

CHAPTER V

PLANNING AND LAND USE REGULATION

Section 500 - Subdivision Regulations

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500.01. Title. This section may be cited and referred to as the Robbinsdale Subdivision Regulations.

500.03. Policy. Subdivision 1. Purpose. The city finds that regulation of the subdivision of real property in the city is necessary for the following purposes:

- (a) to insure the orderly, economic, and safe development of land in the city;
- (b) to insure the adequate and timely provision of urban services and facilities; and
- (c) to protect and promote the public health, safety, and welfare.

Subd. 2. Scope. This section is adopted pursuant to Minnesota Statutes, chapter 462. A proposed subdivision of property in the city must be submitted to the city for review and approval before being filed for record with the appropriate county officer as defined in this section. The provisions of this section apply to property or a project to which the Minnesota Condominium Law, Minnesota Statutes, chapter 515 applies.

500.05. Restrictions. Subdivision 1. General rule. It is unlawful for any person to knowingly convey land or to attempt to file for record a conveyance of land with the appropriate county officer which is described by metes and bounds, or by reference to an unapproved subdivision plat or by reference to an unapproved registered land survey made after April 21, 1961 unless otherwise authorized by this section or approved by the council. This provision does not apply to a conveyance of land that:

- (a) was a separate parcel of record August 28, 1972;
- (b) was the subject of a written agreement to convey entered into prior to that date;
- (c) was a separate parcel of land not less than two and one-half acres in area and 150 feet in width on January 1, 1966;
- (d) was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980;
- (e) is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more parcels, any one of which is less than five acres in area or 300 feet in width; or

- (f) is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

Subd. 2. Building permits. A building permit or other permit will not be issued by the city for construction of a building, structure, or other improvement to land located in the city unless the requirements of this section have been complied with.

Subd. 3. Taxes. A proposed subdivision of land will not be considered by the city unless past due taxes and special assessments thereon shall have been paid in full.

Subd. 4. Flood hazard. Land will not be subdivided where it is determined by the council that the land is unsuitable for development because of flood hazard unless corrective measures consistent with the zoning code can be accomplished.

Subd. 5. Additional conditions. The city council may impose additional conditions on subdivisions where deemed necessary for the protection and promotion of the public health, safety, and welfare.

500.07. Conflicts. Where requirements imposed by this section are either more or less restrictive than comparable requirements imposed by other pertinent laws, ordinances, statutes, or regulations, the regulations that are more restrictive or impose higher standards govern.

500.09. Definitions. Subdivision 1. For the purposes of this section the terms defined in this subsection have the meanings given them.

Subd. 2. "Alley" means public or private right-of-way designed to serve primarily as a means of secondary access to the side or rear of adjacent properties whose principal frontage is on a street.

Subd. 3. "Applicant" means the owner of land proposed to be subdivided or the owner's designated representative. Where the applicant is not the owner of the land the written consent of the owner is required, accompanied by a statement of the representative's legal interest, if any, in the land.

Subd. 4. "Appropriate county officer" means the county recorder of Hennepin County or the registrar of titles of Hennepin County as the case may be.

Subd. 5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroads, waterways, other natural barriers, the exterior boundary of the subdivision or any combination of the preceding.

Subd. 6. "Building" means any structure which is built for the support, shelter, or enclosure of persons, animals, or chattels.

Subd. 7. "Comprehensive plan" means the formally adopted comprehensive development plan of the city, composed of maps, charts, diagrams, and text describing and explaining the recommended policies and programs to guide the city's future development and redevelopment.

Subd. 8. "Director" means the person designated by the city manager to administer this section.

Subd. 9. "Easement" means a grant by a property owner to either the public or another individual for the use of a portion of the owner's property for certain specified purposes (e.g., drives, utilities, etc.).

Subd. 10. "Lot" means the smallest unit of land created by a subdivision that meets minimal requirements of both this section and the zoning code: each lot is individually depicted and numbered on the subdivision plat.

Subd. 11. "Lot split" means the subdivision of an existing lot of record: this may include creating new lots for building purposes or dividing a lot for combination with existing, adjacent, lots of record.

Subd. 12. "Parcel" means a unit of land of whatever legal description or size.

Subd. 13. "Parcel of record" means a unit of land of whatever legal description or size that is recorded with the appropriate county officer.

Subd. 14. "Plat, final" means the final, formally approved layout of the proposed subdivision showing the same information as the preliminary plat, complying with the requirements of this section and any additional requirements imposed by the council, and prepared in such form as required by the appropriate county officer for the purpose of recording and by Minnesota Statutes, section 505.

Subd. 15. "Plat, preliminary" means a tentative layout of the proposed subdivision prepared for the purpose of formal review by the city; the preliminary plat commonly shows lots, blocks, streets, and other features relevant to the development of the property, but not in the detail or final form of the final plat.

Subd. 16. "Plat, sketch" means a rough drawing of a proposed subdivision intended for informal review by the city; the sketch plat is not typically drawn as accurately as the preliminary plat and usually does not contain all the information normally required of a preliminary plat.

Subd. 17. "Restrictive covenant" means a contract or agreement entered into between private parties establishing restrictions on the development or use of property other than those established by either this section or the zoning ordinance.

Subd. 18. "Street" means a public or private right-of-way designed to serve as a means of principal access to adjacent properties and includes a public or private right-of-way that is not an alley.

Subd. 19. "Subdivision" means, as a verb, the process of separating a parcel of land into two or more parcels for the purpose of building or conveyance including the division of previously subdivided property; as a noun, the term means the product resulting from the separation of a parcel into two or more parcels; the term includes activity regulated by the Minnesota Condominium Law and a registered land survey.

Subd. 20. "Survey, certified" means a scaled drawing prepared by a registered land surveyor of a parcel indicating the location and dimension of property lines and, if appropriate, the location and dimensions of existing or proposed buildings; a survey visually depicts a parcel's legal description and may also show additional information such as topographic data and the location of recorded easements.

Subd. 21. "Zoning code" means section 505 of this code contained in Appendix A (Zoning).

Subd. 22. When the term "findings of fact" is used in this section the term means written findings embodied in a resolution of the body making the findings.

500.11. Procedures. Subdivision 1. General. Except as provided in subsection 500.13 when land in the city is proposed to be subdivided, the subdividing owner or the owner's authorized representative must apply for and secure approval of the proposed subdivision in accordance with the following procedure:

- (a) sketch plat (optional).
- (b) preliminary plat.
- (c) final plat.

It is intended that subdivision review be carried out simultaneously and coordinated with applicable flexible zoning regulations and flood plain regulations contained in the zoning code.

500.13. Procedural exceptions. Subdivision 1. Parcel combinations. Combinations of adjacent complete parcels of record may be approved administratively by the director. When a combination is requested for the purpose of obtaining a building permit, as provided for by the zoning code, or for the purpose of meeting minimum development standards imposed by this section or any other provision of this code, the city must be provided with (i) satisfactory evidence that the combination has been recorded with the appropriate county officer, (ii) a signed, notarized affidavit stating the purpose for which the combination is requested, and (iii) a certified survey of the lots to be combined as deemed necessary by the director. When a combination is requested solely for the purpose of receiving a single tax statement for adjacent parcels, the applicant must present satisfactory evidence that the parcels involved are complete parcels of record. There is no fee for a parcel combination.

Subd. 2. Division: tax parcels. The division of a parcel of record that was combined for the sole purpose of receiving a single tax statement may be approved administratively by the director. The applicant must submit (i) satisfactory evidence that the previous combination was made solely for the purpose of receiving a single tax statement, (ii) satisfactory evidence that the proposed manner of division corresponds to the legal descriptions of the parcels which existed prior to the combination, and (iii) a certified survey of the parcels being divided as deemed necessary by the director. The director may require that a proposed division of tax combined real estate follow the procedures for either a lot split or a normal subdivision plat. There is no fee for a parcel division.

Subd. 3. Lot splits. Lot splits may be approved by submission of a certified survey and legal description indicating the proposed manner of division, provided that the division can be described in fractional or proportional parts by reference to the legal descriptions existing of record on the date of the request. A lot split will not be approved for a parcel described by metes and bounds. Lot splits require council approval, following review and recommendation by the planning commission. Pursuant to Minnesota Statutes, section 462.358, approval of a lot split by the council is deemed to include waiver of the prohibitions against conveyance of property as contained in subsection 500.05 of this section. Lot splits are approved by the city council following the same hearing procedures required for a normal subdivision. The director may waive the technical information requirements of a normal subdivision determined to be unnecessary. The normal preliminary plat and final plat procedures will be waived. The director may require that a proposed lot split be processed by means of the normal subdivision plat procedure. Submission of a lot split for approval must be accompanied by a fee as established by subsection 500.51.

500.15. Sketch plats. Subdivision 1. Submission. When a subdivision of real estate is proposed, a sketch plat may in the director's judgment, be prepared and submitted for review. Submission of a sketch plat is not normally required, but is encouraged. The director may require a sketch plat if the proposed subdivision presents substantial problems or difficulties on its face.

Subd. 2. Fee. Submission of a sketch plat for review must be accompanied by a fee as established by subsection 500.49.

Subd. 3. Content. The sketch plat must be a conceptual plan of the proposed subdivision.

Subd. 4. Review and approval. Sketch plats are reviewed by the director and, upon the request or approval of the applicant, by the planning commission. Sketch plat review is for the purpose of identifying potential problems, suggesting design considerations and otherwise discussing the requirements of this section, other ordinances and the comprehensive plan and their objectives as they apply to the parcel of land contained in the applicant. The applicant must understand that the review of a submitted sketch plat is for purposes of discussion and comment only. The applicant may not infer any future approval of a preliminary or final plat based upon the sketch plan review. Vested rights to a particular subdivision plan do not accrue because of favorable comments made by either the director or the commission.

500.17. Preliminary plats. Subdivision 1. Submission. Except as provided in subsection 500.13, when a subdivision of real estate is proposed, a preliminary plat must be prepared and submitted for approval. Requests for review and approval of preliminary plats are filed with the director on an approved application form, accompanied by three copies of the plat and other required information items. Application must be made at least four weeks prior to the planning commission meeting at which formal action is requested.

Subd. 2. Fee. The fee for preliminary plat for review and approval is set in Appendix B.

Subd. 3. Content. The application must include the following:

- (a) a location map outlining the area to be subdivided and its relation to the remainder of the city.
- (b) a location map outlining the area to be subdivided and its relation to adjacent properties.
- (c) the names and addresses of owners of property located within 350 feet of the exterior boundaries of the proposed subdivision.
- (d) an existing site schematic, drawn to the same scale as the preliminary plat, showing:
 - (1) north arrow, scale, and acreage of the subject property;
 - (2) existing topographic contours at intervals of five feet or less, as determined by the director, for the property and adjacent properties;
 - (3) existing streets, utilities, and public facilities (e.g., schools, parks, etc.) on the property and adjacent properties;
 - (4) unusual topographic or physiographic features, including, but not limited to, waterways, steep slopes, wooded areas, etc.;
 - (5) existing easements, public and private, on the property and the purposes for which they are provided.
- (e) a preliminary plat drawn to a scale of not greater than one inch to 100 feet (1" = 100') embodying the design standards provided for by subsection 500.37 showing:
 - (1) north arrow and scale;
 - (2) names and addresses of persons who prepared the plat;
 - (3) proposed topographic contours at the same interval as contained on the existing site schematic;

- (4) proposed streets, utilities, and public facilities on the property and, where appropriate, the manner of coordination of these items with adjacent properties;
- (5) proposed layout of lots and blocks including approximate dimensions of each and manner of numbering;
- (6) name of the proposed subdivision;
- (7) proposed easements or existing easements to be maintained and the purpose for which they are provided; and
- (8) other information deemed necessary by the director.

Subd. 4. Preliminary plats; review. Preliminary plats must be reviewed by the planning commission. The commission must hold a public hearing on the proposed subdivision. Ten days' notice of the public hearing must be published as provided by law. Individual notices of the public hearing must be mailed to each owner of record of property located within 350 feet of the exterior boundaries of the proposed subdivision at least ten days prior to the public hearing. Failure of a property owner to receive the notice does not invalidate the proceedings.

Subd. 5. Reports. The director, upon submission of a preliminary plat for review and approval, must prepare a report on the proposal for the planning commission and council. Copies of the report and the submissions of the applicant must be provided to the planning commission at least five days prior to the public hearing. The report must be entered in and made a permanent part of the record of the public hearing.

Subd. 6. Conduct of hearing. At the public hearing the planning commission will consider the report and recommendation of the director along with the comments of members of the public. The planning commission may question the applicant regarding the proposal, request additional information of the applicant, or retain expert testimony at the expense of the applicant.

Subd. 7. Actions. The planning commission acts on the proposed subdivision in one of the following ways:

- (a) recommends approval of the preliminary plat as submitted to the council;
- (b) recommends approval of the preliminary plat with modifications or conditions to the council;
- (c) recommends denial of the preliminary plat to the council;
- (d) postpones action on the preliminary plat to the next regular meeting of the planning commission or to such later date as agreed to by the applicant; or
- (e) with the consent of the applicant, tables action on the preliminary plat.

Subd. 8. Procedure. Unless postponed or tabled the recommendation of the planning commission will be forwarded to the council for its consideration. If the planning commission postpones consideration of the proposed subdivision, the applicant must be provided with a written statement of the reasons for such action. A preliminary plat may not be postponed more than once without the consent of the applicant, and may only be postponed to the next regular meeting of the planning commission or to a later date agreed to by the applicant. Following initial postponement or failure of the applicant and commission to agree to a satisfactory later date, the applicant may request that the planning commission forward the preliminary plat with or without recommendation to the council for consideration. A decision to forward the preliminary plat without recommendation is at the discretion of the planning commission. The commission may table the preliminary plat only with the consent of the applicant. Thereafter, the planning commission will consider the proposed subdivision at a regular meeting requested by one of its members or by the applicant.

Subd. 9. Schedule. The preliminary plat must be forwarded to the council after consideration of the plat by the planning commission. Consideration of the preliminary plat by the council must be scheduled not more than 30 days following the date the plat was forwarded by the planning commission, unless otherwise agreed to by the applicant. The council must be provided with copies of the director's report, the submissions of the applicant, and minutes of the commission's public hearing. These items will be made a permanent part of the record of the meeting of the council.

Subd. 10. Council consideration. The council will consider the proposed subdivision as scheduled. The council may hold a public hearing as part of its deliberations on the proposed subdivision. If the council determines to hold a public hearing, the procedures of subsection 500.17 must be complied with. The council may question the applicant regarding the proposal, to request additional information of the applicant, or to retain expert testimony at the expense of the applicant.

Subd. 11. Council action. The council acts on the proposed subdivision in one of the following ways:

- (a) approves the preliminary plat as submitted;
- (b) approves the preliminary plat with modifications or conditions;
- (c) disapproves the preliminary plat;
- (d) postpones action on the preliminary plat to the next regular meeting of the council or to such later date agreed to by the applicant; or
- (e) with the consent of the applicant, tables action on the preliminary plat.

Subd. 12. Findings. Action by the council approving, approving with modifications, or disapproving a preliminary plat must be accompanied by findings of fact. The applicant must be provided with written documentation of the council's action stating the reasons for the council's decision. If the

council postpones consideration of the proposed subdivision, the applicant must be provided with a written statement of the reasons for that action. A preliminary plat may not be postponed more than once without the consent of the applicant, and must be postponed to the next regular meeting of the council, or a later date agreed to by the applicant. Following initial postponement or failure of the applicant and council to agree upon a later date, the applicant may request that the council act to approve, approve with modifications, or disapprove the preliminary plat, unless the preliminary plat is postponed or tabled. Failure of the council to act on the preliminary plat within 60 days of receipt of the preliminary plat is approval of the plat. The council, with the consent of the applicant, may table the preliminary plat and thereafter the council will consider the proposed subdivision at a regular council meeting as requested by a councilmember or by the applicant.

Subd. 13. Time limit. Approval of a preliminary plat is valid for one year from the date of the approval, unless prior to or within that one year period an extension is granted by the council. If after the one year period or extension thereof a final plat has not been submitted for review and approval, the approval of the preliminary plat is void.

500.19. Final plats. Subdivision 1. Submission. Upon approval or approval with modifications of the preliminary plat by the council, the applicant may proceed to prepare the final plat for review and approval. Except as provided in subsection 500.13, a final plat is required for all proposed subdivisions. Requests for review and approval of final plats are filed with the director on an approved application form, accompanied by three diazo reproduction copies of the final plat and any other required submissions. Application must be made at least 15 days prior to the council meeting at which formal action is requested.

Subd. 2. Fee. The fee for final plat for review and approval is set by Appendix B.

Subd. 3. Final plat; form. Final plats must be prepared at a scale not less than one inch to 100 feet (1" = 100'), and consistent with Minnesota Statutes, section 505 and rules of the appropriate county officer. Three copies of the final plat, prepared in black on white mat surface photographic card stock with double cloth back mounting, and one exact transparent reproducible copy of the final plat must be submitted for official certification and execution by the city. One copy prepared on photographic card stock must be labeled "official plat" and the other copies labeled "copy". Multiple sheets with match lines and master index may be used. The final plat must be consistent with the approved preliminary plat and must comply with all conditions or modifications imposed by the council. The final plat must also include the following:

- (a) primary control points approved by the appropriate county officer, or descriptions to such control points, by which all dimensions, angles, bearings, and similar data on the plat referenced;
- (b) boundary lines; right-of-way lines for all streets and alleys; easements; and property lines with accurate dimensions, bearings, deflection angles, radii, arcs, central angles or curves;

- (c) names of rights-of-way and the width of each;
- (d) location and description of monuments to be placed or maintained;
- (e) certification as to accuracy of the plat by a certified surveyor;
- (f) language dedicating for public use any streets or other rights-of-way, easements, parks, etc. required by this section or imposed as a condition of approval by the council; and
- (g) spaces for certification of approval to be signed by the mayor and clerk and official seal of the city.

Subd. 4. Final plat; content. The final plat must be accompanied by the following items if required by the director:

- (a) an abstract of title or certificate of title for all land contained within the proposed subdivision;
- (b) an express written, irrevocable offer of dedication of all public streets, municipal uses, utilities, parks, public easements, etc. as shown on the final plat;
- (c) a warranty deed and title policy in the name of the city, for each parcel proposed for dedication (the title policy will be in an amount determined necessary by the city);
- (d) as may be required by subsection 500.23, a performance bond, cash escrow deposit, or other security determined acceptable by the attorney in an amount equal to 1-1/2 times the engineer's estimate of the costs for improvements required to be installed by the subdivider;
- (e) as may be required by subsection 500.23, a contract establishing the subdivider's obligation to complete the required improvements.

Subd. 5. Final plat; review; approval. The director will compare the final plat with the preliminary plat and conditions or modifications imposed by the council. The attorney will examine the abstract of title or certificate of title to ascertain that the land contained within the proposed subdivision is in the name of the applicant and that it is free and clear of all encumbrances or liens. The attorney will also review the offers of dedication and warranty deeds attached thereto. The engineer will review the final plat for accuracy in its preparation and compliance with the design standards provided for by subsection 500.37. The engineer will certify that the bond or cash escrow, if required, is of sufficient amount.

Subd. 6. Final plat; council consideration. Upon completion of the review of the final plat and submissions by the director, city attorney, and engineer, the director must schedule the final plat for consideration of the council. If the review of the final plat by the director, attorney, or engineer identifies deficiencies in the final plat or the required submissions, the applicant must be notified. Noted deficiencies must be corrected prior to consideration of the final plat by the council. Unless deficiencies in the final plat or required submissions have been noted, the final plat must be scheduled for council consideration no later than 60 days after its submission to the director.

Subd. 7. Final plat; council action. When considering the final plat the council must be provided with certifications by the director, city attorney, and city engineer that the final plat and required submissions conform to the requirements of this section. The council must then act to approve or disapprove the final plat. The council's action must be based upon findings of fact, and the applicant will be provided with written documentation of the council's action. The council may postpone or table consideration of the final plat pursuant to procedures established by subsection 505.17. Unless the final plat is postponed or tabled, failure of the council to act on the plat within 60 days of receipt of the final plat is approval.

Subd. 8. Final plat; execution. The mayor and city clerk must affix their signatures and the official seal of the city to the final plat. The applicant must register approved subdivisions and accompanying legal documents with the appropriate county officer. If the final plat is not recorded within 90 days after its approval by the council the plat is void.

500.21. Required improvements. Subdivision 1. Responsibility. The subdivider is responsible for completing the improvements (i) required by this section, (ii) specified on the final plat, or (iii) stipulated by the council in its approval of the final plat. The required improvements must be constructed in compliance with the design standards of subsection 500.37 and completed to the satisfaction of the director.

Subd. 2. Required improvements. Unless waived pursuant to subdivision 3, the following improvements must be completed and paid for by the subdivider:

- (a) concrete curb and gutter;
- (b) concrete sidewalks;
- (c) sanitary sewers;
- (d) street paving;
- (e) concrete alley paving;
- (f) storm sewers and culverts;
- (g) bridges;
- (h) pedestrian paths and walks;
- (i) monuments certified by a registered professional engineer as being properly placed;
- (j) ornamental street lights;
- (k) necessary approved alterations to natural drainage ways;

- (l) temporary street signs;
- (m) reforestation and landscaping;
- (n) miscellaneous items as agreed upon by the city council and the subdivider;
- (o) watermains and hydrants;
- (p) miscellaneous items as contained in the design standards provided for by subsection 500.37.

Subd. 3. Waiver. The council may waive required improvements deemed to be necessary or which the city may itself undertake. The city may construct the improvements as public improvements and assess all or part of the cost thereof against benefitted properties. A waiver must be requested by the subdivider and must be considered by the council at the time of preliminary or final plat approval.

Subd. 4. Required plans. Prior to the commencement of construction of any required improvements, the subdivider must submit sufficiently detailed plans, profiles, and specifications for the required improvements for the review and approval of the director. The plans, profiles, and specifications must comply with the design standards of subsection 500.37 and other ordinances of the city. The subdivider is responsible for obtaining permits required for construction of the improvements.

500.23. Improvements; bond. Subdivision 1. Form. The subdivider must provide the city with a performance bond, cash escrow, or other acceptable security in an amount equal to 1-1/2 times the engineer's estimate of costs for the required improvements. The bond must be submitted simultaneously with the request for approval of the final plat. The bond must (i) name the city as obligee, (ii) specify the improvements that the bond secures, and (iii) stipulate that the bond secures the dedication of all the specified improvements and land, as required by the council, free and clear of encumbrances and liens. The subdivider may submit separate bonds for separate required improvements. Prior to approval of the final plat by the council the city attorney must review the submitted bond, or other security, as to its conformance with statutory provisions, form, sufficiency, and manner of execution. The required bond must remain in effect for a period not less than one year following completion of the improvements which it secures.

Subd. 2. Waiver. The council may waive the requirement that the subdivider provide a bond or other security. In such case the council must be provided with a signed, legally enforceable development contract specifying the required improvements and the subdivider's responsibility to complete them. The development contract must also specify that the city may undertake completion of the required improvements and assess the cost of same against the land contained in the subdivision upon failure of the applicant to satisfactorily complete the improvements. The contract must stipulate an agreement upon date for completion of the required improvements not later than two years from the date of approval of the development contract. The contract must be submitted at the time of final plat consideration by the council. The council may either waive the required bond submission and subsequently approve the development contract or require that a bond be submitted prior to approval of the final plat. If the

development contract is accepted by the council, the approval of the final plat is conditional pending satisfactory completion of the required improvements. If the security is waived and a development contract is submitted the final plat may not be signed or recorded until the required improvements have been completed to the satisfaction of the director.

Subd. 3. Governmental units. Governmental units to which these bond and contract requirements apply may file in lieu of the bond or contract a certified resolution, from the officers or agencies empowered to act on their behalf, agreeing to comply with the provisions of this subsection.

500.25. Improvements; completion. Subdivision 1. Time. Required improvements must be completed within a time period specified by the city council. Upon the request of the subdivider and on the recommendation of the planning commission, the council may extend the completion deadline for a period of one year provided the term of the required security are extended.

Subd. 2. Quality. The subdivider must provide for inspection of completed improvements by a registered engineer. The city engineer will inspect improvements for compliance with the approved final plat, the submitted plans, profiles, and specifications for the improvements and the quality of their construction. Upon a finding that the improvements have been satisfactorily completed, the city engineer must certify their completion by letter to the subdivider and the council. Upon a finding that improvements have not been satisfactorily completed, the director must certify the deficiencies by letter to the subdivider and the council.

Subd. 3. Remedies. If the required improvements have not been satisfactorily completed by the completion deadline, the council may:

- (a) extend the deadline for completion of the improvements for a period of not to exceed one year;
- (b) declare any submitted bonds or other securities in default and apply funds obtained from such to complete the required improvements;
- (c) declare the development contract, if such has been entered into, to be violated and thereupon undertake to complete the required improvements, assessing the cost of same against the land contained in the subdivision; or
- (d) when no improvements have been commenced, void previous approval of the final plat and, if the plat has been recorded, undertake necessary action to vacate the plat or the public rights-of-way contained therein.

Subd. 4. Bond waiver. If the bond requirement has been waived and a development contract entered into, the director must certify satisfactory completion of the required improvements prior to the execution of the final plat by the mayor and manager.

Subd. 5. Building permits. A building permit for private construction may not be issued for land in a subdivision for which the final plat has not been recorded with the appropriate county officer. A building permit for private construction may not be issued for more than 60% of the lots or dwelling units contained in a subdivision for which all required improvements have not been completed. When the subdivision is to be accomplished in stages this requirement applies to each phase.

Subd. 6. Release. Bonds or other security held by the city to secure required improvements will be released one year following the date of certification of satisfactory completion of the improvements by the director.

500.27. Land dedication, easements, and covenants. Subdivision 1. Dedications. The council may require dedication of public improvements and lands designated on the plat or intended for public use. The city may require reservations and dedications for improvements that are not to be undertaken or completed immediately or as part of an approved subdivision. These requirements include, but are not limited to, lands for public utilities, streets, and park and recreation facilities. The city may approve or disapprove the location and configuration of lands proposed for dedication pursuant to this subsection.

Subd. 2. Streets. The final plat must indicate the location and reservation of rights-of-way, public and private, in the proposed subdivision.

Subd. 3. Utilities. The city requires that easements be provided for the location of public utilities and that proper legal instruments accomplishing that be provided prior to the approval of final plat. The final plat must show the location of the easements to be located in conformance to the design standards provided for by subsection 500.37. The city may require the dedication of certain lands in fee simple for public utility use where deemed necessary or desirable in the public interest. In such case the dedication will be accomplished by submission of a warranty deed and a written irrevocable offer of dedication prior to approval of the final plat. Unless specifically authorized by the city council, private water, sanitary, or storm sewer facilities may not be constructed within a proposed subdivision to meet the requirements of this subsection.

500.29. Dedication; park and recreation areas. Subdivision 1. General rule. The city requires that land be reserved and dedicated for park and recreational purposes in proposed subdivisions exceeding two acres or in which more than 14 dwelling units may be constructed. The dedications are accomplished in fee simple by submission of a warranty deed and a written irrevocable offer of dedication prior to approval of the final plat. The final plat must indicate the location and reservation of lands intended to be dedicated for public park and recreational purposes. The council may authorize payment in lieu of land dedication for park and recreational purposes as provided in subsection 500.31.

Subd. 2. Forms. Land to be dedicated for park and recreational purposes must be provided consistent with the following schedule: a minimum of two acres of land for each 100 lots or possible dwelling units, whichever number results in the greater dedication requirement. For subdivisions of less than 100 lots or dwelling units the required dedication is that proportion of two acres as the size of the proposed subdivision bears to 100 lots or units.

Subd. 3. Private dedication. The council may give credit on an equal basis for privately maintained and dedicated park and recreation areas. The council must be provided with proper legal instruments accomplishing the private dedication prior to the approval of a final plat.

500.31. Dedication; payments in lieu. Subdivision 1. Findings. The council may authorize payment in lieu of land dedication for park and recreational purposes when the council finds (i) that the amount of land proposed to be dedicated is insufficient for park and recreation purposes, (ii) the locations of proposed dedications are not consistent with identified park and recreation needs of the city, (iii) there are physical problems with the proposed areas of dedication that render the sites unsuitable for park development, or (iv) there is sufficient park area reserved or existing in the immediate area of the proposed subdivision.

Subd. 2. Use of payments. Payments in lieu of land dedication made pursuant to this section will be utilized by the city for park and recreational purposes. There is no time restriction on the expenditure of dedicated monies, nor is there any restriction on the expenditure of the monies for land as opposed to facility construction or equipment acquisition.

Subd. 3. Method of payment. Payments in lieu of land must be by certified check or escrow deposit prior to final approval of a final plat.

Subd. 4. Calculation. The amount of payment in lieu of dedication is based upon fair market value of the amount of land that would otherwise be required for dedication. Fair market value is determined by the average of two independent appraisal reports, one report undertaken by an appraiser of the applicant's choice and the other by an appraiser of the city's choice. The applicant must pay the costs of both appraisal reports.

500.33. Dedication; waiver. The council may waive a required dedication that it deems not necessary for the protection or promotion of the public health, safety, and welfare.

500.35. Plats; restrictive covenants. Restrictive covenants may not appear on the face of a plat. The council may not impose a condition in the form of a restrictive covenant as part of its approval of a final plat.

500.37. Plats; design standards. Subdivision 1. Adoption. The director, in cooperation with the engineer, must prepare a set of comprehensive, detailed design standards and guidelines for platting. The design standards must be submitted to the council for approval by resolution.

Subd. 2. Application of standards. The design standards apply to property, lands, structures, or projects regulated by this section and are the minimum requirements for the design and development of subdivisions or projects. The council may waive any design standards as part of its approval of final plat when it finds that the public interest will not be adversely affected thereby. The council may impose additional or more restrictive design standards as part of its approval of final plat where a finding is made that the public interest will be better served thereby.

Subd. 3. Amendment. The design standards may be amended as necessary in the same manner as adopted. Proposed subdivisions for which the final plat has not yet been approved are subject to any adopted amendment to the design standards.

Subd. 4. Copies. Copies of the design standards will be provided to all interested parties on request at a reasonable charge.

500.39. Variances; appeals; procedures. Subdivision 1. Authority. The council may consider and grant variances to the provisions of this section to the extent not otherwise authorized herein, where it finds that unusual hardship on the land or practical difficulties relevant to the land would result from the strict application of the provisions of this section. The council may review and rule upon appeals by an affected property owner where it is alleged that there has been an error in the interpretation or application of the provisions of this section.

Subd. 2. Application. Requests for review and approval of variances must be submitted by the subdivider simultaneously with the request for review and approval of the preliminary plat. Requests for review of appeals must be submitted by the subdivider, if such is the case, prior to or simultaneously with the request for approval of the preliminary plat. Requests for review of appeals on the part of a property owner who is not a subdivider may be submitted at any time it is alleged an error in interpretation or application of the provisions of this section has taken place. If the alleged error refers to a subdivision that has been submitted for approval, the appeal must be submitted prior to approval of the final plat. Application for a variance or appeal are submitted to the director upon an approved application form.

Subd. 3. Fee. Submission of a request for a variance or an appeal must be accompanied by a fee set by Appendix B.

500.41. Variances; review and approval. Subdivision 1. Planning commission. Requests for consideration of variances and appeals must be reviewed by the planning commission after public hearing.

Subd. 2. Hearing. Notice of the public hearing will be published in conformance with state law. Notices of the public hearing must be mailed to each record owner of property located within 350 feet of the exterior boundaries of the affected property or subdivision at least ten days prior to the public hearing. Failure of a property owner to receive the notice does not invalidate the proceedings.

Subd. 3. Consideration. It is the intent that, to the extent reasonable, consideration of requests for variances and appeals will be scheduled simultaneously with the consideration of affected preliminary or final plats.

Subd. 4. Report. The director, upon submission of a request for a variance or appeal, must prepare a report on the request for the use of the planning commission and council. Copies of the report and the submissions of the applicant must be provided to the planning commission at least five days prior to the scheduled public hearing. The report is a part of the record of the public hearing.

Subd. 5. Information. The planning commission must hold the public hearing as scheduled on the proposed subdivision. The planning commission will consider the report and recommendation of the director along with the comments of members of the public in attendance. The planning commission may request additional information of the applicant or retain expert testimony at the expense of the applicant.

500.43. Variances; findings. Subdivision 1. Physical variances. In considering a request for physical variances the planning commission must make specific findings of fact, based upon the evidence and testimony presented, that:

- (a) the granting of the variance will or will not be detrimental to the public safety, health, or welfare or injurious to other property;
- (b) the conditions upon which the request for the variance is made are or are not unique to the property for which the variance is sought and are or are not generally applicable to other property in the immediate vicinity; and
- (c) the specific and literal application of the provisions of this section do or do not create a hardship in the reasonable use and enjoyment of the property for which the variance is sought.

Subd. 2. Findings; procedural variances. In considering a request for a procedural variance the planning commission must make findings of fact, based upon the evidence and testimony presented, that:

- (a) the granting of the variance will or will not be detrimental to the public safety, health, or welfare;
- (b) the granting of the variance will or will not unduly affect the due process rights of other affected parties; and
- (c) the specific and literal application of the provisions of this section do or do not create a hardship for the applicant in securing approval for a particular project.

Subd. 3. Findings; appeals. In considering requests for appeals the planning commission must make findings of fact, based upon the evidence and testimony presented, that:

- (a) the interpretation or application of the provisions of this section, in the specific instance cited, was or was not consistent with its intent; and
- (b) the interpretation or application of the provisions of this section, in the specific instance cited, was or was not consistent with the manner of interpretation or application of the same provisions in other specific, demonstrable situations.

500.45. Actions; recommendations. Subdivision 1. Actions. The planning commission acts on the variance or appeal in one of the following ways:

- (a) recommends approval of the variance request or appeal as submitted to the council;
- (b) recommends approval of the variance request or appeal with modifications or conditions to the council;
- (c) recommends denial of the variance request or appeal to the council;
- (d) postpones action on the variance request or appeal to the next regular meeting of the planning commission or a later date agreed to by the applicant; or
- (e) with the consent of the applicant, tables action on the variance request or appeal.

Except when the action is to postpone or table, the recommendation of the planning commission must be forwarded to the council for its consideration. If the planning commission acts to postpone consideration of the variance request or appeal, the applicant must be provided with a written statement of the reasons for that action. A variance request may not be postponed more than once without the consent of the applicant, and must always be postponed to the next regular meeting of the planning commission or a later date agreed to by the applicant. Following initial postponement or failure of the applicant to agree to a later date, the applicant may request that the planning commission forward the variance or appeal with or without recommendation to the city council for consideration. The decision to forward the variance or appeal with or without recommendation is at the discretion of the planning commission. The planning commission may table consideration of a variance or appeal only with the consent of the applicant. Thereafter the planning commission must take up consideration of the variance or appeal at any regular meeting requested by one of its members or by the applicant.

Subd. 2. Recommendations; procedure. The recommendation of the planning commission is forwarded to the city council for consideration. Consideration of the variance or appeal by the council must be scheduled not more than 30 days following nor less than 20 days prior to the date the planning commission's recommendation unless otherwise agreed to by the applicant or unless the affected plat has not been forwarded for council consideration. The council must be provided with copies of the director's report, the submissions of the applicant, and minutes of the planning commission's public hearing. These items are a part of the record of the meeting of the city council.

Subd. 3. Council; consideration; hearing. The council may hold a public hearing as part of its deliberations on the proposed subdivision. If the council holds a public hearing, the procedures of subsection 500.41 must be complied with. The council may question the applicant regarding the proposal, request additional information of the applicant, or retain expert testimony.

Subd. 4. Council action. The city council acts on the variance or appeal in one of the following ways:

- (a) approves the variance request or appeal as submitted;
- (b) approves the variance request or appeal with modifications or conditions;
- (c) disapproves the variance request or appeal;
- (d) postpones action on the variance request or appeal to the next regular meeting of the council or such later date as may be agreed to by the applicant; or
- (e) with the consent of the applicant, tables action on the preliminary plat.

Subd. 5. Subsequent procedures. Action by the council approving, approving with modifications, or disapproving a variance request or appeal requires a majority vote of the full council. The applicant must be provided with written documentation of the council action, stating the reasons for the council's decision. If the council postpones consideration of the variance or appeal, the applicant must be provided with a written statement of the reasons for that action. A variance or appeal may not be postponed more than once without the consent of the applicant, and will always be postponed to the next regular meeting of the council, or a later date agreed to by the applicant. Following initial postponement or failure of the applicant and city council to agree upon a satisfactory later date, the applicant may request that the city council act to approve, approve with modifications, or disapprove the variance or appeal. Failure of the city council to do so is deemed disapproval by the council. The council, with the consent of the applicant, may table consideration of a variance or appeal. Thereafter the council must consider the variance or appeal at any regular meeting requested by one of its members or by the applicant. Action by the council postponing or tabling a variance or appeal requires a majority vote of the full city council.

500.47. Amendments. Subdivision 1. Initiation. Amendments of this section may be initiated by the city council, the planning commission, city staff, or a person owning real property in the city. Initiation of requests for amendment by the council or planning commission may be upon simple motion. Initiation of amendments by city staff or owners of real estate is accomplished by submission of a request, upon an approved application form, to the director.

Subd. 2. Fee. Initiation of amendments on the part of owners of real estate must be accompanied by a fee set by Appendix B.

Subd. 3. Review and approval. Proposed amendments to this section must be submitted to the planning commission for review and comment prior to consideration by the city council. Proposed subdivisions for which final plat approval has not been granted by the city council are subject to any amendments to this section.

500.49. Fees required. Subdivision 1. Basic fee. In order to defray the administrative costs of processing requests for review and approval of sketch plats, preliminary plats, final plats, variances, appeals, or amendments a base fee set by Appendix B per application is required.

Subd. 2. Additional cost. In order to defray the additional costs of processing requests for applications submitted pursuant to the provisions of this section, applicants must pay the cost of staff and consulting time and materials expended by the city in the processing of the applicant's requests.

- (a) Staff and consulting time includes but is not limited to, time spent in advising the applicant, researching information necessary for the review and analysis of the request, and in the preparation of written or graphic materials necessary for the processing of the request. Staff and consulting time does not include time spent in making presentations on the request before the planning commission or city council, but does include time spent in conference with appropriate governmental agencies.
- (b) Materials include, but are not limited to, maps, graphs, charts, drawings, official notifications, written reports, and the printing or reproduction of same.
- (c) The charge for staff and consulting time is based upon an hourly rate established and made available to the applicant when an application is submitted. The charge for materials is based upon their actual cost to the city.
- (d) The application cost includes fees, taxes, or charges to be incurred by the city in recording a subdivision with the appropriate county officer.

500.51. Fees; payment. Subdivision 1. The base fee is payable at the time an application is filed with and accepted by the city clerk. The fee is not refundable except as provided for in subsection 500.53.

Subd. 2. Estimates. At the time of application, the applicant must be provided with an estimate of costs to process the application. The applicant must then deposit with the city clerk a sum sufficient to cover the estimate of costs.

Subd. 3. Payment. Unless the applicant has paid the required base fee and placed on deposit with the city clerk the application will not be scheduled for processing.

Subd. 4. Excess; refunds. If the costs for processing an application exceed the combined sum of an applicant's base fee and deposit by an amount greater than 10%, the applicant will be so informed and provided with a revised estimate of costs. The applicant must then place on deposit an additional sum sufficient to cover the amount of the revised estimate before any additional work on the application proceeds. An applicant may withdraw an application when provided the revised estimate of costs. In such case the applicant is liable for the costs incurred for processing the application to the date of the withdrawal, provided the costs do not exceed the combined amount of the applicant's base fee and deposit of record on that date by more than 10%.

Subd. 5. Statement of charges. Upon completion of staff review and analysis of an accepted application and prior to any review or public hearing of the application by either the planning commission or city council, the applicant must be provided with a final, written statement of charges for processing the application. If the applicant's base fee and deposits are not sufficient to cover the total charges contained in the final statement, the applicant must pay the balance due, provided that in no case may the balance exceed by 10% the combined amount of the applicant's base fee and deposits of record on that date.

500.53. Fees; refunds. Subdivision 1. General rule. The base fee is refundable only upon written withdrawal of the application before any work shall have commenced upon its processing or as provided for in subdivision 4.

Subd. 2. Excess. The deposit is refundable to the extent that it exceeds the amount which remains after the base fee has been subtracted from the charges shown on the final statement.

Subd. 3. Notice. The deposit is refundable upon written notice of the applicant withdrawing an application, but then only after all costs of processing the application to the date of the withdrawal have been deducted.

Subd. 4. Excess charges. The base fee and deposit, or portions thereof, are refundable if upon petition by an applicant the council makes a finding of fact that the applicant was charged excessive or unwarranted costs. The council will only consider such petitions prior to review or public hearing on the application by either the planning commission or the council.

500.55. Enforcement and penalties. Subdivision 1. Director. The director must enforce the provisions of this section and bring to the attention of the city attorney any violations or lack of compliance with this section.

Subd. 2. Permits. A building permit may not be issued for any property which is determined to be in violation of this section until the violation has been corrected.