

# Article 5. Subdivision Application and Approval

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## 5.1 PURPOSE

The purpose of the subdivision application and approval process is to provide a process for the orderly and predictable subdivision of land within the City.

## 5.2 APPLICABILITY

These regulations governing plats and subdivision of lands apply within the corporate limits of the City and as provided for in areas designated for orderly annexation, or where otherwise provided for in Minnesota State Statute.

## 5.3 CONVEYANCES SUBJECT TO SUBDIVISION REGULATIONS

- A. The following land or parcel subdivisions or conveyances are subject to the major subdivision requirements:
  - 1. Any subdivision of unplatted property.
  - 2. Lands which are to be divided into two (2) or more lots or parcels, any one of which the resultant parcel is less than forty (40) acres in area.
  - 3. Any unplatted land transferred from one zoning district to another at the request of the property owner.
- B. The following land or parcel subdivisions or conveyances are subject to the administrative subdivision requirements:
  - 1. Relocation of a common boundary.
  - 2. Subdivision of an existing platted lot(s).
- C. The provisions of this Code do not apply to conveyance and land division if the land described:
  - 1. Was or is a cemetery lot(s), as defined in Minnesota State Statute.
  - 2. Resulted from a court order.

3. Common Interest Community (CIC) Plats that do not meet the requirements of Minnesota Statutes Chapter 505.
4. Within the Shoreland Overlay District, all subdivisions that create two (2) or more lots or parcels that are twenty (20) acres or less in size will be processed as a plat in accordance with Minnesota Statutes, Chapter 505, and this Code. No permit for construction of buildings or sewage treatment systems will be issued unless the lot was approved as part of a formal subdivision.

#### **5.4 OVERVIEW OF SUBDIVISION CLASSIFICATIONS**

Before any land is subdivided, the owner of the property proposed to be subdivided, or authorized agent, must apply for and secure approval of the proposed subdivision in accordance with the following procedures:

##### **A. Major Subdivision**

A “major subdivision” is the division of a lot, parcel or tract of land into two (2) or more lots, or the consolidation of two (2) or more lots. Relocation of a common boundary or subdivision of an existing platted lot(s) is considered an administrative subdivision as defined in Paragraph B (Administrative Subdivision) below. A major subdivision application requires submittal of the following:

1. Sketch Plat
2. Preliminary Plat
3. Final Plat

##### **B. Administrative Subdivision**

An “administrative subdivision” involves relocation of a common boundary or subdivision of an existing platted lot(s), and may be approved or denied by the Zoning Administrator without review by the Planning Commission or City Council. An administrative subdivision application requires submittal of the following:

1. Administrative Plat

#### **5.5 PROCEDURE**

No conveyance of land, which is subject to this Code, may be filed or recorded if provisions of this Code are not met. If a parcel is transferred or conveyed contrary to the provisions of this Code, the City may deny the issuance of building permits to any parcel.

##### **A. Review of Plat Submittals**

1. Before any plat submission is considered complete, the Zoning Administrator will, within five (5) working days, review the plat to determine if it is complete and in general compliance with provisions of this Article. When a plat is determined to be incomplete or not in general compliance with provisions of this Code, including a determination that the submission constitutes a premature plat, the Zoning Administrator will notify the applicant within five (5) working days.

2. Premature plats are not eligible for approval. Any proposed subdivision deemed premature for development will not be approved by the City. The burden of proof for items a through h listed below is the developer's responsibility. Subdivision may be deemed premature by the Zoning Administrator if any of the following exist:
  - a. Lack of adequate drainage or run-off control.
  - b. Lack of adequate water supply.
  - c. Lack of adequate streets to serve the subdivision.
  - d. Lack of adequate waste disposal systems.
  - e. Inconsistency with the Comprehensive Plan.
  - f. Lack of adequate public improvements.
  - g. Municipal utility services (water and sanitary sewer) are not available at the boundary and have not been ordered for installation to the boundary of a proposed residential plat. This excludes the Rural Residential District.

#### **B. Sketch Plat**

The Zoning Administrator may waive the sketch plat requirement. However, the applicant may still elect to prepare a sketch plat to understand the procedural requirements and minimum standards of this Article, and the requirements or limitations imposed by other City ordinances or plans. Submission of a sketch plat, drawn to scale, is not considered an application for subdivision.

#### **C. Action on Preliminary Plat**

1. Once an application for a preliminary plat is determined to be complete, the Planning Commission must recommend approval or denial of the preliminary plat within one-hundred twenty (120) days. Failure to approve or deny within the review period is deemed approval. Upon demand of the applicant, the Zoning Administrator may execute a certificate of approval for the preliminary plat.
2. The timeline may be extended before the end of the initial one-hundred twenty (120) day period by providing written notice of extension to the applicant. The notification must state the reasons for the extension and its anticipated length, and cannot exceed sixty (60) days unless approved by the applicant.
3. After receiving the recommendation from the Planning Commission, the City Council must approve or deny the preliminary plat.

#### **D. Action on Final Plat**

1. Once an application for a final plat has been determined to be complete, the Planning Commission must recommend approval or denial of the final plat within sixty (60) days by the Planning Commission. A final plat is considered complete when the applicant has complied with all conditions and requirements of

preliminary approval either through assuring satisfactory performance or the execution of appropriate agreements assuring satisfactory performance.

2. The timeline may be extended before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, and cannot exceed sixty (60) days unless approved by the applicant.
3. After receiving the recommendation from the Planning Commission, the City Council must approve or deny the final plat. Failure to certify final approval within sixty (60) days, if the applicant has complied with all conditions and requirements, is deemed approval. Upon demand of the applicant, the City Clerk and the Zoning Administrator may execute a certificate of approval for the final plat.
4. The owner of the subject property must record the final plat with the County Recorder within one (1) year of final plat approval; otherwise, such approval will become null and void. The City Council may confirm their prior approval without the necessity of Planning Commission review if a plat is not recorded in one (1) year and no changes have been made to the original approval.

#### **E. Simultaneous Submittals**

With approval of the Zoning Administrator, applicants may submit a final plat to the Planning Commission and City Council at the same time as a preliminary plat.

#### **F. Effect on Previously Approved Subdivision**

For one (1) year following preliminary approval and for two (2) years following final approval, unless the subdivider and the City agree otherwise, no amendment to the Comprehensive Plan or development control will apply to or affect the use, development density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the City may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, the City may by resolution or agreement grant the rights referred to herein for such periods of time longer than two (2) years which it determines to be reasonable and appropriate.

### **5.6 PRELIMINARY PLAT**

#### **A. Submission Requirements**

The applicant must submit the following at least ten (10) working days before the next regularly scheduled Planning Commission meeting:

1. Six (6) full-size copies of the preliminary plat and one (1) eleven inch by seven inch (11" x 17") copy.

2. Supplemental material, necessary to address specific physical conditions of the proposed subdivision.
3. The preliminary plat review fee as set out in the City Code.

**B. Preliminary Plat Requirements**

The preliminary plat must contain the following information:

**1. Existing Conditions**

- a. Proposed name of subdivision, which name cannot duplicate the name of any plat heretofore recorded in Benton, Sherburne and Stearns Counties. Names must not be longer than thirty (30) characters in length, including spaces.
- b. Location by section, township and range, or other legal description.
- c. Names and addresses of the owner and subdivider having control of the lands included in the preliminary plat, the designer of the plat and the surveyor.
- d. Graphic scale, not less than one inch to one-hundred feet (1":100'), unless a larger scale is approved by the Zoning Administrator based upon site size.
- e. North point, designated as true north.
- f. Date of preparation.
- g. Boundary line survey, including measured distances and angles, which must close by latitude and departure with an error of closure not exceeding one (1) foot in five-thousand (5,000) feet.
- h. Total acreage of the preliminary plat computed to one-hundredth ( $1/100$ ) of an acre.
- i. Location and names of existing or platted streets or other public ways, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of one-hundred (100) feet beyond the tract.
- j. If the proposed subdivision is a rearrangement or replat of any former plat, the lot and block arrangement of the original plat along with its original name must be indicated by dotted or dashed lines. Any revised or vacated roadways of the original plat must also be indicated.
- k. Location and size of existing paved streets, curbs and curb cuts, driveways, free-standing signs, railroads, sewers, water mains, storm drains, gas mains, electric and telephone lines and utility poles, including utilities stubbed into the property, quarries, gravel pits, culverts, or other underground facilities within the tract and to a distance of one-hundred (100) feet beyond the

tract. Also, such data as grades, invert elevations and location of catch basins, personnel access structures, and hydrants.

- l.** Boundary lines of adjoining platted or unplatted land and owners of all tracts of land within one-hundred (100) feet. Adjoining addresses, as shown on the County 911 system.
- m.** Complete topographic map with contour intervals not greater than two (2) feet, water courses, marshes, wetlands, rock outcrops and other significant features, all superimposed on at least one (1) print of the preliminary plat. United States Geodetic Survey datum must be used for all topographic mapping. High water elevation and date thereof if parts of plat are wet or have been wet.

## **2. Proposed Features**

- a.** Layout of streets, showing right-of-way widths and names of streets.
- b.** Locations and widths of alleys, pedestrian ways and utility easements.
- c.** Proposed centerline grades of streets and alleys, if any, and a complete set of profiles showing both existing and proposed grade lines.
- d.** Street and lot grading plan.
- e.** Layout, lot and block numbers, and typical lot dimensions scaled to the nearest foot. Square footage for each lot must be denoted.
- f.** Areas other than those mentioned above, intended to be dedicated for public use, including area and dimensions scaled to the nearest foot.
- g.** Street names or numbers, in compliance with Resolution No. 2004-5-138 City Policy No. 2004-1 (Resolution Establishing an Addressing and Roadway Naming/Numbering Policy Within the City of St. Cloud).

## **C. Preliminary Plat Review Standards**

- 1.** The Planning Commission, in review of a preliminary plat, will take into consideration the requirements of the community and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and widths of streets, the general drainage situation, lot sizes and arrangement, as well as master plan requirements such as parks, school sites, boulevards and highways, but not limited to these.
- 2.** The preliminary plat must cover all of the subdivider's contiguous land, though the final plat may cover only a portion of the preliminary plat, provided it is in conformance with an approved preliminary plat and other requirements herein.
- 3.** When a tract is subdivided into larger than building lots or parcels, as set forth in this Code, such lots or parcels must be arranged to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivisions.

4. Any residentially zoned lot, excluding the Rural Residential District, that is larger than one-half (0.5) acre or has a street frontage in excess of one-hundred fifty (150) feet that is intended to be initially served by a private septic system must include a proposed "ghost plat"<sup>1</sup> within the preliminary plat for the lot that depicts future subdivision of the property facilitated by the extension of municipal utility services.
5. Subdivisions showing unplatted strips or private streets controlling access to public ways will not be approved.
6. Deviations from standards may be approved by the Planning Commission and the City Council when it is deemed necessary to satisfy or achieve an outcome provided for in a City goal, policy or ordinance (e.g. affordable housing initiatives, natural resource protection).

## 5.7 FINAL PLAT

### A. Submission Requirements

The applicant must submit the following at least ten (10) working days before the next regularly scheduled Planning Commission meeting:

1. Six (6) full-size copies of the final plat and one (1) eleven inch by seventeen inch (11" x 17") copy.
2. Supplemental material, necessary to address specific physical conditions of the proposed subdivision.
3. The final plat fee as set out in the City Code.

### B. Final Plat Requirements

1. The graphic scale of the plat must be one (1) inch equals one-hundred (100) feet, unless a larger scale is approved by the Zoning Administrator based upon site size.
2. Square footage per lot, lot dimensions, delineation of wetlands, dedicated streets and public sites and open spaces, and total platted land area must be calculated and submitted with the final plat.
3. The name of the subdivision must be lettered in prominent print at the top of the plat, together with the name of the City and County wherein the subdivision lies. The name of the subdivision must be simple in nature, easy to pronounce, cannot duplicate an exact name of any plat of record in the City, and must not exceed thirty (30) characters in length, including spaces.
4. Notarized certification by owner, and any mortgage holder of record, of the adoption of the plat and the dedication of public streets, sites and open spaces, and other public areas.

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<sup>1</sup> A sketch plan of a subdivision of lots and public right-of-ways depicted with dashed or other distinguishing line format.

5. Certifications showing that all taxes and special assessments due on the property have been paid in full.
6. Form of approval by the City Council as follows:

*Approved by the City Council of St. Cloud, Minnesota, this \_\_\_\_day of \_\_\_\_, 20\_\_.*

*Signed*

*Attest*

\_\_\_\_\_  
*Mayor (or the Mayor's designee)*

\_\_\_\_\_  
*City Clerk*

7. Form of approval of the Planning Commission as follows:

*Approved by the Planning Commission of St. Cloud, Minnesota,  
this \_\_\_\_day of \_\_\_\_, 20\_\_.*

*Signed*

\_\_\_\_\_  
*Planning Director*

8. Form of approval by County authorities as required by their standards.
9. All other information and requirements in accordance with Minnesota Statute 505.00.

### **C. Subdivision Agreement**

1. When a final plat requires a subdivision agreement, before a final plat is approved by the City Council, the owner and subdivider of the land covered by the plat must execute and submit a subdivision agreement to the City Council which is binding on his/her or their heirs', personal representatives and assigns, that he/she will cause no private construction to be made on said plat or file or cause to be filed any application for building permits for such construction until all improvements required under this Code have been made or arranged for in the manner prescribed in this Code.
2. The subdivision agreement must provide that all of the required improvements will be made in accordance with standards established by the City Engineer, and must include adequate provisions in the form of escrow deposits or other form of deposit acceptable to the City Council to insure that all improvements accomplished by the applicant will comply with such standards.
3. If approved by the City Council, required improvements may be installed under contract by the City after petition for same by the owner. The cost must be assessed in accordance with the City assessment policy or as otherwise determined by the City Council.
4. Approval of the final plat and subdivision agreement of the City Council is contingent on the deposit of those sums to the City required by the agreement.



No signatures indicating the City's approval of the plat will be affixed to the plat until such sums have been deposited with the City Clerk.

5. Subdivision agreement must be recorded concurrently with the final plat. All costs associated with recording the final plat and subdivision agreement are the responsibility of the applicant.

## **5.8 ADMINISTRATIVE PLAT**

The procedure and submission requirements for an administrative plat are the same as for a preliminary plat (Section 5.6), with the following exceptions:

### **A. Review of Administrative Plat**

The Zoning Administrator will, within twenty (20) working days, review the administrative plat to determine if it is in compliance with provisions of this Article. If an administrative plat is determined to be incomplete or not in compliance with provisions of this Code, then the Zoning Administrator will notify the applicant within ten (10) working days.

### **B. Action on Administrative Plat**

If an administrative plat is determined to be complete and in compliance with the provisions of this Code, then it will be approved or denied by the Zoning Administrator within ten (10) working days. The timeline may be extended before the end of the initial ten (10) working day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, and cannot exceed thirty (30) working days unless approved by the applicant.

## **5.9 DEVIATIONS**

The Planning Commission and the City Council may acknowledge and approve deviations from the standards as part of plat review.

## **5.10 CIC PLATS FOR LOTS HELD IN SEPARATE OWNERSHIP**

1. A Common Interest Community (CIC) Plat is required for those lots held in separate ownership, but considered one (1) zoning lot in order to fulfill Code requirements, because common site elements are shared between the lots. The City is not responsible for maintenance of perpetual rights between private owners for common elements, such as off-street parking spaces, access drives and open space, that are shared between lots in separate ownership. CIC plats must be prepared by a licensed land surveyor in accordance with Minnesota Statutes 515B.2-110.
2. Prior to the date of adoption of this Code, those lots held in separate ownership, but considered one (1) zoning lot in order to fulfill Code requirements, which were established through the Certificate of Survey process or a cross-access agreement are permitted to continue under such approved Certificates of Survey or previously established agreements.

## **5.11 ADDITIONAL ENVIRONMENTAL REGULATIONS**

In addition to the requirements of this Article, the following additional requirements apply in the overlay and special purpose districts of this Ordinance.

### **A. Shoreland Overlay District**

#### **1. Land Suitability**

Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the City must consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or the City.

#### **2. Consistency with Other Controls**

Subdivisions must conform to all official controls of the City. A subdivision will not be approved where a variance from one (1) or more standards would be needed to use the lots for their intended purpose. In areas that do not already have City sewer and water services, or that cannot be provided with City sewer and water services as part of the platting process, a subdivision may not be approved.

#### **3. Notice**

Copies of all notices for public hearings to consider proposed subdivisions/plats within the Shoreland Overlay District must be sent to the Commissioner of Natural Resources and postmarked at least ten (10) days before the hearing. A copy of any approved subdivision/plat must be sent to the Commissioner of Natural Resources and postmarked within ten (10) days of final action.

#### **4. Information Requirements**

Sufficient information must be submitted by the applicant to the City to make a determination of land suitability in the Shoreland Overlay District. The following information must be provided:

- a.** Topographic contours at two (2) foot intervals or less, showing limiting site characteristics.
- b.** The surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats, obtained from U.S. Geological Survey quadrangle topographic maps or more accurate sources.
- c.** Adequate soils information to determine suitability for building capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods.

- d. Information regarding adequacy of anticipated vegetation and topographic alterations, near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation, and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities.
- e. Location of one-hundred (100) year floodplain areas and floodway districts from existing adopted maps or data.
- f. 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 or stream.

## **B. Scenic Rivers Overlay District**

### **1. Land Suitability**

No land may be subdivided which is held unsuitable by the City Council for the proposed use for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or others in the community. The City Council, in applying the provisions of this section, will, in writing, recite the particular facts upon which it bases its conclusions that the land is not suitable for the proposed use and afford the subdivider an opportunity to present evidence regarding such suitability in a public hearing, after which the City Council may affirm, modify or withdraw its determination of unsuitability.

### **2. Lot Size**

Lots within a plat must be of a size and shape to satisfy the minimum lot size requirements of the Scenic Rivers Overlay District. The shape of individual lots may render portions unusable for installing private sewage disposal systems or providing adequate separating distances between them and water courses or water wells. Thereafter, any part of a lot less than thirty (30) feet wide must not be used in computing the minimum lot area.

### **3. Inconsistent Plats**

Approval of a plat which is inconsistent with this Code is permissible only when the detrimental impact of the inconsistency is more than overcome by other protective characteristics of the proposal. Plats which are inconsistent with the provisions of this Code must be certified by the Commissioner of Natural Resources in accordance with Section 4.7 (Scenic Rivers Certification of Approval).

## **C. Floodplain Overlay District**

### **1. Land Suitability**

No land may be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within

the Floodplain Overlay District must contain a building site located outside of the floodway at, or above, the regulatory flood protection elevation. All subdivisions must have water and sewage treatment facilities that comply with the provisions of this Code and have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the regulatory flood protection elevation. For all subdivisions in the Floodplain Overlay District, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

## **2. Removal of Special Flood Hazard Area Designation**

The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the one-hundred (100) year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.