

## CHAPTER 12

### SUBDIVISION AND LAND SPLIT ORDINANCES

**SECTION 12.01. DEFINITIONS.** As used in this Chapter, the following words or terms shall have the meanings stated:

- A. "Applicant" means any person or entity commencing proceedings under the terms of this section to effect a division of land or plat of land hereunder.
- B. "Block" means an area of land within a plat that is entirely bounded by streets, or by streets and the entire boundaries of the plat, or a combination of such streets and plat boundaries with a river or lake, public park, railroad rights-of-way or municipal boundaries.
- C. "Cul-de-sac" means a street with a single means of ingress and egress and having a turnaround at its end for a safe and convenient reversal of traffic.
- D. "Easement" means an interest in land granted by a property owner that entitles the easement holder to a specified use of the land.
- E. "Lot" means a piece, parcel or plat of land occupied or capable of being occupied by one or more structures and intended as a unit for transfer of ownership.
- F. "Lot Line Adjustment" means where platted lots share common boundaries and the common boundaries are redrawn to create new legal description, but no additional lots or parcels are created.
- G. "Outlot" means a lot remnant or parcel of land, which is intended as open space, drainage or other use, for which no private development is immediately planned.
- H. "Plat" means the drawing or map of a subdivision prepared for filing of record pursuant to Minn. Stat. Sec. 505 and containing all elements and requirements set forth in this chapter.
- I. "Plat, Final" means a drawing or map of a subdivision prepared in the manner required by Minn. Stat. Sec. 505 and this Chapter, approved by the City Council and in such form as required by Lake County for the purpose of recording.
- J. "Plat, Preliminary" means a drawing or map of a subdivision and supporting information prepared in the manner required by Minn. Stat. Sec. 505 and this Chapter.
- K. "Registered Land Survey" means the drawing or map of a plat prepared by a professional licensed Land Surveyor for filing of record pursuant to Minnesota Statutes Section 508.
- L. "Right-of-Way" means a strip of land occupied or intended to be occupied by a street, trail, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for other special use.
- M. "Street" means the entire width between property lines of a right-of-way or place dedicated, acquired or intended for the purpose of public use for vehicular traffic or access other than an alley.
- N. "Subdivision" means the division of an area, parcel or tract of land under single ownership into two or more parcels, tracts or lots, or the creation of parcels, tracts or lots which are 2 ½ acres or less in size, or which necessitate the creation of streets, roads or alleys for residential, commercial, industrial or other use, or any

combination thereof, except those separations:

- a. Creating cemetery lots;
  - b. Resulting from court orders. Any division of land so decreed which does not meet zoning chapter requirements for lot area, lot width, or which does not have the required frontage on a public right-of-way is not a buildable lot.
- O. "Tax Parcel Combination" means where two or more lots with separate tax or property identification numbers are combined under one tax property identification number for the purpose of receiving a single-tax statement.
- P. "Tax Parcel Split" means where one or more lots that are combined under a tax or property identification number for the purpose of receiving a single-tax statement are assigned new tax or property identification numbers for two or more of the platted lots.

## **SECTION 12.02. GENERAL PROVISIONS.**

**Subd. 1. Purpose.** Pursuant to the authority of the City Charter and Minnesota Statute Section 62.358, this Chapter is adopted for the following purposes:

- A. To provide for the orderly, economic and safe development of land and public services.
- B. To promote the health, safety and general welfare of residents of the City.
- C. To assure fair and equitable handling of development proposals by establishing a uniform subdivision and land split process.

**Subd. 2. Scope.** This Chapter relates to the division of land into two or more parcels or the consolidation of contiguous parcels.

**Subd. 3. Jurisdiction.** This Chapter applies to all land within the City.

**Subd. 4. Approval Required.** No person or entity shall divide or split land, convey land, or obtain a building permit without first obtaining approval as required by this Chapter.

**Subd. 5. Exceptions to Required Platting.** The foregoing provisions as referenced in Minnesota Statute Section 462.358 (b) do not apply to a conveyance of the land described:

- A. Was a separate parcel of record April 1, 1945, or the date of adoption of subdivision Ordinances under Laws 1945, chapter 287, whichever is later;
- B. Was the subject of a written agreement to convey entered into prior to such time;
- C. Was a separate parcel of not less than 2-1/2 acres in area and 150 feet in width on

January 1, 1966;

- D. Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980;
- E. Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or
- F. Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

**SECTION 12.03. ADMINISTRATIVE LAND SPLITS AND LAND CONSOLIDATION.**

When in the best interest of the City the platting procedures of this Chapter may be waived by the Zoning Administrator in accordance with the following:

**Subd. 1. Requirements.** The Zoning Administrator may administratively approve a land split or contiguous land consolidation in the following instances provided that each parcel retains minimum lot size and building setbacks required by the zoning district in which the lots are located:

- A. A boundary adjustment relocating a property line between adjoining parcels, provided the split does not create a new tax parcel.
- B. A lot split of an existing platted lot to accommodate the separate ownership of each unit in a single family attached dwelling.
- C. A consolidation of two or more contiguous tax parcels into one parcel of record.
- D. A single-family residential lot split, other than the division of a single family attached dwelling that contains not more than three splits where public improvements are not required.

**Subd. 2. Procedure for Filing, Review, and Approval of Administrative Land Splits.** An application to subdivide property must be submitted to the Zoning Administrator on a form provided by the City accompanied by the following:

- A. An application fee set by the City Council;
- B. A certificate of survey map for abstract land or registered land survey for Torrens land; and
- C. A full legal description of the existing property and resulting parcels documented by all current land title records.

## **SECTION 12.04. PROCEDURES FOR APPROVAL OF PLATS.**

**Subd. 1. Pre-application Conference.** Except in the case of an Administrative Land Split or one of the Exceptions to Required Platting, the Applicant shall confer with the Zoning Administrator to obtain information and guidance before incurring expenses in the preparation of plans, surveys, and other data. The Applicant is encouraged to prepare a sketch plan to serve as the basis for discussion.

**Subd. 2. Preliminary Plat.** An application to plat property must be submitted to the Zoning Administrator on a form provided by the City. The application shall include three 22" x 34", one 11" x 17" and one digital copy of the preliminary plat drawings and be accompanied by the following:

- A. An application fee set by the City Council;
- B. A cash deposit in the sum of \$7,500 to be drawn upon by the City to reimburse it for administrative, engineering, planning and utility review and attorney's fees incurred in review of the preliminary plat application.
- C. A full legal description of the existing property documented by all current land title records;
- D. A statement of the proposed use of all portions of the land to be platted;
- E. Owner's policy of title insurance or owner's encumbrance report. The City Attorney may require the Subdivider to also provide copies of recorded instruments that are referenced in the submitted title evidence;
- F. A boundary and topographic survey of the parcel being subdivided and nearby lands including: lot dimensions, all platted and recorded easements, natural features (lakes, creeks, and wetlands), all existing structures and dimensions to show size and location, structure setbacks from all property lines, location of existing driveways, streets, utilities, existing two-foot contours, grade elevations at lot and building corners and lowest floor elevations;
- G. The proposed plat name, location and dimensions of existing and proposed easements, existing and proposed rights-of-way, and the following information for each lot proposed: lot dimension, lot area, buildable area, and driveways;
- H. A drainage, grading and stormwater management plan that meets the requirements of the City;
- I. A street and utility plan that includes the proposed centerline grades of streets, street plans and profiles showing both existing and proposed grade lines, and detailed location and size of all utilities;

- J. A wetland delineation is required if the property includes any wetland areas as determined by the Zoning Administrator. The delineation must be staked in the field for City staff verification during the growing season;
- K. In shoreland areas, a line or contour representing the ordinary high-water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake, river, or stream;
- L. A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients or waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system;
- M. Wetlands and wetland fill areas shall be shown on the preliminary and final plat; and,
- N. Other documents or information required by the Zoning Administrator.

**Subd. 3. Undeveloped Outlots.** An Applicant may identify portions of the land to be platted which the Applicant intends to reserve for future development as an undeveloped outlot, rather than showing planned development.

**Subd. 4. Notice to Relevant Entities.** Upon receipt of a complete application, the Zoning Administrator may provide a copy of the preliminary plat to the following as appropriate: City Engineer, Superintendent of Schools for Two Harbors, Public Utilities Commission of Two Harbors, Lake County Health Department, Lake County Surveyor, Lake County Highway Department, Minnesota Department of Transportation, Cooperative Light and Power, Two Harbors Police Department, Two Harbors Fire Department, and Commission of the Department of Natural Resources if the property is located in a Shoreland Overlay Zone.

**Subd. 5. Public Hearing.** Upon receipt of a complete application, the Zoning Administrator will set a date for a public hearing before the Planning Commission. At least ten days before the day of the public hearing, the City will publish a notice in the official newspaper and send notice by mail to the Applicant and to the owners of property located within 350 feet of the property to be subdivided.

**Subd. 6. Sign Notice.** Sign notice postings shall be required for all platting applications. The creation and posting of the signs shall be the responsibility of the applicant.

- A. Sign notice means a sign with minimum dimensions of 24 in. by 30 in. posted as close as reasonably possible to each street frontage on the applicant's property with the text between 3 ft. and 5 ft. above grade level, with a title line reading 'Planning and Zoning Commission Notice' in letters at least 3 in. tall and with the remainder of the text in letters at least ½ in. tall. Each sign must be posted at least two weeks before the date of the public hearing and must remain in place and legible through

the date of the public hearing as shown on the sign. If the sign is not legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way.

B. Content of Notice. Each required notice shall include the following information:

1. The name of the applicant;
2. The address of the property;
3. A narrative description of the project including the proposed land uses, size (in square feet) and height (in feet and stories) of any proposed buildings or building expansions;
4. The type of permit or approval being sought;
5. Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address or other electronic site or method);
6. Contact information for the assigned City staff member; and
7. The date, time and place of the public hearing.

**Subd. 7. Preliminary Plat Recommendation.** Following the public hearing, the Planning Commission must make a recommendation to the City Council. The Planning Commission may recommend that the City Council impose conditions on a preliminary plat approval to ensure compliance with this ordinance.

**Subd. 8. Preliminary Plat Decision.** After receiving the recommendation of the Planning Commission, the City Council must consider the preliminary plat application and may hold whatever additional hearings it deems advisable. In evaluating the preliminary plat, the City Council must consider and adopt findings regarding compliance with this ordinance. The City Council may impose conditions on the preliminary plat approval. The City Council must decide to preliminarily approve or deny a subdivision application within 120 days following the date upon which the Zoning Administrator confirms in writing to the applicant that the application is complete and complies with all requirements in Section 12.04, Subd. 2.

**Subd 9. Preliminary Plat Void.** Preliminary plat approval will be void if: (1) a final application is not received and approved within one calendar year of preliminary plat approval; and (2) the

City Council has not received and approved a written application for a time extension within the one calendar year period.

**Subd. 10. Final Plat.** A final plat application must be submitted to the Zoning Administrator on a form provided by the City. The application shall include three 22" x 34", one 11" x 17" and one digital copy of the final plat drawings and be accompanied by the following:

- A. An application fee set by the City Council;
- B. Any additional cash deposit required by the Zoning Administrator to cover any outstanding or pending administrative, engineering, planning or utility review and attorney's fees incurred in review of the preliminary or final plat application.
- C. Final plat drawing prepared and certified by a land surveyor who is licensed in the state and presented in accordance with appropriate provisions of state statute and Lake County Ordinances;
- D. Scale not less than one inch to one hundred feet (1"=100') of plat for large scale copies, twenty-two inches by thirty-four inches (22"x34"), the scale to be show graphically on a bar scale, date, and north arrow;
- E. The name of the subdivision, which must not duplicate or too closely approximate the name of any existing plat recorded in Lake County;
- F. Location by section, township, range, county and state, and including descriptive boundaries of the plat, based on an accurate transverse, giving angular and linear divisions;
- G. The location of monuments must be shown and described on the final plat. Locations of such monuments must be shown in reference to existing official monuments on the nearest established street lines, including true angles and distances to such reference points or monuments;
- H. Location of lots, outlots, street rights-of-way, public highways, alleys, and parks, trails and other features, with accurate dimensions in fee and decimals of feet, with the length of radii and/or arc of all curves, and with all other information necessary to reproduce the plat on the ground must be shows. Dimensions must be shown from all angle points of curve to lot lines;
- I. Lots must be numbered clearly, blocks are to be numbered, with numbers showing clearly in the center of the block;
- J. Total square footage per lot, acreage per block and total acres in plat, to be submitted separately from the plat;
- K. The exact locations, widths and names of all streets to be dedicated;

- L. Location, purpose and width of all easements to be dedicated;
- M. An executed copy of restrictive covenants to be submitted separately from the plat;
- N. Statement dedicating all easements as follows: "Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the designated areas marked 'utility and drainage easements';"
- O. Statement dedicating all streets, alleys and other public areas not previously dedicated as follows: "Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use hereby so dedicated."

The Zoning Administrator shall review the application and confirm in writing to the applicant the date upon which the application is deemed complete and in compliance with all requirements set forth above.

**Subd. 11. Notice to Relevant Entities.** Upon receipt of the final plat the Zoning Administrator may provide a copy of the final plat to the following as appropriate: City Engineer, Superintendent of Schools for Two Harbors, Public Utilities Commission of Two Harbors, Lake County Health Department, Lake County Surveyor, Lake County Highway Department, Minnesota Department of Transportation, Cooperative Light and Power, Two Harbors Police Department, Two Harbors Fire Department, and Commission of the Department of Natural Resources if the property is located in a Shoreland Overlay Zone.

**Subd. 12. Final Plat Decision.** Upon receipt of the final plat, the City shall set a date for consideration by the City Council. In evaluating the final plat, the City Council must consider and adopt findings regarding compliance with the preliminary plat approval and with this ordinance. The City Council may impose conditions on the final plat approval, which may include a development agreement. Upon request for final plat approval, the City Council shall certify final approval within 60 days of the date the Zoning Administrator deems the application complete, if the applicant has complied with all conditions and requirements of applicable regulations and all conditions and requirements upon which the preliminary approval was expressly conditioned.

**Subd. 13. Final Plat Void.** Final plat approval will be void if: (1) a final plat is not recorded with Lake County within one calendar year of preliminary plat approval; and (2) the City has not received and approved a written request for a time extension within one calendar year of final plat approval.

**SECTION 12.05. DESIGN STANDARDS.**

**Subd. 1. Conformity with Comprehensive Plan and Zoning Ordinances.** The plat must be consistent with the Two Harbors Comprehensive Plan, suited to the purpose for which it is to be platted, and the use of land proposed to be platted along with proposed structures shall be consistent with the Two Harbors Zoning Code Ordinances.

**Subd. 2. Lots and Blocks.**

- A. Area. The minimum lot area, width and depth shall not be less than that established by the Two Harbors Zoning Ordinances in effect at the same time of adoption of the final plat.
- B. Frontage. The entire required frontage of each lot must abut on a street that has been officially accepted by the City of Two Harbors or other governmental body with jurisdiction over such street, except as provided for flag lots and cul-de-sacs.
- C. Side Lot Lines. Side lot lines should be at right angles to street lines, radial to curved street lines or radial to accommodate site specific topographic conditions.
- D. Double Frontage. Lots with double frontage shall not be allowed except where lots back on arterial streets or highways, or where topographic conditions render plats otherwise unreasonable.
- E. Water Courses. Lots abutting upon a water course, drainage way, channel or stream in a DNR designated Shoreland Zone shall be required to abide by the Ordinances of the Shoreland Overlay Zone provisions of the Two Harbors Zoning Ordinances.
- F. Natural Features. In the platting 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, stability, and sustainability 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. In residential areas, blocks shall be generally not less than 600 feet nor more than 1,400 feet in length measured along the greatest dimension of the enclosed block area unless minor variations are necessitated by topography or to conform to an adjoining plat.
- I. Blocks shall be generally wide enough to allow two tiers of lots except where adjoining a lake, stream, railroad or thoroughfare or where one tier of lots is necessary because of topographic conditions.
- J. Blocks for commercial and industrial areas may vary from the provisions of this section if the nature of the use requires other treatment.

**Subd. 3. Streets.**

- A. The plat must take into consideration access to existing streets and future extension of streets where appropriate.

- B. Streets must be designed and located with consideration to existing and planned streets, reasonable circulation patterns, topographical conditions, stormwater runoff, public conveyance safety.
- C. If required by the City, a traffic study for the plat shall be completed by a qualified professional and shall include traffic generation, traffic distribution of the existing capacity of existing streets, and resulting level of service of existing streets at the plat build out.
- D. Streets must be designed and constructed in accordance with standards and specifications as adopted by the City Council.
- E. Minimum right-of-way widths for each type of public street or road shall be as follows:

<b>Type of Street</b>	<b>Right-of-Way Width</b>
Alley	20 feet
Minor Collector Street	80 feet
Cul-de-sac	120 feet (60-foot radius)
Local Street	66 feet
Major Collector Street	100 feet

- F. Street intersections must be at right angles wherever possible.
- G. Street jogs with centerline off-sets must be at least 125 feet in length wherever possible.
- H. Where adjoining areas are not platted, but in the future may be platted, the arrangement of streets in a new plat should make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new plat at appropriate locations. A temporary turn around facility may be required at the closed end, in conformance with standards will be established by the City Engineer.
- I. Where a plat is to be built in phases, the street shall be extended at least 100 feet past the furthest lot in each phase where a platted road is to connect through to the next phase. A temporary turn around facility consisting of a cul-de-sac with a 45-foot radius will be required at the closed end.
- J. When a tract is subdivided into larger than normal building lots or parcels which have the potential for further plat, such lots or parcels should be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such

resubdivision.

- K. Dead end streets are prohibited, except as stubs to permit future street extension or when designed as cul-de-sacs. Street stubs to facilitate future street extension shall include a temporary cul-de-sac with a 45-foot radius.

**Subd. 4. Cul-de-Sacs.**

- A. Permanent cul-de-sacs shall not exceed a length of 500 feet.
- B. Each cul-de-sac must have a closed end terminus of nearly circular shape with a right-of-way diameter of at least 120 feet.
- C. When a lot completely abuts a cul-de-sac, the required frontage may be measured at the building setback line provided that the frontage at the street line is at least 75% of the required frontage.

**Subd. 5. Sidewalks.** Sidewalks and boulevards shall be provided in conformance with current City of Two Harbors design and construction standards as adopted by the City Council.

**Subd. 6. Water Supply.**

- A. When a plat is located within 1,000 feet of a City water main, the plat design shall include water mains not less than eight inches in diameter that are accessible to all lots and tracts in the plat and include shutoff valves and fire hydrants to be installed throughout the entire plat at intervals of no more than 600 feet. The water main must be designed and constructed in accordance with standards and specifications as adopted by the City Council.

**Subd. 7. Storm Drainage.**

- A. Surface water drainage shall be provided by storm sewers or drainage courses adequate to drain surface water from the plat and protect roadway surfaces. Storm drainage facilities shall be designed to provide positive drainage away from on-site sewage disposal systems. In designing storm drainage facilities, special consideration shall be given to protect against erosion, against siltation of surface waters and against excess runoff to adjacent properties.
- B. Where storm water from adjacent areas naturally passes through a plat, adequate provision shall be included in the subdivision for facilities to route the storm water through the plat to its natural outlet to maintain or replace the natural watercourse.
- C. All development shall comply with all applicable Ordinances governing stormwater management and shall employ best management practices to minimize off-site stormwater runoff, maximize overland flow and flow distances over surfaces covered with vegetation, increase on-site filtration, replicate

predevelopment hydrologic conditions as nearly as possible, minimize off-site discharge of pollutants to ground and surface water, and encourage natural filtration function.

**Subd. 8. Sewage Disposal.**

- A. When a plat is located within 1,000 feet of a City sewer main, the plat design shall include sanitary sewer mains that are accessible to all lots and tracts in the plat. The sewer main must be designed and constructed in accordance with standards and specifications as adopted by the City Council.
- B. Storm water drainage shall not be permitted to combine with sanitary sewers nor shall sanitary sewage be permitted in storm water sewers.

**Subd. 9. Easements.**

- A. Drainage and utility easements shall be shown on the preliminary and final plat or registered land survey. Where no alleys are provided, utility easements required shall be not less than five (5) feet on side and rear lot lines and not less than ten (10) feet on front lot lines or based upon a utility plan approved by the City Engineer for use in erecting, construction and maintaining poles, wires, conduits, storm sewers, sanitary sewers, surface drainage, water mains, electrical lines and other public utilities reasonably required.
- B. In addition, drainage and utility easements must comply with the following:
  - 1. Drainage and utility easements must be provided over wetland areas.
  - 2. Drainage and utility easements must be provided over existing or proposed infrastructure for storm sewer. Such easements must be at least 10 feet in width or twice the depth of the infrastructure, whichever is greater.
  - 3. Where a plat is traversed by a water course, drainage and utility easements must be provided over the water course and such additional area as will be adequate for the drainage of the area.
  - 4. If required, wetland and other conservation easements all be shown on the preliminary and final plat or registered land survey.
  - 5. Permanent boundary markers shall be placed to mark preserved wetland boundaries within the plat and GIS coordinates shall be provided to the City.

**SECTION 12.06. PARK DEDICATION FEES.**

- A. Comprehensive Plan.

1. Where a proposed park, trailway, ponding, or open space area, shown on the city's comprehensive plan, park development guide, comprehensive storm sewer plan or official map, is located in the whole or in part in a subdivision, such area or areas shall be shown on the preliminary plat.
  2. Such area or areas shall also be dedicated to the city by the subdivider if the council requests such dedication under the provisions of the subsections below.
- B. Dedication. In all subdivisions, the city shall require that a reasonable portion of such land be set aside and dedicated to the public for parks, playgrounds or other public use exclusive of property dedicated for streets and other public ways.
1. In all residential subdivisions it shall be presumed that a reasonable amount of land has been dedicated for parks and playgrounds if the subdivider dedicates at least one twenty-fifth (1/25) of an acre for each Low Density Residential dwelling unit of the proposed subdivision (acres to be dedicated =  $0.04 \times$  number of dwelling units), 0.03 of an acre for Medium Density Residential (acres to be dedicated =  $0.03 \times$  number of dwelling units) or 0.02 of an acre for High Density Residential (acres to be dedicated =  $0.02 \times$  number of dwelling units). The land use density determination will be based upon the approved Comprehensive Land Use Plan. The city shall determine whether a cash payment in lieu of land dedication is appropriate. The amount of cash dedication shall be determined by multiplying the number of dwelling units of the proposed subdivision times the designed fee per dwelling which may be set from time to time by resolution of the council.
  2. In all commercial, industrial and other subdivisions, it shall be presumed that a reasonable amount of land has been dedicated to serve the needs of the resident and working population for parks and playgrounds if the subdivider dedicates at least ten percent (10%) of the land in the subdivision for parks, recreation and usable open space. The city shall determine whether a cash payment in lieu of land dedication is appropriate. The amount of the cash dedication shall be determined by multiplying the number of acres (determined by application of the formula stated above) times the designated fee per acre which may be set from time to time by resolution of the council.
  3. The dedication of a portion of land for parks or playgrounds, or the payment of cash in lieu thereof, provided for above shall be presumed to be reasonable. However, upon the request of the applicant, the recommendation of the park and recreation commission, or at the discretion of the council, the city may either increase or decrease such dedication or payment upon a determination by the council that such dedication or payment is unreasonable or insufficient given the specific characteristics of

the proposed subdivision and its intended use.

4. Ponding areas, needed as part of the overall city storm drainage plan, shall be dedicated as land or easement at the option of the city and as accepted by the city. However, no credit shall be given for park dedication unless said area meets the criteria for public parks as stated in the city's park dedication resolution and is approved by the council. Said dedication of land or easement shall be in a form approved by the council.
  5. In the case of subdivisions of land which have previously been subdivided and for which land has been dedicated for parks or playgrounds, or cash payments in lieu of such dedication have been made, the council shall make reasonable adjustments to recognize such previous dedication or payment.
- C. **Timing Of Park Dedication.** If a new subdivision is designed to be platted into more than one addition, all park and other public use lands contemplated under this section in the total subdivision area shall be dedicated with the final plat of the first phase or addition of the subdivision unless otherwise approved by the council.
- D. **Condition Of Land To Be Dedicated.** Land to be dedicated for public park, trail, or ponding shall be brought to a suitable condition by the subdivider in accordance with city policy. All disturbed areas shall have topsoil restored, be regraded with turf established according to specifications provided by the city.
- E. **Abstract.** Such lands shall be free and clear of all liens and encumbrances including special assessments as evidenced by a recent abstract of title or registered property abstract to be submitted at developer's cost to the city for its examination.
- F. **Dedicated Property.** City must have received warranty deed or equivalent for dedicated park property by the city before final plat is approved.

#### **SECTION 12.07. REQUIRED IMPROVEMENTS.**

**Subd. 1.** The Subdivider shall be required to design and install the following improvements per a schedule included in a development agreement that must be agreed to by the City and Applicant prior to the approval of the final plat by the City:

- A. All streets, sidewalks, and trails located within the boundaries of the tract being platted or replatted shall be graded to an established grade and surfaced with approved material, in accordance with standards of the City Engineer;
- B. Storm sewers shall be constructed of sufficient capacity to drain the area in accordance with standards of the City Engineer;
- C. Culverts or bridges shall be built at points on watercourses crossed by streets;

- D. All improvements to streets or public utilities shall be made in accordance with City construction design standards and specifications and shall be subject to the inspection by and approval of the City Engineer.

The City may enforce these requirements through a development agreement or the requirement of financial security for the required improvements as described in Section 12.08. Financial Security.

**Subd. 2.** All plat boundary corners, block corners, street intersection corners, and a point of tangency and curvature shall be marked with survey monuments consisting of galvanized pipes with caps (minimum 1 ½ inch diameter) or minimum one-inch deformed steel rods 36 inches in length. Lot corners shall be marked with survey monuments consisting of iron pipes, iron rods or other metal markers. All U.S., state, county, and township and other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

#### **SECTION 12.08. FINANCIAL SECURITY.**

**Subd. 1.** Prior to installation of any required improvements and prior to approval of the final plat, the Applicant shall enter into a development agreement with the City requiring the Applicant to furnish and construct the improvements at his or her sole cost and in accordance with plans and specifications and usual contract conditions approved by the City.

**Subd. 2.** Prior to installation of any required improvements and prior to approval of the final plat, the Applicant must deposit with the City of letter of credit, cash escrow, or other financial guarantee acceptable to the City Attorney in an amount equal to 125% of an actual bid cost or estimate approved by the City Engineer for constructing the required improvements.

**Subd. 3.** The Applicant will have the time period agreed to in a development agreement to complete the required improvements in such a manner as to allow the City to accept for maintenance. If said construction is not completed in the time allotted, the City may use the full value of the financial guarantee to complete the remaining construction to City standards and specifications. If the amount of funds recovered is insufficient to cover the cost of actual construction, the Council may assess the remaining cost to the properties within the plat or take other actions per terms of the development agreement.

**Subd. 4.** Any violation or non-conformance with the specifications for required improvements will be grounds for the City to issue a stop-work order on the site. In that event, no further operation with regard to the construction of required improvements within the affected plat will be allowed until the original violation or non-conformance is corrected.

**Subd. 5.** After having completed all of the required construction to the satisfaction of the City Engineer in accordance with the City's standards and specifications, the Applicant must submit the following to the City: a record of all improvements as built in the format designated by the City Engineer and the appropriate inspection fee. After those items have been submitted to the City, the Applicant may request final acceptance of the streets and appurtenances by the City for maintenance. Final acceptance must be evidenced in writing by the City Engineer. Upon the two-

year anniversary of final acceptance by the City Engineer, the letter of credit or cash escrow or other financial security provided in Subd. 2 above will be released upon final inspection and approval of the improvements by the City Engineer. Should improvement not meet City standards or specifications, or should any improvement fail during this two-year warranty period, the City may draw on the line of credit or cash escrow to make all necessary repairs and repair any additional collateral damage caused by any failure.

**Subd. 6.** All of the required improvements must be inspected during the course of their construction by the City Engineer or designee. All of the inspection costs must be paid by the Applicant.

**SECTION 12.09. REIMBURSEMENT FOR CITY’S REVIEW COSTS.** Each person, by filing or submitting an application for approval by the City of a proposed plat shall have agreed to pay all administrative fees and expenses to include, but not be limited to, pre-construction engineering, planning and utility review and attorneys' fees incurred by the City in connection with or as a result of reviewing and acting on such application. Rates for services provided by City staff or contract professionals will be at their currently established contractual hourly rate. Applicants must submit with their preliminary plat application a cash deposit in the sum of \$7,500 from which the City may draw upon to reimburse itself for these expenses. If more than one person signs an application, all signers shall be jointly and severally liable for such expenses and fees. The applicant may be called upon to replenish this cash deposit should expenses exceed the initial deposit. Failure of the applicant to submit any additional cash deposit requested by the City will be grounds for denial of any pending plat application. Unused funds will be returned to the Applicant. The Applicants shall also pay all costs, including attorneys' fees, incurred by the City in collecting all unreimbursed expenses, fees and interest, with interest on such costs of collection from the dates incurred until paid, at the same interest rate as is payable on the expenses and fees.

**SECTION 12.10. VARIANCES.** Application for variances from the specific provisions of the chapter for any plat or lot split shall be made in accordance with and subject to the provisions of Chapter 11.81, Subd. 4. E. of the Two Harbors City Code.

**SECTION 12.11. VIOLATIONS AND ENFORCEMENT.**

**Subd. 1.** Any person or entity who conveys a lot or parcel without the approval required by this ordinance must forfeit and pay to the City a penalty of not less than \$1,000 for each lot or parcel conveyed.

**Subd. 2.** No certificate of occupancy, building permit or other City approval will be issued for any land in a plat or lot split that is in violation of this ordinance, until the violation has been corrected, and appropriate fines and penalties have been paid.

**Subd. 3.** A person or entity who violates this ordinance is guilty of a misdemeanor.

**Subd. 4.** The City may commence proceedings at law or in equity to prevent any violation of this section, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises. Nothing in this

section prevents the City from taking other actions permitted by law, and the penalties and remedies provided here and under law are cumulative.