

ORDINANCE NO. 68

SUBDIVISION ORDINANCE

AN ORDINANCE ESTABLISHING REGULATIONS FOR THE SUBDIVISION AND PLATTING OF LAND WITHIN THE CORPORATE LIMITS OF THE CITY OF PILLAGER; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR THE PREPARATION OF PLATS; PROVIDING FOR THE INSTALLATION OF STREETS, UTILITIES AND OTHER IMPROVEMENTS; ESTABLISHING PROCEDURES FOR THE APPROVAL AND THE RECORDING OF PLATS; AND PROVIDING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

The City Council of the City of Pillager, in the County of Cass, State of Minnesota, does ordain as follows:

SECTION 1. SHORT TITLE. This ordinance shall be known, cited and referred to as the “Subdivision Ordinance of the City of Pillager”, except as referred to herein, where it shall be known as “this Ordinance”.

1.1 INTENT AND PURPOSE.

The process of dividing or subdividing land into home sites, or separate parcels for other uses, is one of the most important factors in the growth of any community. New activities have a more lasting effect upon its appearance and environment. Once the land has been subdivided and the streets, homes and other structures have been constructed, the basic character of this permanent addition to the community has become firmly established. It is then virtually impossible to alter its basic character without substantial expense. As a result of subdivision, roads and streets must be maintained and various public services must be provided. The welfare of the entire community is thereby affected in many important respects. It is therefore, to the interest of the general public, the developer, and the future owners that subdivisions be conceived, designed, and developed in accordance with sound rules and proper standards.

The Council deems these regulations to be necessary for the preservation of the health, safety, and general welfare of the City. These regulations have been developed pursuant to the authority set forth in Minnesota Statutes, Section 462.358, and set forth in the appropriate sections of Chapter 505, as indicated.

Except as provided herein, no land shall be platted, subdivided, rearranged, developed, or improved in any way which is not in conformity with these regulations. All subdivisions of land hereafter submitted for approval shall fully comply, in all respects, with the regulations set forth herein. It is the purposes of these regulations to:

- 1) Encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction;
- 2) Provide for the health, welfare, and safety of residents by requiring properly designed streets, adequate sewage and potable water service, adequate storm drainage systems, other utilities, and other necessary improvements;
- 3) Place the cost of improvements against those benefiting from their construction; and
- 4) Secure the rights of the public with respect to public lands, easements, and waters.

The City Council finds that scattered development in these same zoning districts causes a burden upon the taxpayers of the City, creates fiscal and engineering problems in the installation of improvements and utilities, causes financial burdens upon the City for police protection, street and utility maintenance, fire protection and snow removal, disrupts orderly planning and stable growth and reduces community cohesion. For these reasons, the City Council has adopted regulations in this Ordinance that particularly apply to the subdivision of land within all the zoning districts in the City of Pillager:

- 1) Developers subdividing land without municipal potable water, sanitary sewer, street and storm drainage improvements being provided, shall submit a proposed development plan illustrating future division and future right-of-way designation on the basis of the minimum lot size requirement for the land's zoning designation to provide for future municipal services.
- 2) Restrictive covenants shall be recorded in the Office of the Cass County Recorder, together with the plat proposed and approved as herein provided, including whereby developer agrees to install municipal sewer and water within a time period set by the City Council after municipal sewer and potable water are available.

## 1.2 DEFINITIONS

For the purposes of these regulations, the following terms, phrases, words, and their definitions shall have the meaning given in this section. When inconsistent with the context, words used in the present tense shall include the future tense; words in the singular number shall include the plural, and words in the plural shall include the singular. The masculine gender includes the feminine and neuter genders. The word "shall" is mandatory, and the word "may" is permissive.

Abutting: Making contact with or separated only by a public thoroughfare or public utility right of way.

Acre: A quantity of land containing 43,560 square feet or 160 square rods in whatever shape and pattern (e.g., circular, square, triangular, irregular, road or narrow).

Applicant: See Subdivider.

Attorney: The person licensed by the State to practice law who has been engaged by the City Council.

Block: An area of land within a subdivision that is entirely bounded by streets or a combination of streets, exterior boundary lines of the subdivision and/or bodies of water.

Bluff: A topographical feature such as a hill, cliff, or embankment having the following characteristics (An area with an average slope of less than 18% over a distance of 50 feet or more shall not be considered part of a bluff):

- 1) Part or all of the feature is located in a shoreland area;
- 2) The slope rises at least 25 feet above the ordinary high water level of the water body;
- 3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
- 4) The slope must drain toward the water body.

Boulevard: That portion of the street right-of-way between the curb or curb line and the property line.

Building Inspector: The inspector as provided for in the building code, who has been engaged by the City Council.

Building Line: A line parallel to a lot line, or the ordinary high water level of an abutting body of water, defining the required setback beyond which a structure may not extend.

City Attorney: See Attorney.

City Engineer: See Engineer.

City Designated Fire Chief: The person so designated by the Council.

Community Park: A park designed to serve the entire community with a broad range of recreation opportunities; may be called or contain a playground.

Comprehensive Plan: A compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the City and its environs and may include, but is not limited to, the following items: Statements of policies, goals, standards, a land use plan, a transportation plan and recommendations for plan execution.

Council: The city council, as established by State Law.

Density: The number of dwelling units permitted by this Ordinance and by the City of Pillager Zoning Ordinance on one acre of land.

Density net: The number of dwelling units permitted by this Ordinance and by the City of Pillager Zoning Ordinance on one net acre of land.

Developer: The same as the Subdivider.

Development Agreement: The required contract between subdivider and the City which is needed before improvements can begin on a development.

Dwelling Unit: Any structure or portion of a structure, or other shelter designed as short or long term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, or resort rooms and cabins.

Engineer: The registered professional engineer engaged by the City Council as City Engineer.

Essential Services: Underground, on ground, or overhead gas, electrical, telephone, cable, steam or water transmission or distribution systems; collection, communication, supply and disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith, but not including structures in excess of 30 cubic feet above ground.

Final Plat: A drawing, in final form, showing the proposed subdivision containing all information and detail required by state statutes and by this Ordinance to be presented to the City Council for approval, and which, if approved, may be duly filed with the County Recorder.

Flood Plain: The area adjoining a river, stream, drainage channel, lake, pond or any low area which is subject to flooding at least once in 100 years. FEMA Flood Plain maps shall govern, unless proven to be in error by topographic survey.

Frontage: The uninterrupted front boundary line of a lot, or the length of such line, which abuts on a street or protected water. On a corner lot it shall be the shortest dimension on a public street.

Grade: The lowest elevation of the finished surface of the ground, sidewalk, or other paving within a five foot horizontal distance from any structure.

Lake: Open water without emergent vegetation (identified as protected waters by the Department of Natural Resources)

Landscape lot area: That portion of a lot required to remain as open space, free of buildings, parking, and drives. Landscape lot areas may consist of: Naturally vegetated areas, Wetlands or ponding areas, Planting beds, ground cover and mulch areas (vegetative, rock, bark, chips, etc.), Decorative walkways and impervious areas not to exceed 15% of the required landscape lot area, Outdoor recreation areas.

Landscaping: Plantings such as trees, grass, shrubs, and decorative timbers, arbors, rocks and water displays; including those items listed as Landscape Lot Area.

Licensed Engineer: A person licensed as a professional engineer by the State of Minnesota.

Lot: A parcel of land described by U. S. Government survey, by metes and bounds measurement, by reference to a registered land survey plat, by record of survey map, or other means, and separated from other parcels or portions by said description; and which is occupied by, or is suitable under this ordinance and other applicable ordinances for occupancy by one principal building, or used together with any accessory buildings or uses together with such open spaces as are required by this or other applicable ordinances. (See also Lot of record).

Lot area: The area of a lot on a horizontal plane bounded by lot lines. For the purpose of meeting any area or dimensional requirements, the lot area shall not include any portion that lies within a public road easement or which is below the ordinary high water mark of any lake, river, pond, or stream.

Lot area, net buildable: The space remaining on a lot after the minimum landscape area, open space, parking, buffering, and setback requirements of this Ordinance and of the Zoning Ordinance have been set.

Lot area, per housing unit: The lot area per housing unit is the lot area required by this Ordinance and/or by the Zoning Ordinance to be provided for each such housing unit, for the applicable Zoning District.

Lot, buildable portion of: (Building envelope) The area of a lot on which the principal structure may be placed, or that portion of the lot remaining after the minimum building setbacks have been met. (“Lot area, net buildable”, may be more limiting as other deductions are also taken into account).

Lot, butt: A lot located on the end of a block, excluding corner lots.

Lot, corner: A lot situated at the junction of and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

Lot coverage: The total allowable amount of lot area, expressed as a percentage, which may be covered by a principal use and its accessory structures.

Lot depth: The mean horizontal distance between the front lot line and the rear lot line.

Lot interior: A lot, other than a corner lot, including through lots.

Lot line: A lot line is the property line bounding a lot except that where any portion of the lot extends into the public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line. For purposes of setback requirements, water front lots shall be deemed to have a front line on both the street and the water front.

Lot line, front: That boundary of a lot which abuts an existing, dedicated, or proposed public street, and in the case of a corner lot it shall be the shortest dimension on a public street; except that a corner lot in non-residential zoning districts shall be deemed to have frontage on both streets.

Lot line, rear: That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length or if the lot forms a point at the rear, the rear lot line shall be construed to be a line ten feet in width within the lot, parallel to the front lot line.

Lot line, side: Any boundary of a lot which is neither a front lot line nor a rear lot line.

Lot of record: A lot existing as of the effective date of this Ordinance or approved by the City as a lot subsequent to such date, and includes non-conforming lots.

Lot, shoreline: A lot having one or more lot lines fronting on public waters of a lake or stream.

Lot, through: Any lot other than a corner lot which abuts more than one street.

Lot width: The horizontal distance between the side lot lines of a lot measured parallel to the front line of the lot at the front building setback line.

Minor subdivision: A subdivision that meets all the following criteria:

- a. Does not require the dedication of rights-of-way or construction of new streets;
- b. Does not require the creation of any public utility easements;
- c. Does not create any public improvements other than sidewalks;
- d. Does not land-lock or otherwise impairs convenient ingress and egress to or from the rear or side of the subject tract or any adjacent property;
- e. Does not fall within the corridors of any planned or proposed street as shown upon the Official Map or approved Area Plans; and
- f. Does not violate any local, state or federally adopted law, ordinance, regulation, plan or policy.

Neighborhood Park: A Park designed to serve a residential neighborhood within the City with a limited range of activities, which may include a playland area for younger children.

Official Wetlands Map: The City of Pillager Wetlands map, based on the National Wetlands Inventory as amended or corrected from time to time, as adopted as a part of the Pillager Wetlands Ordinance.

Open Space: See Landscape lot area definition

Ordinary high water mark: A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Owner: An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity having a proprietary interest in the land and/or building concerned.

Planned Unit Development: A tract of land under unified ownership, partnership, or agreement among two or more owners to provide for a planned development project wherein there is more than one principal building or land use per lot, or lots are grouped with common elements such as driveway, open space, parking, signage, and the like, and with adequate controls to protect adjacent development and insure high standards of development in accordance with an integrated design and coordinated physical plan.

Setback: The minimum horizontal distance allowed by this Ordinance and/or the Zoning Ordinance, between a structure, a parking area, or other feature established on such lot.

Setback, minimum building: The minimum horizontal distance allowed by this Ordinance and/or the Zoning Ordinance, between a structure and a lot line.

Shoreland: Land located within the following distances from public waters: 1,000 feet from the ordinary high water mark of a lake, pond, or flowage; and within 300 feet from a river or stream, or the

landward extent of a flood plain designated by Ordinance on such river or stream, whichever is greater. The practical limits of shore lands may be less than statutory limits where such limits are designated by natural drainage divides at lesser distances, as shown on the official zoning map.

Sidewalk: A hard surfaced public or private way, used primarily for pedestrian traffic.

Street: A public or private way, consisting in the case of a private way of a roadway and in the case of a public way of a roadway and a boulevard (the latter of which may contain a sidewalk, trail, pathway, or pedestrian way), used primarily for vehicular traffic, which may be designated as a street, avenue, parkway, road, lane, throughway, expressway, highway, place or however otherwise designated. The term street includes the following classifications:

Street, Collector: A street which carries traffic from local streets and highways of higher classifications. It provides for both land access service and local traffic movements within residential neighborhoods, commercial areas, and industrial areas.

Street, Cul-de-sac: A street with a circular turn-a-round and only one outlet.

Street, Local: A street of limited continuity used primarily for access to and from abutting properties for the local needs of a neighborhood.

Street, Minor Arterial: A street that interconnects with and augments the principal arterial system to provide service for trips of moderate length at lower levels of travel mobility than principal arterials.

Street, Principal Arterial: Usually a divided highway with four or more lanes and serves to move traffic through the City, being the highest volume traffic corridors. State Highways #210 is an example of one.

Structure: Anything constructed, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground; including signs; and including utility structures or boxes in excess of 30 cubic feet.

Subdivider: Owner of land submitting a plat. (Also called Developer).

Subdivision: The division of any parcel of land into two or more lots, blocks, and/or sites, with or without streets or highways; includes a re-subdivision. This shall also include the creation of any cooperative, condominium or any other common interest community now regulated by Minnesota statutes section 515B including any such community that is excepted from said section 515B due to its low number of units or commercial character.

Surveyor: A person duly registered as a Land Surveyor by the State of Minnesota.

Toe of bluff: The lower point of a 50 foot segment of land with an average slope exceeding 18%.

Top of bluff: The higher point of a 50 foot segment of land with an average slope exceeding 18%.

Trail: A public or private way, running across or located within a platted lot or block or an unplatted parcel of land, used primarily for pedestrian traffic.

Utility distribution lines: The distribution facilities of electric power, gas, potable water, and communication companies which directly serve abutting properties.

Utility Substation: A structure used for the relay or distribution of electric, natural gas, potable water, sewer, or communication services.

Utility transmission lines: The transmission facilities of electric power, natural gas, potable water, sewer, or communication services which do not directly serve abutting properties.

Wetlands: Classified and located as shown on the Official Wetlands Map.

Yard: A required open space on a lot, which is unoccupied and unobstructed by any structure from its lowest ground level to the sky except as expressly permitted in this Ordinance.

Yard, front: A yard extending across the front of the lot between the side lot lines and lying between the front lot line and the nearest line of the building.

Yard, rear: A yard extending across the rear of the lot between the side lot lines lying between the rear lot line and the nearest line of the building.

Yard, side: A yard between the side lot line and the nearest line of the building and extending from the front yard line to the rear yard line.

Zoning Administrator: The duly appointed person charged with implementation and enforcement of this Ordinance.

Zoning District: An area or areas within the City of Pillager for which the regulations and requirements governing use, lot size, and other characteristics are uniform.

Zoning Ordinance: The current City of Pillager Zoning Ordinance, as amended from time to time.

### 1.3. PLATTING PROCEDURE

#### 1.3.1 Conveyance by Metes and Bounds:

- a) No conveyance of land within the City shall be filed for record in the office of the Cass County Recorder, if the land is described in the conveyance by metes and bounds. The foregoing provision does not apply to a conveyance if the land described:
- 1) was a separate parcel of record prior to the adoption of this ordinance, or
  - 2) was the subject of a written agreement to convey entered into prior to the adoption of this ordinance, which agreement was recorded before July 1, 2006, or
  - 3) is being conveyed to the city of Pillager, or
  - 4) is being conveyed to establish public right of way and said purpose is so stated in the conveyance, or

- 5) is determined by the planning and zoning commission to be a lot line correction where no new lots are created, or
  - 6) is a minor subdivision that only creates one new lot and: a) it is not zoned commercial or industrial and b) the proposed subdivision is not within a lot of record that was split within the last three years under this exception to the subdivision requirements.
- b) In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of this ordinance, the Planning Commission may recommend the Council to waive such requirement by the adoption of a resolution to that effect; whereupon a conveyance to do so may be recorded together with a recordable copy of the adopted Council resolution.
  - c) Any owner, subdivider, or agent thereof, who conveys a lot or parcel in violation of these provisions shall be subject to strict enforcement of all penalties and enforcement measures available to the City.
  - d) Pursuant to Minnesota Statutes Chapter 272, the County Auditor will not transfer any conveyance that subdivides a Lot of Record unless said conveyance is accompanied by a certificate signed by the Zoning Administrator and stamped with the City seal indicating that the subdivision regulations set forth above do not apply to the subdivision or that there has been full compliance with said regulations.
  - e) Any conveyance by metes and bounds as described above shall be described with the benefit of a registered land survey that shall be filed with the Zoning Administrator prior to the recording of the conveyance.

### 1.3.2 Sketch Plan Review/Pre-Application Requirements:

Prior to the preparation of a preliminary plat, the subdivider or owner shall meet with the Zoning Administrator to review all applicable ordinances, regulations, and plans in the area to be subdivided. At this time, the Subdivider shall submit four copies of a general sketch plan of the proposed subdivision, together with a drainage and storm water handling plan. The sketch plan can be represented in a simple form, but should include notation of any zoning changes, variances, or permits which would be required, and shall show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivision and development, and to the topography of the site. The purpose of the meeting at this point is to save time and effort and facilitate the approval of the preliminary plat when submitted. The Zoning Administrator, ten working days of the meeting, shall report back, in writing, to the subdivider with the subdivision information and any issues raised by the Zoning Administrator, City Engineer or City Attorney.

### 1.3.3 Preliminary Plat:

After the Pre-application meeting, the subdivider may then file with the Zoning Administrator an application and nine copies of the preliminary plat, which has been prepared in accordance with

regulations set forth in this chapter. At the time of submission of the preliminary plat, a fee shall be paid to the City. The fee in effect at the time of the application shall be used to defray costs, to the city, such as administration, mapping, engineering review, legal review, publication of notices, public hearings to be held, etc., incurred by the City in connection with consideration of the proposed subdivision.

The application is deemed sufficient unless, within 10 days of receipt, the Zoning Administrator returns to the application to the subdivider with a written list of reasons why the application is incomplete or insufficient. If accepted, the Zoning Administrator shall refer copies of the preliminary plat to the Planning Commission. The Zoning Administrator shall arrange for a public hearing on said plat, to be held within 45 days of the receipt of the application by the Zoning Administrator. The Zoning Administrator shall also have the required legal publication made and he shall send meeting notices to all property owners of record within 350 feet of the exterior boundaries of the proposed plat plus those within 350 feet of all contiguous property under common ownership.

The subdivider or a duly authorized representative shall attend the Planning Commission meetings at which the preliminary plat is scheduled for consideration.

At the public hearing, all persons interested in the proposed subdivision shall be heard, and the Planning Commission shall, within 36 days of the hearing, approve, modify and approve, or disapprove the preliminary plat; and then shall submit to the City Council of its findings and recommendations. The council shall act upon the preliminary plat and send written notification of its action to the subdivider. Failure of the Council to act within sixty days of the submission hearing is deemed approved. Should the subdivider desire to amend the preliminary plat as approved, he shall submit such amended plat in accordance with the original procedure set forth above, with the exception of the public hearing and fees. If the Council determines that the scope of the revisions constitutes a new preliminary plat, then the public hearing and fees shall be required.

In the case of any common interest community as defined by Minn. Stat. Section 515B, the subdivider may elect to complete construction of all improvements and structures after preliminary plat approval but prior to final plat approval. In such cases, the subdivider shall still be required to submit a developer's agreement and all fees normally required with final plat prior to the issuance of any building permit.

#### 1.3.4. Final Plat:

The subdivider, within one year after the approval of the preliminary plat, shall file with the Zoning Administrator ten copies of the final plat prepared by a Land Surveyor. Failure of the subdivider to submit the final plat within one year, unless written request for extension has been submitted and for good cause granted by the Council, shall cause the preliminary plat approval to become null and void.

The subdivider shall also submit to the City at the same time a title opinion or a title insurance commitment to be reviewed and approved by the City Attorney; a copy of proposed restrictive covenants to be recorded with said final plat; and such other evidence as the City Attorney may require showing the subdivider's valid title or ownership in the land to be subdivided.

The subdivider shall have incorporated all changes and modifications from the preliminary plat review in the final plat as required by the City Council. In all other respects, the final plat shall conform to the preliminary plat.

A development plan for the necessary improvements, if there are any, including a cost breakdown, shall be submitted by the subdivider to the Zoning Administrator, and then forwarded to the City Engineer for review.

The Zoning Administrator, upon receipt of the final plat, shall retain one copy thereof for said administrator's records and shall:

- a) Review the final plat and the proposed Developer's Agreement with respect to conformance with the approved preliminary plat.
- b) Refer one copy of said final plat to each of the utility companies who will provide services to the subdivision for electric power, natural gas, and communications systems. In the event the subdivider has made plan arrangements with one or more of such utilities, a copy of such plan may be provided to the Zoning Administrator.
- c) Obtain a written report or statement from the County Auditor certifying the payment by the subdivider of all deferred or pending assessments due the City.
- d) Place the consideration of the final plat on the agenda of the next regularly scheduled council meeting, and notify the subdivider in writing of the date, place and time of the meeting.
- e) Submit all of the above reports to the Council for its consideration.

The subdivider or his duly authorized representative shall attend the meeting before the council at which the final plat is scheduled for consideration.

The Council may, if all reports indicate full compliance with the provisions of this Ordinance, approve the final plat as submitted, and the Developer's Agreement when applicable, and authorize the Mayor and City Clerk to sign the final plat, and the Developer's Agreement, if applicable.

The Council may, if there is substantial deviation from the approved preliminary plat, determine if the subdivider shall present a new plat; in which event, the Council shall deny approval of the final plat and direct the subdivider to resubmit such subdivider's amended proposal following preliminary plat requirements.

The Council may, if any of the other reports indicate a lack of compliance with the provisions of this Ordinance, require full compliance by the subdivider within the one year period from the date of approval of the preliminary plat. Failure of the subdivider to so comply shall nullify and void preliminary plat approval, which approval is required before consideration of the final plat can be given.

A subdivider may, if the final plat is approved by the Council and signed by the Mayor and City Clerk, record the final plat with the County Recorder within ninety days of the date of the approval and signing of the final plat unless the council has granted an extension.

The subdivider shall furnish the Zoning Administrator a Mylar original and three copies of the final plat showing evidence of the final recording. The subdivider shall be responsible for any costs incurred pertaining to the verification of the final plat materials. The subdivider shall also furnish one reduced size Mylar of the final plat with a scale of one inch equals 200 feet, and an AUTOCAD DWG or DFX file. Failure to furnish such copies shall be grounds for the City's refusal to issue building permits for lots within said final plat.

No changes, erasures, modifications, or revisions shall be made in any final plat after approval has been given by the Council, unless said plat is re-submitted to the City and the City Council approves any such modifications. In the event that any such final plat is recorded without complying with this requirement, approval of such final plat can be rendered null and void by the Council and no building permits will be issued for lots within said final plat; and the Council shall institute proceedings to have the plat stricken from the records of the City and of the County.

#### 1.4 MINOR SUBDIVISION PROCEDURE

- 1.4.1 APPLICATION: A complete application for a Minor Subdivision Plat approval must be submitted to the Zoning Administrator in a form established by said Administrator, along with a non-refundable fee that has been established by the City Council. No application will be processed until the application is complete and the required fee has been paid.
- 1.4.2 REVIEW AND REPORT: The Zoning Administrator shall prepare a staff report that reviews the application in the light of the Comprehensive Plan, the standards required by the Zoning Ordinance for the Zoning District the concerned property lies within, and all other applicable standards of this Ordinance.
- 1.4.3 REVIEW AND ACTION BY PLANNING COMMISSION: The Planning Commission shall hold a public hearing on the Minor Subdivision application and, after the close of the public hearing, act to approve or deny the application for the Minor Subdivision approval. A Minor Subdivision may not be approved unless it complies with the Standards of this Ordinance and the Zoning Ordinance, for the Zoning District the concerned property lies within.
- 1.4.5 NOTICES: Notice of the Public Hearing before the Planning Commission shall be the same as that for a Preliminary Plat as set forth in this Ordinance.

#### 1.5 PRELIMINARY PLAT

Survey and Design Information Required. The preliminary plat shall be clearly and legibly drawn at a scale of one inch equals 100 feet and shall contain the following information:

- 1.5.1 Identification and Description:
  - a) The proposed name of the subdivision, which shall not duplicate or be similar in pronunciation to the name of a plat previously recorded in Cass County.
  - b) The location of the subdivision by section, township and range or by other legal description.

- c) The name and address of the owner(s), subdivider(s), surveyor, and designer.
- d) Graphic scale, north point, and date of preparation.

#### 1.5.2 Existing Conditions:

- a) A boundary line survey of the proposed subdivision, including measured distances and angles, which shall be tied into the nearest section or quarter section corner by traverse.
- b) Existing zoning classifications, including shore land designations for land within the subdivision and on abutting property within 350 feet of the property within the proposed preliminary plat.
- c) Wetlands from the official wetlands map.
- d) Total acreage of the preliminary plat.
- e) Location, width, and name of every existing or previously platted street or other public way, showing type, width and condition of improvements, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, section lines and corporate boundaries within the proposed subdivision and within a distance of 350 feet of said proposed subdivision.
- f) If the proposed subdivision is a rearrangement or replat of any former plat or portion thereof, the lot and block arrangement of the original plat, along with its original name, shall be indicated by dotted or dashed lines. Also, any revised or vacated roadways of the original plat shall be so indicated.
- g) Location and size of existing sewers, water mains, storm sewer mains, or other underground facilities within the proposed subdivision and to a distance of 100 feet beyond shall also be indicated.
- h) Boundary lines of unplatted lands within 350 feet, identified by record owner's name, shall be indicated.

#### 1.5.3 Subdivision Design Features:

- a) Lay out of the proposed streets showing right-of-way widths and proposed street names. If the proposed street is an extension of an existing named street, the name shall be used. In all other cases, the name of the street shall be consistent with the County and City street naming system as determined by E911 requirements.
- b) Locations and widths of alleys, pedestrian ways, and utility easements.
- c) Lay out numbers and preliminary dimensions of lots and blocks.

- d) Areas intended to be dedicated or reserved for public use, including their size in acres.
- e) Areas intended for uses other than residential or public.
- f) Minimum front and side street building setback lines as required by the Zoning Ordinance.

#### 1.5.4 Other Required Information:

The following information shall be filed with the proposed preliminary plat:

- a) A complete topographic map, at a scale no greater than one inch equals 200 feet, with contour intervals not greater than two feet, showing water courses, wetlands, rock outcrops, and other significant features. At least one print of the preliminary plat shall be superimposed on a copy of the topographic map. U.S.G.S. datum shall be used for all topographic mapping.
- b) Soil absorption (percolation) tests where disposal fields are proposed for more than one dwelling unit and any other subsoil information requested by the City Engineer.
- c) Plans for water supply, sewage disposal, storm water drainage system, including proposed location, size, and gradient of proposed sewer lines and water mains, and such other supporting data as may be required by the City Engineer.
- d) Centerline gradients of proposed streets.
- e) Typical cross section of proposed street improvements.
- f) If any zoning changes are necessary for property within the proposed preliminary plat, a re-zoning application shall be filed and considered concurrently by the Planning Commission, and by the Council, with the proposed preliminary Plat.
- g) Where the subdivider owns property adjacent to that which is being proposed for subdivision, the City require that the subdivider submit a sketch plat of the adjacent property so as to show the relationship of the proposed subdivision to the future development of the adjacent property.
- h) Any additional information required by the City to render opinions on any part of the proposed preliminary plat.

#### 1.5.5 Qualifications Governing Approval of a Preliminary Plat:

- a) The approval of a preliminary plat by the Council shall only constitute acceptance of the design as a basis for the preparation of the final plat by the owners or subdividers. Subsequent approval by appropriate officials having jurisdiction will be required of the engineering proposals, pertaining to water supplies, storm water drainage, sewage

disposal, sidewalks, pathways, trails, grading, gradients and roadway widths, and the surfacing of streets prior to the approval of the final plat by the City. The subdivider shall also present evidence that the proposed plat has been submitted to the utility companies responsible for the provision of natural gas, electric power, and telephone services.

- b) No preliminary plat will be approved for a subdivision which includes an area which contains poor drainage facilities which would render inadequate the streets or building sites proposed by reason of such plat, unless the subdivider agrees to make improvements which will, in the opinion of the City Engineer, make such areas completely useable and safe for occupancy and provide for adequate street and lot drainage.

## 1.6 FINAL PLAT

The final plat shall be prepared in accordance with Minnesota Statutes Section 505A. The plat may consist of more than one sheet, numbered progressively, and shall contain the following information:

- a) The name of the subdivision, lettered in large print at the top of the plat, together with the location of the subdivision by section, township, and range, City and County.
- b) Graphic scale and north point.
- c) An accurate map of the proposed subdivision at a scale no greater than one inch equals 200 feet, which shall show the following information and meet the requirements of Minnesota Statutes, Section 505.02:
  - 1) The boundary of the proposed plat shall be surveyed. All angle and curve points on the plat boundary lines shall be monumented. In situations that would make it impossible to set a plat monument, a meander or witness monument shall be set and so noted on the plat.
  - 2) The accurate location of all monuments and a benchmark.
  - 3) Accurate angular and linear dimensions for all lines, angles, and curvatures used to describe the boundaries, streets, alleys, pathways, trails, easements, areas to be reserved for public use, and other important features within the proposed subdivision. All interior monuments shall be set within one year of recording or prior to issuance of any building permits.
  - 4) All lots and blocks numbered in numerical order.
  - 5) All municipal, county, or section lines within or at the boundary of the proposed subdivision.
  - 6) Identification and accurate boundaries of any areas to be dedicated or reserved for public use or for the exclusive use of property owners within the subdivision.
  - 7) The names of all streets.
  - 8) If the subdivision is a re-platting or rearrangement of a legal subdivision, or any portion thereof, the original platting shall be shown by dotted lines.
  - 9) Designated wetlands, man-made ponds, and the shore of any shore land.

- 10) Any sites reserved for other than residential and public use.
- d) Notarized certification by a registered land surveyor, that the plat represents a survey made by such surveyor, and that the monuments, lot corners, and survey points shown thereon exist as located, and that all dimensions are correct, as required by Minnesota Statutes Section 505.03.
- e) Notarized certification by the owner(s) of record at the time of the approval of the plat, together with the dedication of streets and other public areas to the public, and if applicable, the dedication of common areas to a property owners association, as required by Minnesota Statutes Section 505.03.
- f) If any part of said plat is to be dedicated for the use and control by a property owners association, the agreement establishing the Common Interest Community per Minnesota Statutes Section 515B must be recorded at the same time as the final plat.
- g) In the event the final plat was approved by the City, conditioned on certain recorded covenants to be applicable, such covenants shall be recorded at the same time as the final plat.
- h) Certification showing that all real estate taxes and special assessments currently due on the property to be subdivided have been paid in full.
- i) A form for recording the approval of the Council as follows:

“Approved by the City of Pillager, Minnesota,  
 this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.”

Signed \_\_\_\_\_  
 Mayor

Signed \_\_\_\_\_  
 City Clerk

1.7 SUBDIVISION DESIGN STANDARDS:

1.7.1 General Requirements:

The Planning Commission and the Council, in their review of the preliminary plat, will consider the requirements of the community, the best use of the land being subdivided, the size and arrangement of the proposed lots, open space requirements, traffic flows, and how the subdivision may aid in extension of city utilities for sewage handling and fire protection into the proposed subdivision and beyond.

The proposed subdivision shall conform to the comprehensive plan, all official maps, and the Zoning Ordinance.

The arrangements, character, extent, width, and location of all streets shall be considered in their relation to existing and planned streets, for the reasonable circulation of traffic, to topographic conditions, to water supply and sewage disposal for the proposed subdivision, the drainage plan for storm water, to public convenience and safety, and in their appropriate relation to proposed use of the land to be served by such streets. Wherever possible and necessary, the arrangement of streets in new subdivisions shall provide for the continuation of existing streets in adjoining areas. Where adjoining unsubdivided areas 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 appropriate locations.

### 1.7.2 Streets

Widths. Street right-of-way widths shall be as shown on the Comprehensive Plan and where not shown thereon, shall not be less than as follows:

	<u>Right of Way</u>	<u>Bituminous Surface</u>
Principal arterial	120 feet	variable
Arterial	80 feet	40 feet
Collector street	66 feet	34 feet
Local street	66 feet	26 feet
Commercial and or Industrial	80 feet	44 feet
Service drive (adjacent to other street right-of-way)	66 feet	26 feet
Cul-de-sac radius	80 feet	60 feet

Intersections. Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two streets be less than 60 degrees. Intersections having more than four corners shall be prohibited, unless they all intersect into a round-a-bout. Adequate land for known future intersection and exchange construction needs shall be provided for.

Deflections. When connecting street lines deflect from each other at one point by more than ten degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than 500 feet, 300 feet for collectors, and 100 feet for all other streets. The Council may allow greater or lesser sight distances at the recommendation of the City Engineer.

Center Line Gradients. All center line gradients shall be at least 0.5 per cent and shall not exceed the following:

- a) Arterial streets and collector streets - 4 per cent.
- b) All other streets - 6 percent.

Vertical Curves. Different connecting street gradients shall be connected with vertical curves. Minimum length in feet of these curves shall be thirty times the algebraic difference in the percent of grade of the two different slopes.

Street Jogs. Street jogs with centerline offsets of less than 125 feet shall be avoided.

Local Streets. Local streets shall be designed so that their use by through traffic will be discouraged.

Access to Arterials. In the case where the proposed plat is adjacent to any limited or controlled access city roadways, there shall be no direct vehicular or pedestrian access from individual lots to such arterials. As a general requirement, access to arterials shall be at intervals of not less than one-fourth mile and via existing and established cross roads where possible.

In the platting of small tracts of land fronting on limited or controlled access city roadways, where there is no convenient access to existing or planned entrances and where access from such plat would be closer than one-fourth mile from an existing or planned access point, a temporary entrance permit may be granted by the City. Provision shall be made in such plats for the connection of roads to neighboring land. As the neighboring land is platted and developed, and access becomes possible at the preferred location (in the sole determination by the City Council), such temporary entrance permits shall become null and void and reconstruction of the disturbed area shall be done to the satisfaction of the City Engineer.

Half streets. Half streets shall be prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided; in which case the dedication of a half street may be permitted. The probably length of time elapsing before dedication of the remainder of said street shall be considered in this decision. No building permits shall be issued for a building located on a lot fronting on a half street.

Hardship to Owners of Adjacent Property. The street arrangements within such proposed plat shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

Dedication. All proposed streets shown on the plat shall be offered with dedications as public streets.

### 1.7.3 Alleys

No public alleys shall be allowed within the City.

### 1.7.4 Easements and Conveyances.

Utilities. Easements at least ten feet wide, centered on rear and other lot lines shall be provided for utilities; except no such easement shall be required adjacent to water front in shore land districts. Lots on plat boundaries shall have a ten foot easement. Easements shall have a continuity of alignment from block to block and at deflection points. An easement for a pole line anchor shall be provided where necessary.

Drainage. Easements shall be provided along each side of the center line of any waterway or drainage channel, whether or not shown on the Comprehensive Plan, of a sufficient width to provide proper maintenance and protection, and to provide for storm water run off and installation and maintenance of drainage systems. Where necessary, drainage easements corresponding with lot lines shall be provided. Easements for drainage purposes shall not be less than 20 feet in width, except they

need not be over ten feet in width adjacent to a street. Points of collection shall be provided on curb and gutter streets at appropriate intervals. Storm water ponding areas, including ditch bottoms, shall be provided by the subdivider to handle the run off storm water computed for a 10 year flood.

Dedication. All easements shall be dedicated for the required uses by appropriate language on the plat as required by Minnesota Statute Section 505.03.

#### 1.7.5 Blocks

Length. The maximum length of blocks shall be 1,320 feet and the minimum length shall be 300 feet. Blocks over 900 feet long may require pedestrian ways, 16 feet in width, at the approximate center of such block. Additional pedestrian ways to schools, parks, and other destinations may be required.

Arrangement. A block shall be so designated as to provide two tiers of lots unless it adjoins a railroad, is along waterfront, is along an arterial as a backage road, or is along the boundary of the proposed plat, where it may have a single tier of lots.

#### 1.7.6 Lots

Location. All lots shall abut on a publicly dedicated street.

Size. The lot dimensions and areas shall comply with the requirements specified in this Ordinance and in the Zoning Ordinance.

Side Lot Lines. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

Watercourses. Lots abutting upon a waterway, drainage channel, wetland, or stream shall be of sufficient size to provide an area of land equal to or greater than the minimum lot dimensions specified in the Zoning Ordinance for the zoning district in which such lots are located. The dedicated area for such watercourses shall not be counted toward the minimum lot size of such lots.

Natural Features. In the subdividing of any land, every effort shall be made to preserve and protect all natural features, such as natural watercourses, wetlands, historic spots, or similar conditions.

Lot Remnants. All remnants of lots below minimum size remaining after subdividing of a larger tract, shall be platted as an outlot.

Double and reverse frontage lots. Double frontage and reverse frontage lots (often referred to as fronting onto a backage road) shall not be permitted except where lots back on an arterial street; or where covenants are recorded to preclude access to both streets. Such lots shall have an additional depth of at least ten feet in order to allow for screening along that part of the lot adjoining the non-accessible street.

An outlet shall be deemed as a non-developable parcel until replatted through the provisions of this Ordinance.

Minimum rear lot widths shall have a minimum width of thirty feet, measured thirty feet from the rear of the house.

All lots shall have at least one-half the minimum lot size lying above the flood plain, if any; such area above the flood plain must be adequate for the home site, and for the acceptable septic sites if the lot is not on community or city sewer. Road easements and land lower than the ordinary high water mark of wetlands or public waters cannot be included in lot size calculations.

All corner lots shall have an additional twenty feet of width.

All lots shall have the proposed front yard shown on the proposed preliminary plat map.

#### 1.7.7 Park Dedication

Whenever any land in the City is subdivided by any process, including but not limited to subdivision under this Ordinance, by a registered land survey, or whenever any land within the City is to be built upon where no previous park fee was paid, the policy of the City is to require dedication for park land and facilities in accordance with the policies detailed herein. If property which was subject to a park dedication fee or dedication of land computed on the basis of a use that is not constructed is to be subsequently developed with uses that would require an additional fee or dedication of additional land, there shall be a credit for the amount previously paid or dedicated.

If a subdivision proposed dedication of land for park use, which the City Council finds is not needed, is not suitable for the intended use, or is too small for practical maintenance, the City Council may reject such dedication and require cash payment in lieu thereof.

If a required public right of way exceeds 80 feet in width, such extra width of right of way shall not be included in the gross area of the subdivision for purposes of park dedication. Whenever a parcel of land is subdivided into lots containing one or more acres and such lots may eventually be subdivided into smaller lots, the City Council may require that such parcel of land be divided so as to allow for construction of bike/walk paths or trails. Easements providing for the future opening and extension of such path or trail may be made a requirement of the plat. The water surface area of required holding ponds shall not be included in the gross area of the subdivision for purposes of park dedication.

Where a proposed park site is shown on the future land use plan of the City and is located in whole or in part in the area being subdivided, the subdivider shall delineate such land on the final subdivision plat. Land in excess of the land required to be dedicated by the developer as part of the subdivision approval. Land in excess of that required or agreed to be dedicated, shall be differentiated by symbol on the final plat from the land to be dedicated. The acquisition of such additional land, other than required public right-of-ways, may be acquired by the City at the cost of unimproved land at the time of final plat approval, plus assessments made mandatory as a condition of the approval of said final plat. Land reserved in excess of the amount of land required or agreed to be dedicated shall be reserved for acquisition by the City for two years from the date of approval of the final subdivision plat. The City may waive this requirement if it does not plan to acquire the land within the year.

Because the subdivision of land results in additional development in the community, and thus causes additional demand upon the recreational park facilities located therein, the subdivider shall dedicate lands for park purposes or pay a park dedication fee as hereinafter determined.

Because the current status of the park and recreational system for the City, and particularly the amount of undeveloped park land, the need for additional lands for parks does not necessarily coincide with the areas being subdivided. Consequently, the Council has determined that contributions by subdividers to the development of recreational park facilities should be primarily by payment of park dedication fees rather than land dedication.

Park dedication fees shall be deposited in the special park fund and be used solely for the purchase of park lands or improvements of parks, playgrounds, community centers, or other recreational facilities in accordance with the park and recreational segment of the City's Comprehensive Plan.

Determination of Land to be Dedicated or Park Dedication Fees to be Paid.

All subdivisions of land within the corporate limits of the City of Pillager hereafter submitted for approval shall fully comply in all respects with the regulations set forth herein. Plans for all commercial and industrial developments shall be presented in the same manner as a subdivision. Plans for planned unit developments for housing, commercial, industrial or other uses or for any combination of uses designed for sale or rental purposes shall be presented in the same manner as subdivisions for the review by the Planning Commission and the approval of the City Council.

Land Amount. The amount of land required to be dedicated by a developer shall be based on the gross area included in the subdivision, which would be developed for residential, commercial, or industrial purposes and shall be determined by the following formula:

Commercial/Industrial/PUD	5%
Residential	10%

This paragraph shall apply to all new development, redevelopment, lot combination/redivisions meant to facilitate development, and expansion of residential or commercial/industrial/business use. It shall not apply to lot combination/redivisions which do not increase the number of single family residential lots or units, conversion of apartments to condominiums, or internal leasehold improvements.

Fee: If, in the judgment of the City Council, the area proposed to be dedicated is not suitable or desirable for public use because of location, size or other reasons, the City Council may require that the subdivider contribute an amount in cash according to the following fee schedule:

Single dwelling:	\$400 per buildable lot.
Double or multiple dwellings:	\$400 per unit.

If the as-built plans of all development within the plat are not provided when the final plat is approved, the developer shall pay a fee which equals 7% multiplied by the acreage of the proposed

plat, development or subdivision, and multiplied by the Council's estimate, as established at least annually by resolution, of the fair market value per acre of undeveloped land of the same zoning classification in the community. The developer shall also execute a developer's agreement which states that when a building permit is requested a plan to develop the entire subdivision must be presented and if the dedication cost would have been more at the time of the plat approval based on the per unit fee, the developer will pay the difference between the original fee and the per unit fee before any building permit is issued.

Commercial/Industrial/Office: 5% multiplied by the acreage of the proposed plat, development or subdivision, and multiplied by the Council's estimate, as established at least annually by resolution, of the fair market value per acre of undeveloped commercial/industrial/office land in the community.

If any of the fees set forth herein above are determined by any Court to be invalid for any reason whatsoever, the park dedication fee shall then be the fair market value of the land to be subdivided. For the purposes of this section, "fair market value" means a price that a willing buyer would pay and a willing seller would accept for the property at the time of acceptance of the final plat including but not limited to zoning, public and subdivider improvements or other factors as determined by the County Assessor but excluding any buildings or structures located thereon.

Credit for Private Open Space for Park or Recreation Purposes: Where private open space for park or recreation purposes is provided in a proposed subdivision or development, and such space is to be privately owned and maintained by the future residents of the subdivision or owners of the development, a credit for park dedication may be given. A credit of up to fifty (50%) per cent of the requirements for residential park dedication may be given; and credit for partial of full park dedication may be given to commercial or industrial developments, provided that the following conditions are met:

- a) That such land area is not occupied by non-recreational buildings and is available for the use by all the residents of the proposed subdivision or development.
- b) That required setbacks shall not be included in the computation of such private open space.
- c) That the use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of the property within the tract and which cannot be defeated or eliminated without the consent of the City Council.
- d) That where practical, public and private open space for park or recreation purposes should be complementary to one another and the use of private facilities (such as bike trails) should be available to the public.

Drainage: The natural drainage shall be used as far as is feasible for the storage and flow of storm water runoff. The design of a drainage system shall conform to the City storm water drainage policy. The following requirements shall also apply:

- a) Storm water drainage shall be discharged to marshlands, swamps, retention basins, drainage channels, natural waterways, or other treatment facilities. Diversion of storm water to marsh lands or swamps shall be considered for existing or planned surface

drainage if the wetlands are classified for that use. Marsh lands and swamps used for storm water shall provide for natural or artificial water level control.

- b) No existing ditch, stream, drain, or drainage channel shall be deepened, widened, rerouted, or blocked without written permission from the City and other governmental agencies.
- c) Where drainage channels must be constructed to augment the natural drainage system, such channels as well as the natural drainage ways, may be planned as part of a recreational trail system. Channels shall be designated to be aesthetically compatible for recreational trail use.
- d) The drainage system shall be constructed and shall be operational as quickly as possible during construction of the required improvements.

## 1.8 IMPROVEMENTS REQUIRED

### 1.8.1 Improvements.

After approval and before building permits are issued, the subdivider shall have agreed in the manner set forth below to install, in conformity with utility design standards approved by the City Engineer and in conformity with all applicable standards and ordinances of the City, the following improvements within the subdivision.

Monument. Monuments of a permanent character, as required by Minnesota Statutes, Section 505.02, shall be placed at all angle and curve points on the outside boundary lines of the plat and also at all block corners and at all intermediate points on the block lines indicating changes of direction in the lines. Pipes or steel rods shall be placed at each corner of each lot and each intersection of street centerlines.

Streets. The full width of the right-of-way of each street dedicated in the plat shall be graded; and in the event adjacent street rights-of-way must be connected, they shall also be graded to match. All streets shall have an adequate subbase and shall be constructed in accordance with the design standards filed in the office of the City. Except for areas platted for rural development with large lots, as specified in the Zoning Ordinance, all streets shall be provided with an impervious surface of bituminous pavement.

Potable Water Supply. Water mains shall be provided to serve the subdivision by extension of an existing community system, as approved by the Public Works Director. Service connections shall be stubbed out to the property line of each lot, and fire hydrants shall be provided as required by the City Designated Fire Chief. All parts of said Potable Water system shall be designed and constructed in accordance with the current standards for the city. In areas platted without connection to a community system, lots shall have wells for individual lots or lot groupings as approved by the Zoning Administrator. Layout design shall plan for hookup to future City potable water system mains.

Sewage Disposal. Sanitary sewer mains and service connections shall be installed to serve all lots in the subdivision and shall be connected with the city sewer system, as approved by the City Engineer. In areas being platted without immediate connection to the City's sewer system, lots shall conform to the standards outlined in the Zoning Ordinance. Plans for individual or clustered-lot systems shall be submitted for approval of the Zoning Administrator; and percolation test results shall be provided when required.

Drainage. A storm water drainage system, as approved by the City Engineer, shall be provided. It shall provide for on-site storage capacity for at least a 10 year flood.

Street Signs. Street signs of standard design for the City, shall be installed by the City at the subdivider's expense at each street intersection.

Utilities. All utility lines for electrical service, natural gas service, and communication services, shall be placed underground, if feasible, in the street right-of-way or designated utility easements, unless an alternative plan is developed between the City and all utility providers.

#### 1.8.2 Payment for Installation of Improvements.

The required improvements, as listed and described above, are to be furnished and installed at the sole expense of the subdivider and at no expense to the City. However, in the case of an improvement which would, by general policy of the City, be assessed only in part to the improved property and the remaining cost paid by the City, the Council may make a provision for payment of a portion of the cost by the subdivider and the remaining portion of the cost by the City. If any improvement installed within the subdivision will be of benefit to lands beyond the boundaries of the subdivision, the Council may make provision for causing a portion of the cost of the improvement representing the benefit to such other lands, to be assessed against those other lands; and in such case, the subdivider will be required only to pay for such portion of the entire cost of said improvements which represent the benefit to the property within the subdivision.

#### 1.8.3 Required Agreement Providing for Installation of Improvements.

Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a development agreement in writing with the City in a form as approved by the City Attorney. The development agreement will outline the financial guarantee required, as well as the terms of development. Developers have three options for installation of City utilities (listed below) that provide for public and private installation of improvements. With options (a) and (b), the time for initiation and completion of work shall be determined by the City upon recommendation of the City Engineer. The City reserves the authority to correlate the work with any other City work being done or contracted. With options (a), (b), and (c), the City will charge an administrative fee, at the current established rate for such purposes, to defray administrative costs. The current established rate is two (2%) percent of either (1) the cost of the project at the contractor bid rates, or (2) the cost of the project based on the engineer's estimated unit rates for the project.

- a) Developer Petitioned - The developer petitions the City to install the utilities. The developer and all involved property owners sign a 100 percent petition for the improvements. The developer escrows with the City the estimated engineering costs for a feasibility study. A public hearing may be required if additional City improvements are necessary or other properties are affected. The City will assess all concerned properties to re-coup project costs together with engineering, inspection, legal, and administrative costs. The City may limit the amount of funds for such projects pursuant to a bonded debt policy. The City has the ultimate discretion on whether to accept the petition for this option.

- b) Developer Petitioned and Paid - The developer petitions the City to install the improvements and agrees to pay all costs upon completion of project activities. The Developer shall provide an escrow or a letter of credit equal to 125 percent of project costs. The City shall be entitled to draw upon that escrow or letter of credit as the project proceeds. Once the project is completed and paid for, and the improvements are accepted and warranted for an additional year, the letter of credit shall be canceled or the balance in escrow shall be returned.
- c) Developer Installed - The Developer shall provide the City with a feasibility study for the project. If said study is approved, the Developer shall provide surety in the form of a cash escrow or a letter of credit totaling 125% of the project costs as defined in the paragraph above. Developer shall provide complete construction plans for said project, which shall be approved by the City Engineer as to form, City specifications, and Engineer's estimate of project cost. Developer shall utilize City Engineer for construction staking, inspection and for record drawings. Developer shall deposit an estimate of all City Engineer inspections costs to be incurred by the City. Developer shall have his/its own contractor to do the work. Upon completion and acceptance, the Developer shall provide a one year warranty bond and an administrative fee which equals 4 percent of the project costs; whereupon the City shall release the project surety.

#### 1.8.4 Financial Guarantee.

The development agreement described in Paragraph 1.8.3 above, shall require the developer, at the option of the City, to deposit cash in escrow, furnish a performance bond, or file a letter of credit to ensure payment of the total cost of the required improvements. The total cost of the required improvements shall be estimated by the developer and approved by the City Engineer; said estimate shall include, but not be limited to, the following costs: The cost of construction or installation; engineering; preparation of feasibility report; preparation of plans and specifications; inspection; legal services; right-of-way acquisition; construction interest; and related administrative costs. The City shall be entitled to reimbursement from the financial guarantee for the cost of the required improvements, for any expense incurred by the City to cause completion of the work, and payment therefore, in the event of subdivider default of the development agreement, and for any damages or legal costs sustained by the City on account of any breach thereof. Upon completion of the work and termination of any subdivider liability under the development agreement, the financial guarantee or any cash balance and interest earnings retained by the City shall be refunded to the subdivider. In the event the cost of the required improvements or any part thereof are assessed, the financial guarantee may be retained by the City until such time as the subdivider has completed its obligations under the development agreement. Financial guarantees shall be provided by the subdivider as follows:

- a) Improvements not assessed: A one year warranty, acceptable to the City on the improvements made; and the escrow or letter of credit (or subdivision bond) per Section 1.8.3.(b) or (c) above.
- b) Improvements assessed: If the City consents to assess the costs of the required improvements against the subdivider's property, the City may require the subdivider to deposit cash in escrow, or an irrevocable letter of credit with the City in an amount equal to 25% of the total cost of the required improvements to subdivider's property. The subdivider shall also agree, in the developer's agreement, to pay at the time of sale

of each lot the respective special assessments levied against each such lot sold within the subdivision or to pay into escrow 125% of any pending special assessments against each lot sold within the subdivision. At completion of subdivision, and total reimbursement to the City of any such special assessments, any remaining funds shall be returned to the developer or a letter of credit shall be terminated.

#### 1.8.5 Construction Plans

Construction plans for the required improvements, conforming in all respects to the standards and ordinances of the City, shall be prepared or reviewed by the City Engineer. For projects not assessed, payment for such plans and specifications, feasibility reports, review of the same, together with the inspection of the work by the City Engineer and administrative costs, shall be the sole responsibility of the subdivider.

#### 1.9 Modification, Exception, and Variances

The Council may grant a variance upon receiving a report from the Planning Commission in any particular case where the subdivider can show, by reason of exceptional topography or any other physical conditions, that strict compliance with these regulations would cause exceptional and unique hardship, provided such relief may be granted without detriment to the public welfare and without impairing the intent and purpose of these regulations. The Planning Commission may recommend variances from the requirements of this ordinance in specific cases which, in its opinion, do not affect the comprehensive plan or the intent of this ordinance. Any variances thus recommended shall be by action taken and entered in the minutes of the Planning Commission, setting forth the reasons which justify the variance. The Council may approve variances from the requirements of this ordinance in specific cases which, in its opinion, do not affect the spirit or the intent of this ordinance.

#### 1.10 Reserved.

#### 1.11 Building Permits

No building permits shall be issued for construction or alteration of any building or structure on any parcel of land which is conveyed in violation of the subdivision rules set forth above. No building permits will be issued for the construction of any building or structure on any lot in a subdivision which has been approved for platting, until all requirements of this ordinance, and any developer's agreement entered into to carry out provisions of this ordinance, have been fully complied with.

#### 1.12 Administrative Fees

All permit fees, application fees, administrative fees, and other charges for services under this ordinance, shall be set in accordance with the latest current fee schedule adopted by resolution of the Council.

#### 1.13 Repeal

Any subdivision ordinance inconsistent with this ordinance is hereby repealed.

#### 1.14 Violations and Penalties

- a) Violation of this Ordinance shall be a misdemeanor and upon conviction thereof shall be punishable by a fine of not to exceed \$700.00 and/or imprisonment for a period not to exceed 90 days for each offense. Each day that the violation is permitted to exist shall constitute a separate offense.
- b) In the event of a violation or a threatened violation of this Ordinance, the Council, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations and it is the duty of the Attorney to institute such action.
- c) Any taxpayer may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

1.15 Effective Date

This ordinance shall become effective two weeks after its passage and publication as provided by law.

Passed by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Clerk

Published on \_\_\_\_\_

Filed with Cass County Recorder on \_\_\_\_\_