

## **SECTION 05-10 ADMINISTRATION AND ENFORCEMENT**

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### **Section 05-10-01. Non-Platted Subdivisions.**

A. Registered Land Surveys: All registered land surveys shall be filed subject to the same procedures as required for the filing of a preliminary plat for platting purposes~ The standards and requirements set forth in these regulations shall apply to all registered land surveys.

B. Metes and Bounds:

1. Except in highly unique situations as may be allowed by the City Council, conveyances by metes and bounds shall be prohibited where any lot or lots involved are less than ten (10) acres in area or have a width of less than three hundred thirty (330) feet at the building setback 1 me.

2. No building permit shall be issued for any structure on any parcel of land less than ten (10) acres in area or having a width of less than three hundred thirty (330) feet on an improved public street, at a building setback line which is described by metes and bounds until a plat describing such parcel of land is filed with the Wright County Recorder's Office and proof thereof is furnished to the City Council.

3. When a conveyance by metes and bounds is made for parcels larger than ten (10) acres in size, a survey of the parcels involved shall be submitted to the Zoning Official before any building permits will be issued for those parcels, and a copy of the survey shall be attached to the deed when it is submitted to the Wright County Recorder's Office for recording.

### **Section 05-10-02. Variances, City Council Approval, Standards.**

A. Findings: The City Council may approve a variance from the minimum standards of this Ordinance (not procedural provisions) when, in its opinion, exceptional and undue hardship may result from strict compliance. In approving any variance, the City Council shall prescribe any conditions that it deems necessary to or desirable to the public interest. In making its approval, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons

to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be approved when the City Council finds that each and every one of the following apply:

1. That there are special circumstances or highly unique conditions affecting the property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land.
2. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which property is situated.
3. That the variance is to correct inequities resulting from an extreme physical hardship such as topography.
4. Hardships relating to economic difficulties shall not be considered for the purpose of granting a variance.
5. That the hardship is not a result of an action or actions by the owner, applicant or any agent thereof.
6. The variance will not in any manner vary the provisions of the Zoning Ordinance or Official Zoning Map.

B. Procedures:

15. Pursuant to Minnesota Statutes 15.99, as may be amended, an application for a variance shall be approved or denied by the City Council within sixty (60) days from the date of its official and complete submission unless notice of extension is provided by the City or a time waiver is granted by the applicant. If applicable, processing of the application through required State or Federal agencies shall extend the review and decision-making period an additional sixty (60) days unless this limitation is waived by the applicant. If the variance request is not approved, the reasons for such action shall be recorded in the official proceedings of the City and shall be transmitted to the applicant.
15. Request for variances, as provided within this Section, shall be filed with the Zoning Official on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. Such application shall also be accompanied by five (5) large scale copies and one (1) reduced (8 1/2" x 11") copy of detailed written and graphic materials fully explaining the

proposed change, development, or use. The request for variance shall be placed on the agenda of the first possible Planning Commission meeting occurring after thirty (30) days after the date of submission of the application. The request shall be considered as being officially submitted when all the information requirements are complied with.

3. Upon receipt of said application, the City shall set a public hearing following property hearing notification as applicable. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description of request, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within five hundred (500) feet of the boundary of the property in question (public right-of-way shall not be included in the five hundred (500) foot measurement). The Zoning Official shall have the right to provide additional property owners notification beyond the five hundred (500) foot distance if it is judged that the request will have impact upon additional properties. The County Assessors records shall be deemed sufficient for determining the location and ownership of said property. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding. In the case of a proposed subdivision which abuts a municipal boundary, notices shall be sent to the appropriate Township Board of Supervisors.
4. For properties within the Shoreland or Supplemental Shoreland Overlay District, the City shall submit to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
5. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance, provided a bona fide attempt has been made to comply with the notice requirements of this Section.
6. The Zoning Official shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Council.
7. The Planning Commission and City staff shall have the authority to

request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure of an applicant to supply all necessary supportive information may be grounds for denial of the request.

8. The applicant or representative thereof shall appear before the Planning Commission to answer questions concerning the proposed variance.
9. The Planning Commission shall make findings of fact and recommend approval or denial of the request. The Planning Commission shall reach a decision within thirty (30) days after the first regular meeting at which the variance request was considered by the Commission, unless a delay in action is requested by the applicant. The Commission's recommendation and the City staff's report shall be presented to the Council.
10. The City Council shall not grant a variance until they have received a report and recommendation from the Planning Commission. If, however, the Planning Commission has not acted upon the request after thirty (30) days from the first regular meeting at which the request was considered, the City Council may proceed with its consideration and action on the request.
11. Upon receiving the report and recommendation of the Planning Commission, the City shall place the report and recommendations on the agenda for the next regular City Council meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.
12. The Council shall review the application and may at its option conduct a public hearing on the request.
13. A variance of this Ordinance shall be by three of five (3 of 5) votes of the entire City Council.
14. All decisions by the Council involving a variance request shall be final except that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Wright County District Court.
15. A copy of all decisions granting variances for properties in the Shoreland, or Supplemental Shoreland district, Floodway or Flood

Fringe shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.

16. Whenever a variance has been considered and denied by the City Council, a similar application and proposal for the variance affecting the same property shall not be considered again by the Planning Commission or City Council for at least one (1) year from the date of its denial, except as follows:
  - a. If the applicant or property owner can clearly demonstrate that the circumstances surrounding the previous variance application have changed significantly.
  - b. If the City Council decides to reconsider such matter by a vote of not less than three of five (3 of 5)
17. If a request for a variance receives approval of the City Council, the applicant shall record such with the County Recorder within thirty (30) days of the City Council approval date. The applicant, immediately upon recording such, or as soon as is reasonably possible, shall furnish the City proof of recording. No building permits for the property in question will be granted until such proof of recording is furnished to the City.

#### **Section 05-10-03. Violations and Penalty.**

- A. Sale of Lots from Unrecorded Plats: It shall be a misdemeanor to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or replat of any subdivision or area located within the jurisdiction of this Ordinance unless said plan, plat or replat shall have first been recorded in the Wright County Recorder's office.
- B. Receiving or Recording Unapproved Plats: It shall be unlawful for a private individual to receive or record in any public office any plans, plats of land laid out in building lots and streets, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this Ordinance, unless the same shall bear thereon, by endorsement or otherwise, the approval of the City Council.
- C. Misrepresentations: It shall be a misdemeanor for any person owning an addition or subdivision of land within the City to represent that any improvement upon any of the streets, alleys or avenues of said addition or subdivision or any sewer or utility in said addition or subdivision has been constructed according to the plans and specifications approved by the City Council, or has been supervised or inspected by the City, when such improvements have not been so constructed, supervised or inspected.

- D. Penalty: Any person violating any of the provisions of this Ordinance shall be guilty of a misdemeanor. Each day during which compliance is delayed or such violation continues or occurs shall constitute a separate offense and may be prosecuted as such.

**Section 05-10-04. Schedules of Administrative Fees, Charges and Expenses.**

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