to be done, the seasons of the year, and proper coordination with construction activity in the subdivision.

**J.** The development contract shall include action remedies in the event of default including:

1. The City may complete the improvements by contract or force and obtain reimbursement of its costs from the posted security deposit.

2. The City reserves the right to withhold building permits for violation of any terms of the development contract.

#### **Subd. 6 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 is evidence of payment for the work that has been completed and has been presented in such form(s) reasonably required by the City.

#### **Subd. 7 Trunk Facilities.**

Where a larger size water main, sanitary sewer, storm drain or similar facility is required to serve areas outside the subdivision, the larger facility required shall be constructed. Additional costs shall be allocated as outlined in the development contract.

#### **Subd. 8 Alternate Installation.**

The City may elect to install any or all of the required improvements pursuant to a special assessment agreement along with an escrow deposit or irrevocable letter of credit or other financial arrangements with the subdivider

#### **Subd. 9 Certificate of Occupancy.**

**A.** No certificate of occupancy shall be issued by the 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.

**B.** Prior to issuance of a temporary certificate of occupancy, the property owner and prospective buyer, under a purchase agreement for the property, shall execute a right of access for City erosion control maintenance in a form provided by the City.

**Subd.10 Maintenance of Improvements.**

The subdivider shall be required to maintain all improvements in the subdivision or on the individual subdivided lots and provide for snow removal and maintenance of streets, if required, until acceptance of said improvements by the City Council in coordination with the development contract.

**SEC. 12.41 ADMINISTRATION AND ENFORCEMENT.**

**~~Subd. 1 Building Permits.~~**

~~No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all the requirements of these regulations have been fully met. (Moved to Section 12.05)~~

**Subd. 1 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 chapter unless said plan, plat or replat shall have first been recorded in the office of the recorder of Goodhue and Olmsted Counties.

**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 chapter, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.

**C. Misrepresentations.** It shall be a misdemeanor 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 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.** Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. **Each month during which compliance is delayed shall constitute a separate offense.**

**~~Subd. 1 Unlawful Act.~~**

~~It is unlawful for any person to violate any of the provisions of these regulations, or to sell, lease or offer for sale or lease lots, blocks or tracts of land herewith regulated before all the requirements of these regulation have been complied with.~~

~~Source: Ordinance No. 259 Effective Date: 7-29-87~~

**Subd. 2 Variances, Planning Commission Recommendations, Standards.**

**A. Findings.**

The Planning Commission may recommend a variance from the minimum standards of this chapter (not procedural provisions) when, in its opinion, practical difficulties may exist on the property. In recommending any variance, the Planning Commission shall prescribe any conditions that it deems necessary to or desirable for the public interest. In making its recommendations, the Planning Commission 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 recommended when the Planning Commission finds:

1. Variances shall only be permitted when they are in harmony with the general purposes and intent of this zoning code.

2. Variances shall only be permitted when consistent with the comprehensive plan.

3. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning code.

a. "Practical difficulties" shall mean that the property owner proposes to use the property in a reasonable manner not permitted by the zoning code; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

b. Economic considerations alone do not constitute practical difficulties.

After considerations of the Planning Commission recommendations, the City Council may grant variances, subject to subsections 1, 2 and 3 of this section.

**B. Application and Procedures.** The application and procedures for processing a variance shall be in accordance with section 11.19, subd. 4 of chapter 11 Land Use Regulation (Zoning) of the City Code.

### **Subd. 3 Registered Land Surveys.**

**A. Registered Land Surveys.** All registered land surveys in the city shall be presented to the planning commission in the form of a preliminary plat in accordance with the standards set forth in this title for preliminary plats and the planning commission shall first approve the arrangement, sizes and relationships of proposed tracts in such registered land surveys, and tracts to be conveyed for public purposes should be so indicated. Unless a recommendation and approval have been obtained from the planning commission and city council respectively, in accordance with the standards set forth in this title, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the city may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts unless so approved.

**B. Review and Approval.** Registered land surveys shall not be used to avoid the requirements of the subdivision regulations. A registered land survey for parcels of less than five (5) acres in size or three hundred feet (300') in width shall be reviewed by the planning commission and approved by the city council in the same manner as a subdivision plat. Such approval shall be attached to the survey.

**C. Preparation.** All registered land surveys shall be prepared in conformance with Minnesota statutes 508.47, subdivision 4, which is incorporated herein for reference.

**D. Land for Public Purposes.** Prior to approval of a registered land survey, the City Council reserves the right to require the conveyance of tracts of land for public purposes.

### **Subd. 4 Restrictions on Filing and Recording Conveyances.**

**A.** Except for approved administrative subdivisions, all subdivisions must be platted or be approved by a registered land surveyor. No conveyance of land in which the land conveyed is described by metes and bounds or by reference to an unapproved registered land survey or to an unapproved plat made after these regulations become effective, shall be made or recorded unless the parcel described in the conveyance:

1. Was a separate parcel of record at the effective date of this Chapter.
2. Was the subject of a written agreement to convey entered into prior to such time.
3. Was a separate parcel of not less than two and one-half acres in area and 150 feet in width as of January 1, 1966.
4. Was a separate parcel of not less than five acres in area and 300 feet in width on the effective date of this Chapter.

~~B. In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the platting authority may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded. It is unlawful for any owner or agent of the owner of land to convey a lot or parcel in violation of the provisions of this section. The City may enjoin such conveyance or may institute civil action in any court of competent jurisdiction.~~

~~B. These subdivision regulations shall be applicable to any parcels which are taken from existing parcels of record by metes and bounds description and the City may withhold building permits for buildings or tracts that have been subdivided and conveyed by this method, and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts. may deny the issuance of building permits to any parcels so divided, pending compliance with the subdivision regulations. (moved from section 12.03)~~

#### **~~Subd. 5 Disclosure by Seller; Purchaser's Actions for Damages.~~**

~~A person conveying a new parcel of land which, or the plat for which, has not previously been filed or recorded, and which is part of or would constitute a subdivision to which adopted subdivision regulations apply, shall attach to the instrument of conveyance either:~~

~~A. Recordable certification by the City Clerk that the subdivision regulations do not apply, or that the subdivision has been approved by the City Council or that the restrictions on the division of taxes and filing and recording have been waived by resolution of the Council in this case because compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of the regulations.~~

~~B. A statement which names and identifies the location of the appropriate City offices and advises the grantee that subdivision and zoning regulations may restrict the use or restrict or prohibit the development of the parcel, or construction of it, and that the division of taxes and the filing or recording of the conveyance may be prohibited without prior recordable certification of approval, non applicability, or waiver from the City. In any action commenced by a buyer of such a parcel against the seller thereof, the misrepresentation of or the failure to disclose material facts in accordance with this Subdivision shall be grounds for damages. If the buyer establishes his right to damages, a District Court hearing the matter may in its discretion also award to the buyer an amount sufficient to pay all or any part of the costs incurred in maintaining the action, including reasonable attorney fees, and an amount for punitive damages not exceeding 5% of the purchase price of the land. (Moved from Procedures section and needs to be discussed)~~

## SEC. 12.42 OTHER PROVISIONS.

### ~~Subd. 1 Modifications, Exceptions and Variances.~~

~~A. Hardship. The Council may grant a variance upon receiving a report from the Planning Commission in any particular case where the subdivider can show by reason of exceptional topography or any other physical conditions that strict compliance with these regulations would cause exceptional and undue hardship provided such relief may be granted without detriment to the public welfare and without impairing the intent and purpose of these regulations. The Planning Commission may recommend variations from the requirements of this Chapter in specifics which, in its opinion, do not affect the Comprehensive Plan or the intent of this Chapter. Any modifications thus recommended shall be entered in the minutes of the Planning Commission in setting forth the reasons which justify the modifications. The Council may approve variances from these requirements in specific cases which in its opinion meets the above requirements and do not adversely affect the purposes of this Chapter. (moved to section 12.41 subd. 2)~~

### ~~Subd. 1 Planned Unit Developments.~~

~~Upon receiving a report from the Planning Commission, the Council may grant a variance from the provisions of these regulations in the case of a planned unit development, as defined in the Zoning Chapter, provided that the Council shall find that the proposed development is fully consistent with the purposes and intent of these regulations. This provision is intended to provide the necessary flexibility for new land planning and land development trends and techniques. (moved to section 12.41 subd. 2 letter c)~~

### ~~Subd. 2 Minor Subdivisions.~~

~~A. In the case of a subdivision resulting in three (3) parcels or less situated in a locality where conditions are well defined, the Council may exempt the subdivider from complying with some of the requirements of these regulations. In the case of a request to subdivide a lot which is a part of the recorded lot, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than three (3) new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or the Zoning Chapter, the division may be approved by the Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.~~

~~B. In the case of a request to divide a lot which is a part of a recorded plat where the division is to permit the adding of a parcel of land to an abutting lot or to create two lots and the newly created property line will not cause the other remaining portion of the lot to be in violation with these regulations or the Zoning Chapter, the division may be approved by the Council after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision. (Moved to section 12.20 subd.7 administrative subdivisions)~~

**SEC. 12.43 - 12.99 RESERVED FOR FUTURE EXPANSION.**

~~(Sections 12.43 through 12.98, inclusive, reserved for future expansion.)~~

**~~SEC. 12.99 VIOLATION A MISDEMEANOR.~~**

~~Every person violates a section, subdivision, paragraph or provision of this chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. *(moved to section 12.41 subd. 1 letter D)*~~

~~Source: Ordinance No. 259 Effective Date: 7-29-87~~

## **Park Dedication Requirements**

### Byron

No commercial or industrial parkland dedication requirements.

### Cannon Falls

Ten percent of the gross area being subdivided. Cash contribution for commercial development is \$3,000 per gross acre and for industrial development is \$2,000 per gross acre.

### Kasson

Cash contribution for commercial and industrial is \$1,000 per gross developable acre of platted land. They have negotiated land acquisitions in the past with no set percentage and is in the process of changing to all cash contributions and no land dedications.

### Mantorville

No commercial or industrial parkland dedication requirements.

### Oronoco

In all new subdivisions where land dedication is to be required, ten percent of the gross area subdivided. Cash contribution is based on Fair Market Value at the time of preliminary plat.

### Rochester

No commercial or industrial parkland dedication requirements.

### Stewartville

No commercial or industrial parkland dedication requirements but currently in the process of updating this. At this time they are no longer accepting any land dedication and taking only cash.

### Zumbrota

Residential Development (dwelling units per acre)


0-2.5	5%
2.6-5.4	6%
5.4-7.3	7%
7.4-12.45	8%
12.45 or greater	10%
PUD	per Planning Commission
Industrial	4% for trail dedication
Commercial	4%

Cash contribution for commercial and industrial is \$1,000 per gross acre of platted land.

2. Screening and landscaping shall be installed and maintained along all public right-of-ways and along all lot lines adjacent to a residentially zoned district according to section 11.70, subd. 7 of this chapter.

3. All service drives shall be paved.

K. Wind energy conversion systems (WECS) as regulated by section 11.73, subd. 2 of this chapter.

 **Subd. 5 Interim Uses**

A. Mining, sand and gravel operations.

B. Outdoor storage as a principal or nonrelated accessory use provided that:

1. A drainage plan for the site shall be approved by the City Engineer.

2. All outdoor storage area shall be located a minimum of fifty (50) feet from any property line.

3. The outdoor storage area shall be fenced, screened and/or landscaped from view of neighboring residential uses, abutting residential districts and the public right-of-way according to a plan in compliance with section 11.70, subd. 7 of this chapter and subject to the approval of the Zoning Administrator.

4. The property stored shall not include any waste, except as provided in section 11.70, Subd. 6 of this chapter.

5. The outdoor storage area shall not encroach into the required rear yard setback or side yard setback area if abutting a residential district.

**Subd. 6 Performance Standards.**

The following minimum requirements shall be observed in the AG Agricultural District subject to the additional requirements, exceptions and modifications set forth in this chapter. All requirements and setbacks are to be construed as indicating the minimum footages permitted unless otherwise specified.

A. **Height Regulations.** Except as provided for by section 11.70, subd. 29 of this chapter, no structure within the AG district shall exceed the following height:

1. Maximum Height - Three stories or 35 feet.

B. **Front Yard Regulations.**

1. Minimum Front Yard Setback - 30 feet.

C. **Side and Rear Yard Regulations.**

1. Minimum Side Yard Setback - 10 feet.

2. Minimum Rear Yard Setback - 30 feet.

## **SEC. 11.18 INTERIM USE PERMITS.**

### **Subd. 1 Purpose and Intent.**

The purpose and intent of allowing interim use permits is:

- A. To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.
- B. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
- C. To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

### **Subd. 2 Application and Procedures.**

Uses defined as "interim uses" shall be processed according to the standards and procedures set forth in section 11.15 subd. 3 of this chapter.

### **Subd. 3 Information Requirement.**

The information required for all interim use permit applications shall be as specified in section 11.15 subd. 4 of this chapter unless waived by the Zoning Administrator.

### **Subd. 4 General Performance Standards.**

An interim use shall comply with the following:

- A. Conform to the applicable general performance standards of section 11.17 subd. 4 of this chapter.
- B. The use is allowed as an interim use in the respective zoning district.
- C. The date or event that will terminate the use can be identified with certainty.
- D. The use will not impose additional unreasonable costs on the public.
- E. The user agrees to any conditions that the City Council deems appropriate for permission of the use.

### **Subd. 5 Enforcement.**

Enforcement of the provisions of this chapter shall be in accordance with section 11.15 subd. 1 of this chapter. The City reserves the right upon issuing any interim use permits to inspect the premises to ensure compliance with the provisions of this chapter or any conditions additionally imposed. Violation of an issued permit or of the provisions of this chapter shall be grounds for termination of the interim use permit.

**Subd. 6 Termination.**

An interim use shall terminate on the happening of any of the following events, whichever occurs first:

- A. The date or event stated in the permit.
- B. Upon violation of conditions under which the permit was issued.
- C. Upon change in the City's zoning regulations rendering the use non-conforming.

**Subd. 7 Certification of Taxes Paid.**

Prior to approving an application for a conditional use permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the conditional use permit application relates.

**Subd. 8 Expiration.**

Unless the City Council specifically approves a different time when action is officially taken on the request, interim use permits which have been issued under the provisions of this Section shall expire without further action by the Planning Commission or the City Council within one (1) year of the date of approval unless the applicant has substantially commenced the authorized use or improvement, or unless within thirty (30) days prior to the expiration of the interim use permit the applicant has petitioned for a time extension by completing and submitting a request for an extension, including the renewal fee as established by City Council resolution. Such extension request shall be submitted in writing and shall state facts showing a good faith attempt to complete or utilize the approval permitted in the interim use permit. A request for an extension not exceeding one year shall be subject to the review and approval of the City Council. Should a second extension of time or any extension of time longer than one year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.