

DIVISION 85: SUBDIVISIONS

Section 85-010 Purpose and Interpretation

All subdivision of land hereafter submitted for approval shall fully comply in all respects with the regulations set forth herein. It is the purpose of these regulations to:

- 1) Provide for and guide the orderly, economic and safe development of land, urban services and facilities.
- 2) Encourage well-planned, efficient and attractive subdivisions by establishing minimum standards for design and construction.
- 3) Provide for the health, safety and welfare of residents by requiring the necessary services such as properly designed streets and adequate sewer and water service.
- 4) Place the cost of improvements against those benefitting from their construction.
- 5) Secure the rights of the public with respect to public lands and waters.
- 6) Set the minimum requirements necessary to protect the public health, safety and general welfare.

Section 85-020 Regulation Limits and Scope

The rules and regulations governing plats and subdivisions of land contained herein shall apply within the boundaries of the City of Nevis.

- 1) Prior Subdivisions: Except in the case of a re-subdivision, this section shall not apply to any lot or lots forming a part of subdivision plats recorded in the office of the County Recorder of Hubbard County prior to the effective date of this section, nor is it intended by this section to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those in conflict with these regulations, or with private restrictions placed upon property by deed, covenant or other private agreements which are equal to or more restrictive than covenants running with the land to which the City is a party.
- 2) Land Suitability in the Shoreland District: Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

Section 85-030 General Provisions

Unless approved as a final plat as provided herein, no subdivision shall be entitled to record in the County Recorder's office or have any validity, and the Building Official shall not issue building permits for any structure on a lot in any proposed subdivision. The Council shall not permit any public improvements to be installed unless the preliminary plat is approved and shall not permit any connection of services until approval of the final plat and recording of same.

Section 85-040 Necessary Data for Preliminary Plat

Data required for preliminary plat approval is set forth in this section. Prior to submittal of a preliminary plat, subdividers are invited to prepare for review with the Planning Commission, City Engineer and others as the Planning Commission may direct, a proposed subdivision sketch, which, in order to be most useful, shall contain the following information:

- 1) Site location map showing streets, school locations, commercial centers and other significant developments.
- 2) Tract boundaries.
- 3) North arrow and scale.
- 4) Streets within and adjacent to tract.
- 5) Proposed general street design.
- 6) Proposed lot sizes and orientation.

Size. The preliminary plat shall be clearly and legibly drawn. The size of the map shall not be less than 12 inches by 18 inches. All subdivision maps shall be drawn at a scale not smaller than a scale of one-inch equals 100 feet, unless otherwise required by the Council.

Information Required. The preliminary plat of the proposed subdivision shall contain or have attached thereto the following information:

Identification and Description:

- a. Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in the County of Hubbard.
- b. Legal description of property to be platted on a survey prepared by a surveyor registered in the State of Minnesota.
- c. Names and addresses of the owner, subdivided, surveyor, and designer of the plan.
- d. North arrow and scale.
- e. Date of preparation.

Requirements for Existing Conditions:

- a. Boundary line of proposed subdivision clearly indicated.
- b. Existing zoning classification.
- c. Total approximate acreage.
- d. Location, widths, and names of all existing or previously platted streets or other public ways, showing the type, width and condition of improvements, if any, and utility right-of-ways, parks and other public open space, permanent buildings and structures, easements and section and corporate lines within the proposed subdivision and to a distance of 100 feet beyond the proposed subdivision.
- e. Location and size of existing sewers, water mains, culverts or other underground facilities within the proposed subdivision and to a distance of 100 feet beyond the proposed subdivision. Such data as grades, invert elevations and locations of catch basins, manholes and hydrants shall also be shown.
- f. Boundary lines of adjoining un-subdivided or subdivided land within 100 feet of the proposed subdivision, said land to be identified by name and ownership.
- g. Topographic data, including an area 300 feet beyond the boundaries of the proposed subdivision, with a vertical contour interval of not more than one foot. Lakes, surface water, water courses, marshes, wooded areas, rock outcrops, power transmission poles and lines and other significant features shall also be shown. United States Geological Survey data shall be used for all topographic mapping. In the case of a subdivision where no new street is involved in non-shoreland areas, the required topographic map may be waived if it is deemed unnecessary by the City Engineer and the Planning Commission. In shoreland districts, contours at intervals of 10' are required, at a minimum.
- h. Adequate soils information to determine suitability for building for every lot from the most current existing sources or from field investigations such as soil borings, or other methods.
- i. In shoreland areas, a line or control representing the ordinary high-water level, and the top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or river.
- j. A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system.

Subdivisions Design Features

- a. Layout of proposed streets, showing right-of-way widths and proposed names of streets.
- b. Location and widths of proposed pedestrian ways and utility easements.
- c. Typical cross-sections of proposed improvements upon streets, together with an indication as to the method of disposing of the proposed storm water runoff.
- d. Approximate centerline gradients of proposed streets.
- e. Locations, size and approximate gradient of proposed sewer lines, water mains, and service connections.
- f. Layout, numbers and preliminary dimensions of lots and blocks.
- g. Minimum front and side street building setback lines, indicating dimensions.
- h. Areas, other than streets, pedestrian ways and utility easements intended to be dedicated or preserved for public use, including the size of such or areas in acres.

Other Information.

- a. Statement of the proposed use of lots, stating the type of residential buildings, with the number of proposed dwelling units; the type of business or industry so as to reveal the effect of the development on traffic, fire hazards or congestion of population.
- b. Proposed restrictive covenants and a copy of any restrictive covenants pertaining to adjacent properties.
- c. Source of water supply.
- d. Provisions for sewage disposal, drainage and flood control.
- e. If zoning changes are contemplated, indicate the proposed zoning plan for the area, including dimensions.
- f. Where the sub-divider owns property adjacent to that which is being proposed for the sub-division, the Planning Commission may require that the sub-divider submit a preliminary plan for the remainder of the property so as to show the possible relationships between the proposed sub-division and any future sub-divisions. In any event, all subdivisions must be shown to relate well with existing or potential adjacent sub-divisions.
- g. Potential re-subdivision and use of excessively deep (over 200 ft.) lots must be indicated in a satisfactory manner.

Section 85-050 Procedures for Preliminary Plat.

- 1) Before dividing any tract of land into two or more lots or parcels, an owner or sub-divider shall, unless a variance is authorized, file with the City Clerk:
 - a. Ten (10) copies of the preliminary plat.
 - b. A base cash fee plus a fee per lot. (See City fee schedule) This fee shall be used for public expenses in connection with the approval or disapproval of said plat and final plat which may thereafter be submitted. Each final plat submitted except the first as a part of the approved preliminary plat, shall require an additional fee.
 - c. If the sub-divider requests or the Council requires that any existing special assessments which have been levied against the premises described in the subdivision be divided and allocated to the respective lots in the subdivision plat, the City Clerk shall estimate the clerical cost of preparing the revised assessment roll, filing the same with the County Auditor, and making such divisions and allocation, and upon approval by the council of such estimated cost, the same shall be paid to the City Clerk in addition to the fees mentioned in item (2) above to cover the cost of preparing and filing of such revised assessment.
 - d. The sub-divider shall fill out a subdivision application blank available at the office of the City Clerk.
- 2) The Planning Commission shall consider the preliminary plat officially filed after the Zoning Administrator has examined it and advised the Planning Commission that it is in proper form.

- 3) On the same date that the Zoning Administrator places the preliminary plat on file, the City Clerk shall:
 - a. Set a date for a public hearing on the preliminary plat. The Clerk shall cause notice of said hearing to be sent by mail to all property owners of record within 350 feet of the proposed subdivision boundaries at least ten days prior to the hearing. In addition, notice of the hearing shall be published in the official newspaper at least ten (10) days prior to the hearing. The Planning Commission shall hold the public hearing at one of its regular meeting dates.
 - b. Refer one copy of the preliminary plat to the Street and Water Department for examination and report and one copy to the City Engineer for his examination and report, and one copy to the school district. Copies of the report of the City Engineer shall be given to the Planning Commission prior to the public hearing.
- 4) The Planning Commission shall make its report to the Council within 60 days except in cases where the applicant requests additional time to adjust or correct the plats.
- 5) The Council shall act on the preliminary plat within 60 days of the date on which it was received from the Planning Commission.
- 6) If the preliminary plat is not approved by the Council, the reasons for such action shall be recorded in the proceedings of the Council and transmitted to the applicant. If the preliminary plat is approved, such approval shall not constitute final acceptance of the subdivision.
- 7) Should the sub-divider desire to amend the preliminary plat as approved, he may resubmit the amended plat which shall follow the same procedure except for the hearing and fee, unless the amendment is, in the opinion of the Planning Commission, of such scope as to constitute a new plat, in which case it shall be refiled.

Section 85-060 Qualifications Governing Approval of Preliminary Plat

- 1) Conditional Report. If a proposed subdivision fails to meet the requirements set forth in this section, the Planning Commission may submit a conditional report to the council, listing those items in which the proposed subdivision is deficient. The Council may then, at its discretion, require that the sub-divider make any and all necessary changes in the preliminary plat in order to bring it into compliance with the requirements of this section.
- 2) Tentative Approval. The approval of a preliminary plat by the Planning Commission and Council is tentative only, involving merely the general acceptability of the layout as submitted, and is not to be construed as approval of the subdivision plat.
- 3) Other Approvals. Subsequent approval of the engineering proposals pertaining to water supply, storm drainage, sewer and sewage disposal, sidewalks, gas and electric service, grading, gradients and roadway widths and the surfacing of streets will be required by the Council and by other public officials having jurisdiction in said matters, prior to the approval of the final plat by the City.
- 4) Flood prone areas. No plan will be approved for a subdivision which covers an area subject to periodic flooding or which contains extremely poor drainage facilities and which would make adequate drainage of the streets and lots impossible, unless the sub-divider agrees to make improvements which will, in the opinion of the City Engineer, make the area completely safe for occupancy and provide adequate street and lot drainage.
- 5) Sewers. No plat will be accepted that cannot be adequately served with sanitary sewers or other approved disposal systems.

Section 85-070 Necessary Data for Final Plat

- 1) General. The final plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall conform to all state and county requirements and the requirements of this section. For the final plat to be considered, it must be accompanied by a letter from a Minnesota Registered Land Surveyor, other than the surveyor drafting the plat, stating that the proposed plat is in conformance with existing laws and that all mathematical computations are correct. In any event, the data shown on the final plat shall comply with provisions of law.
- 2) Forms of Approval. The form for approval by Council and Planning Commission is as follows and must be included on the final plat:

Approved by the City Council of the City of Nevis, Minnesota, this _____ day of _____, 20____.

Signed: _____
Mayor

Attest: _____
Clerk **City**

Approved by the Planning Commission of the City of Nevis, Minnesota, this _____ day of _____, 20____.

Signed: _____
Chair

Attest: _____
Secretary

Section 85-080 Procedures for Final Plat

- 1) The owner or subdivider shall file ten (10) copies of the final plat with the Planning Commission not later than six months after the date of approval of the preliminary plat by the Council; otherwise, the preliminary plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the Council.
- 2) The final plat will have incorporated all changes or modifications approved in the preliminary plat; in all other respects, it shall conform to the preliminary plat. It may constitute only that portion of the approved preliminary plat which the sub-divider proposed to record and develop at the time, provided that such portion conforms with all the requirements of this section.
- 3) The Planning Commission shall consider the final plat officially filed after the Zoning Administrator has examined it and advised the Planning Commission that it is in proper form.
- 4) On the same date that the final plat is placed on file, the City Clerk shall refer two copies of the final plat to the Planning Commission, three copies to the City Engineer and one copy each to the telephone, gas and electric companies. The procedure and timing for processing the final plat shall be the same as for the preliminary plat except that no public hearing is required in processing the final plat.
- 5) If the final plat is approved by the Council, the subdivider shall record it with the County Recorder within six months after the date of approval; and if not so filed, the approval of the final plat shall be void and of no effect.
- 6) The subdivider shall furnish the following specified types of copies of the final plat to the persons listed below:
 - a. Hubbard County Recorder. One copy on mylar.

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|----|-------------------------|--|
| b. | City Engineer. | One copy on mylar and one on film positive at 1"=200'. If plat is on computer disk, give one to the City Engineer. |
| c. | Hubbard County Auditor | One copy on paper. |
| d. | Hubbard County Engineer | One copy on paper. |

Section 85-090 Other Land Divisions

In any case where the division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development does not come within the definition of a subdivision, a description of such land division shall be filed with the Planning Commission which shall submit copies of such division to the Council and City Engineer. No building permit may be issued until the description has been received by the Zoning Administrator.

Section 85-100 Absence of Utilities

In areas which cannot reasonably be served by public water and sanitary sewer, and such service cannot be expected within a five-year period, no residential lot shall be developed for residential purposes unless it contains at least one acre of land regardless of the lot area requirements of prevailing zoning regulations. Where public water and sanitary sewer is not available and individual wells and disposal systems are to be utilized, the sub-divider may be required to submit the results of tests to ascertain subsurface soil, rock and ground water conditions. In areas without public water and sanitary sewer where lots are platted less than one acre in area, building permits may be issued only for alternating lots with building permits for intervening lots withheld pending the availability of public water and sanitary sewer. If ground conditions are such that areas outside the subdivision will not be endangered by water pollution, building permits may be issued for lots less than one acre in size provided public water service is available. (In Shoreland districts, the sub-divider must submit test results on subsurface soil, rock and ground water conditions. There must also be adequate room on each platted lot for two, individual septic systems. Lots that require the use of holding tanks must not be approved.)

Section 85-110 Minimum Subdivision Design Standards

- 1) Conformity with the Land Use and/or Comprehensive Development Plan. The proposed subdivision shall conform to the land use or comprehensive plan.
- 2) Street Plan. The arrangement, character, extent, width, grade and location of all streets shall conform to the land use plan or comprehensive development plan and to this section, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to drainage patterns, to public convenience and safety and in their appropriate relationship to the proposed uses of the land and land to be served by such streets. Names of new streets shall not duplicate existing or platted streets.
- 3) Continuation of Existing Streets. The arrangement of streets in new subdivisions shall make provisions for the appropriate continuation of the existing streets in adjoining areas. When new streets are extensions of existing streets or in alignment with the existing or platted street, the new streets shall be at the same or greater width than such existing streets, but in no case may a new street be less than the minimum width required by this Section. Streets which are an extension of existing streets or in alignment with the existing or platted street shall have the same name as the existing street.
- 4) Future Projection of Streets. Where adjoining areas are not subdivided but may be subdivided, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at the appropriate locations.
- 5) Widths. All right-of-way widths and pavement widths (face to face of curb) shall be not less than the following dimensions:

<u>Classification:</u>	<u>Roadway Width:</u>	<u>Right-of-Way:</u>
Arterial and Collector	4-48 ft.	80 ft.
Local	36 ft.	66 ft.
Alleys (Commercial)	20 ft.	20 ft.
Alleys (Residential)	16 ft.	20 ft.
Pedestrian way	6 ft.	10 ft.

- 6) Grades. All centerline gradients shall be at least .5 percent wherever feasible and shall not exceed the following:

<u>Classification:</u>	<u>Grade (Percent):</u>
Arterial	4%
Collector	7%
Local	8%
Minor Streets, Alleys	8%

- 7) Vertical Curves. Different connecting street gradients shall be connected with vertical curves. Minimum lengths of these curves shall conform to the standards specified in the Minnesota Highway Road Design Manual as amended.
- 8) Street Jogs. Street jogs shall have a centerline offset of 150 feet or more when applied to minor streets or marginal access streets; in all other cases, they shall be avoided.
- 9) Minor Streets. Minor streets shall be so aligned as to discourage their use by through traffic.
- 10) Cul-de-sacs. The maximum length of cul-de-sac streets shall be 500 feet measured along the centerline from the intersection of origin to the end of the right-of-way and terminated with a diameter of 120 feet.
- 11) Marginal access streets. Where a subdivision abuts or contains an existing or planned major thoroughfare, the council may require a street approximately parallel to and on either side of such right-of-way for adequate protection of residential properties and to afford separation of through and local traffic. Such marginal access streets shall be located at such a distance from the major thoroughfare right-of-way as to allow for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in the appropriate districts. Such distances shall also be determined with due regard for the requirements for approach grades and future grade separations.
- 12) Half Streets. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of this section; and except where the council finds it will be practicable to require the dedication of the other half of the street when the adjoining property is subdivided. Where ever there is a half street adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
- 13) Reserve Strips. Reserve strips controlling access to streets shall be prohibited.
- 14) Private Streets. Private streets shall not be approved nor shall public improvements be approved for any private street.
- 15) Hardship to owners of adjoining property avoided. The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.
- 16) Alleys.

- 17) Locational Requirements. Either a public or private alley shall be provided in a block where commercially zoned property abuts a major or local thoroughfare.
- 18) Widths. All alley right-of-ways and pavement widths shall conform to the following minimum standards:
- | <u>Classification:</u> | <u>Pavement Width:</u> | <u>Right-of-Way Width:</u> |
|------------------------|------------------------|----------------------------|
| Commercial/Industrial | 20 ft. | 24 ft. |
| Residential (two-way) | 16 ft. | 20 ft. |
- 19) Grades. All centerline gradients shall be at least .5 percent but not more than 8 percent.
- 20) Intersections.
- a. Angle of intersection. The angle formed by intersecting streets shall not be less than 60 degrees when measured at the acute angle formed by the intersecting center lines. An angle of 90 degrees is preferred.
 - b. Size of intersection. Intersections of more than four corners are prohibited.
 - c. Corner radii. Roadways of street intersections at the curb shall be rounded by a radius of not less than 20 ft. Roadways of alley-street intersections shall be rounded by a radius of not less than ten feet. Corners at the entrance to the turnaround portions of cul-de-sacs shall be rounded by a radius of not less than 15 feet.
- 21) Water Supply. Extensions of the public water supply system shall be designed so as to provide public water service to each lot. The design of said extensions shall be in accordance with the standards of the city.
- 22) Sewage Disposal. Extension of the public sanitary sewer system shall be designed so as to provide sewer service to each lot. The design of such extensions shall be in accordance with the applicable standards of the city, and state.
- 23) Drainage. A complete and adequate drainage system for the subdivision shall be designed and shall include a storm sewer system or a system of open ditches, culverts, pipes and catch basins. Such system or systems shall be designed in conformity with all applicable standards of the city.
- 24) Easements.
- a. Utility. Easements at least 12 feet wide, centered on rear and other lot lines, shall be provided for utilities where necessary and shall be dedicated to the public by appropriate language in the plat. They shall have continuity of alignment from block to block and at deflection points, easements for pole-line anchors shall be provided where necessary. Easements shall be provided along property lines from utility easements on rear lot lines to right-of-way so as to provide for a street light interval not to exceed 500 feet.
 - b. Drainage. Easements shall be provided along each side of the centerline of any water course or drainage channel whether or not shown in the comprehensive development or land use plan, to a width sufficient to provide proper maintenance and protection and to provide for storm water runoff and installation and maintenance of storm sewers, and they shall be dedicated to the city by appropriate language in the plat.
- 25) Blocks.
- a. Factors governing dimensions. Block length and width of acreage within bordering streets shall be such as to accommodate the size of residential lot required in the area by the zoning ordinance and to provide for convenient access, circulation control and safety of street traffic.

- b. Length. Block lengths shall not exceed 600 feet.
- c. Arrangements. A block shall be so designed as to provide two tiers of lots, unless it adjoins the Heartland Trail, or Lake Belle Taine, or a major thoroughfare, where it may have a single tier of lots.

26) Lots.

- a. Location. All lots shall abut by their full frontage on a publicly dedicated street or a street that has received legal status as such.
- b. Size. The dimension of lots in a subdivision shall not be less than the minimum dimensions specified under the appropriate district requirements in this ordinance. Lot sizes must be of sufficient building size so variances will not be necessary to use the lots for their intended purpose.
- c. Butt lots. Butt lots shall be platted at least five feet wider than the average width of interior lots in the block.
- d. Side lot lines. Side lines of lots shall be substantially at right angles to the street line.
- e. Water Courses. Lots abutting upon a water course, drainage way, channel or stream shall be required to abide by the regulations of the shoreland provisions of the zoning ordinance.
- f. Natural features. In the subdivision of any land, due regard shall be shown for all natural features such as tree growth, water courses, historic spots or similar conditions which, if preserved, will add attractiveness and stability to the proposed development.
- g. Lot Remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels.
- h. Lots along thoroughfares. Except in those cases where there are extenuating circumstances, residential lots shall not front on major thoroughfares.

Section 85-120 Open Space and Public Sites

- 1) General. Where a proposed park, playground, school site or other public site as shown on the comprehensive or land use plan is embraced in part or in whole by the boundary of a proposed subdivision and such public sites are not dedicated to the public, such site shall be reserved and no action taken towards approval of the preliminary or final plat for a period not to exceed 90 days to allow the City Council the opportunity to consider and take action toward acquisition of such site by purchase or other means.
- 2) Parkland and Trail Dedication. The City Council may require that suitable sites within a subdivision be dedicated or reserved for future public use such as: parks, public access or open space as needed by the particular subdivision in accordance with applicable Minnesota State Statutes.

Section 85-130 Required Improvements on the Site

Prior to the approval of the final plat by the Council, the sub-divider shall have agreed, in the manner set forth in this subsection, to install or pay for the installation in conformity with all applicable standards and provisions of this code, the following improvements on the site:

- 1) Monuments. Monuments of a permanent character shall be placed in locations on the boundary of the subdivision within it as required.
- 2) Street and Alley Improvement.
 - a. Grading. The full width of the right-of-way of each street and alley dedicated in the plat shall be graded.
 - b. Pavement. All streets and alleys shall have an adequate subbase and shall be improved with an all-weather, permanent surface. If the streets and alleys are not paved, Class V gravel must be applied as approved by the City Engineer.

- 3) Water Supply and Sewage Disposal. Water service and sanitary sewer mains and service connections stubbed into the property line shall be provided to serve all the lots in residential subdivisions and shall be connected to the existing city water and sewer system.
- 4) Drainage. A system that will adequately take care of the water runoff within the subdivision shall be provided. If the City Council, upon the recommendation of the City Engineer, determines that it is feasible for the subdivider to install storm sewers connected to the existing storm sewer system of the city within or adjacent to the subdivision, or an extension of the city system which will be extended to the boundary of the subdivision within 18 months of the filing of the final plat, the City shall install a storm sewer system to provide drainage. If a storm sewer system is installed and connections to the city system are not immediately available, the storm sewers shall be capped and temporary provisions made for drainage by other means. The cost of storm sewers shall be assessed against the benefitting properties including those which may lie outside the boundaries of the proposed subdivision.
- 5) Street Signs. Street signs shall be installed in all new subdivisions by the City.
- 6) Underground Electric Service and Phone Service. The City Council may require that all electric service and phone service installations be put underground except where extreme conditions prohibit and a variance from these requirements is recommended by the Planning Commission upon the advice of the utility companies.

Section 85-140 Development Agreement for Improvements.

- 1) Plans and Specifications. Prior to installation of any required improvements and prior to approval of the final plat, the sub-divider shall enter into a contract in writing with the City requiring the sub-divider to furnish and construct the improvements at his sole cost and in accordance with plans and specifications and usual contract conditions all approved by the Council, which shall include provisions for supervision of details of construction by the City Engineer and grant to the City Engineer authority to coordinate the work to be done under said contract by any subcontractors authorized to proceed thereunder and with any other work being done or contracted by the City in the vicinity. The agreement shall require the sub-divider to make an escrow deposit, or in lieu thereof, to furnish a performance bond as specified in subsection B, the amount of the deposit and the penal amount of the bond to be equal to the City Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection by the City. On request of the sub-divider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event, the amount of the deposit or bond shall be reduced in an amount equal to the estimated cost of the improvements to be furnished after the acceptance of the plat only. The time for completion of the work and the several parts thereof shall be determined by the Council upon recommendation of the City Engineer after consultation with the sub-divider and shall be reasonable in relation to the work to be done, the season of the year and proper coordination with construction activities in the subdivision. The provisions of this subsection shall be waived or amended as deemed appropriate by the City Council upon advice of the City Engineer on those improvements which the city has agreed to install under the provision of Section 85-150.
- 2) Financial Guarantee. The contract required by this Section shall require the sub-divider to make an escrow deposit or in lieu thereof, furnish a performance bond as follows:
 - a. Escrow Deposit. An escrow deposit shall be made with the City Clerk in an amount equal to the total cost, as estimated by the City Engineer including the cost of inspection by the City, of all the improvements to be furnished and installed by the sub-divider pursuant to the contract and which have not been completed prior to approval of the final plat. The City shall be entitled to reimburse itself out of said deposits for any cost and expense incurred by the City for completion of the work in case of default of the sub-divider under said contract, and for any damages sustained by the City on account of

- any breach thereof. Upon completion of the work and termination of any liability to the City of the sub-divider under this contract, the balance remaining in the deposit shall be refunded to the sub-divider.
- b. Performance Bond. In lieu of making the escrow deposit above described, the sub-divider may furnish the City with a public contractor's performance bond in the form prescribed by statute, with corporate surety, in a penal sum equal to the total cost, as estimated by the City Engineer including the cost of inspection by the City, of all of the improvements to be furnished and installed by the sub-divider pursuant to the contract and which have not been completed prior to approval of the final plat. The bond shall be approved by the City Attorney and filed with the City Clerk.
 - c. Construction Plans. Construction plans for the required improvements, conforming in all respects with the standards of the City Engineer and this code, shall be prepared at the sub-divider's expense by a professional engineer who is registered in the State of Minnesota and shall contain his seal. The plans, together with the quantities of construction items, shall be submitted to the City Engineer for his estimate of the total cost of the required improvements. Upon approval they shall become a part of the contract required in subsection A. The tracings of the plans proved by the City Engineer plus two prints shall be furnished to the City to be filed by the City Engineer as a record in the engineering department.
 - d. Inspection. All required improvements on the site that are to be installed under the provisions of this section shall be inspected during the course of construction by the City Engineer at the sub-divider's expense, and acceptance shall be subject to the City Engineer's certificate of compliance with the contract.

Section 85-150 Optional City Construction Permitted

- 1) Petition. In lieu of doing the actual construction work on improvements required to be made by the sub-divider under this section, the sub-divider may petition the City to do the construction work required. The petition shall include a request that the benefitted property be assessed for the cost of such improvements where appropriate. The petition shall be presented to the City for construction during the next season, or at the earliest convenience of the City. The option shall apply to streets, alleys, curb and gutters, water and sanitary sewer facilities. In no event shall such construction result in a cost to be borne by the taxpayers of the City generally, except in those cases where part of the benefit of the construction is deemed by the City Council to extend beyond the properties contained in the proposed subdivision.
- 2) Payment for installation of improvements. Improvements required by this subsection are to be furnished and installed at the sole expense of the sub-divider and at no expense to the City, unless otherwise stated. In the case of an improvement the cost of which would, by general policy of the Council, be assessed only in part to the improved property and the remaining cost paid out of the general tax levy, the Council may make provisions for payment of a portion of the cost by the sub-divider and the remaining portion of the cost by the City, and provided further, that if any improvement installed within the subdivision, the Council may make provision for causing a portion of the cost of the same and in such case the sub-divider will be required only to pay for such portion of the whole cost of said improvements as will represent the benefit to the property within the subdivision.

Section 85-160 Modification, Exceptions, and Variances.

- 1) Minor Subdivision. In the case of a subdivision of small size and of minor importance, situated in a locality where conditions are well-defined, the City may exempt the sub-divider from complying with some of the requirements of this section. 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 this section or the zoning ordinance, the division may be approved by the City Council after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

- 2) Variances. The Council may grant a variance upon receiving a report from the Planning Commission in any particular case where the sub-divider can show that, by reason of exceptional topography or other physical conditions, the strict compliance with these regulations could cause an exceptional and undue hardship on the enjoyment of a substantial property right, provided such relief may be granted without detriment to the public welfare and without impairing the intent and purpose of this section.
- 3) Application Process. Application for a variance shall be made in writing by the sub-divider at the time when the preliminary plat is filed for consideration by the Council, stating fully all facts relied upon by the petitioner and supplemented with maps, plans or other additional data which may aid the Planning Commission and Council in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan. Any variance or modification thus granted shall be recorded in resolution form and entered in the minutes of the Council setting for the reasons which justified the action taken.
- 4) Boundary Line Realignment. In the case of 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, and the newly created property line will not cause the other remaining portion of the lot to be in violation with section or the zoning ordinance, a Boundary Line Realignment division may be approved administratively by the Zoning Administrator.

Section 85-170. Building Permits.

No building permits shall be issued for construction on any lot until the final plat has been recorded.