

- SUBDIVISION ORDINANCE -

**ORDINANCE NO. 121
CITY OF MAYER**

AN ORDINANCE AMENDING CITY OF MAYER ORDINANCE NO. 79

THE CITY COUNCIL OF THE CITY OF MAYER DOES ORDAIN:

AS ORDINANCE ESTABLISHING RULES AND REGULATIONS FOR THE SUBDIVISION AND PLATTING OF LANDS, DEFINING CERTAIN TERMS, PROVIDING FOR THE PREPARATION OF PLATS AND THE INSTALLATION OF STREETS AND OTHER IMPROVEMENTS, ESTABLISHING PROCEDURES FOR THE APPROVAL AND RECORDING OF PLATS, PROVIDING FOR AMENDMENTS OF THIS ORDINANCE AND PRESCRIBING PENALTIES FOR VIOLATIONS.

SECTION 1. GENERAL PROVISIONS

Subd. 1. Title.

This Ordinance shall be known as the "SUBDIVISION ORDINANCE OF THE CITY OF MAYER" and will be referred to as "this Ordinance."

Subd. 2. Purpose.

Pursuant to the authority contained in Minnesota Statutes 462.3 58, This Ordinance is adopted for the following purposes:

- A. To provide for the orderly, economic, and safe development of land and public services and facilities.
- B. To promote the public health, safety, morals, and general welfare of the residents of the City.
- C. To assure equitable handling of all subdivision plats by providing uniform procedures.

Subd. 3. Scope.

The provisions of this Ordinance relate to any division of a tract of land into two (2) or more parcels by platting, re-platting, conveyance, registered land survey, or other means and to the combination of any two or more such adjoining parcels.

Subd. 4. Jurisdiction.

These regulations governing plats and the subdivision of land shall apply to the area within the corporation limits of the City of Mayer. By right of Minnesota Statute 462.3 58 the City can extend its Subdivision Rights two miles beyond its boundaries.

Subd. 5. Compliance.

After the adoption of this Ordinance, no lot in a subdivision shall be sold, no permit shall be issued to alter or erect any building upon land in a subdivision unless a subdivision plat has been approved and recorded unless exempted under SECTION 1, Subd. 9 and 13, and until the improvements required by the City Council relative to subdivision have been constructed or arranged for as provided herein. No improvements that are proposed to become public or are part of an approved preliminary plat may be made except by the City within right-of-ways or easements in approved plats, or pursuant to Development Agreements which have been approved by the City.

Subd. 6. Required Approvals of Subdivision Plats.

Before any plat shall have validity, it shall have been approved by the Planning Commission and the City Council and recorded in the Carver County Recorder's Office.

Subd. 7. Conflict.

It is not intended by this Ordinance to annul or interfere with any official regulations or ordinances of the City provided however, that when there is a difference between minimum standards or dimensions herein and those contained on other official regulations or ordinances of the City, the highest standards shall apply.

Subd. 8. Separability.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the remaining portions thereof.

Subd. 9. Exceptions.

When requesting a subdivision, if either of the two (2) following conditions exists, the City Clerk shall bring the request to the attention of the Planning Commission, whereupon, they shall review said request and may recommend exemption of the subdivision from complying with any procedural requirements of this Ordinance deemed inappropriate for adequate review of subdivision request.

A. In any case in which compliance with SECTION 1, Subd. 10 of this Ordinance will create an unnecessary hardship and failure to comply does not interfere with the intent of this Ordinance, provided that such conveyance does not necessitate the dedication of a public right-of-way and the newly created parcel will not cause the other remaining portion of the property to be in violation of this Ordinance or the Zoning Ordinance.

B. Where written justification is submitted by an applicant, which clearly indicates that the intent of this Ordinance can be satisfied without enforcing all of the procedural requirements of this Ordinance.

Upon receiving the recommendation of the Planning Commission, the City Council by resolution may exempt the conveyance and the conveyance may then be filed or recorded.

Subd. 10. Conveyance by Metes and Bounds.

No conveyance of one or more parcels in which the land is described by metes and bounds or by reference to an unapproved registered land survey made after the effective date of this Ordinance shall be filed or recorded except in certain cases of minor subdivisions as described in Subd. 13 of this section, and those conveyances exempted under Subd. 14 of this section.

Subd. 11. Subdivision Without Central Water and Sewer.

All proposed subdivisions must have City Water and Sewer in order to subdivide.

Subd. 12. Minor Subdivisions.

In the case of a subdivision resulting in three (3) or less lots, situated in a neighborhood where conditions are well defined, and no further re-subdivision is expected, the governing body may exempt the subdivider from complying with some of the requirements of these regulations, after submission of a survey by a registered land surveyor of the proposed subdivision and the newly created property lines will not cause any resulting lot to be in violation of these regulations or the zoning codes.

In the case of a request to subdivide a lot which is a part of a recorded plat or to create not more than three (3) new lots, and the newly created property lines will not cause any resulting lot to be in violation of these regulations or the Zoning Code, the division may be approved by the governing body, after submission of a surveyor by a registered land surveyor showing the original lot and the proposed subdivision. There shall be only minor subdivision with regard to the original tract in any twelve (12) month period. The governing body shall have the authority to deny minor subdivisions if it appears that the intent of these regulations or the zoning code may be violated. Each parcel must have frontage on a public road.

Subd. 13. Resubdivision.

In the case of a request to divide a lot other than an outlot, which is a part of a recorded plat where the subdivision is to permit the adding of a parcel of land to an abutting lot, or to create two (2) lots where the newly created property line will not cause the remaining portion of any lot to be in violation with this ordinance or the Zoning Ordinance, the subdivision may be approved by the City Council after submission of a Certified Survey or a Registered Land Survey, as applicable by a registered land surveyor showing the original lot and the proposed subdivision.

Subd. 14. Exemptions.

The following conveyances shall be exempt from the provisions of this Ordinance and shall not constitute a subdivision provided, however, that all such conveyances shall be subject to City regulations, including this Ordinance, which do not interfere with the recording of the deed:

A. The parcel was a separate lot of record prior to the effective date of this Ordinance

B. The parcel was the subject of a written agreement to convey entered into prior to the effective date of this Ordinance.

C. The parcel is a single parcel of land of not less than five (5) acres and having a width of not less than three hundred (300) feet and its conveyance does not result in the division of the parcel into two (2) or more lots or parcels, any one which is less than five (5) acres in area or three (300) feet in width and all parcels have frontage on a public right-of-way.

D. The parcel relates to a division of a lot which is part of a recorded plat where the division is to permit the adding of a parcel of land to an abutting lot or to create two (2) lots, and the newly created lot will not cause the other remaining portion of the lot to be in violation of this Ordinance or Zoning Ordinance.

E. Cemetery lots.

F. Parcels resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary as the result of a correctional survey of a previously recorded parcel, or an instrument of conveyance to correct a faulty description in previously recorded instrument of conveyance.

G. Lot line adjustments.

SECTION 2. DEFINITIONS

Subd. 1. Rules.

For the purposes of this Ordinance, certain words used herein are defined. The word "shall" is mandatory. Words used in the present tense shall include the future; and the singular number shall include the plural, and the plural the singular. The masculine shall include the feminine and neuter.

Subd. 2. Definitions.

- **Abuts.**- Is next to.

- **Alley.**-A public vehicular way which affords a secondary means of vehicular access to abutting property and which is not intended for general traffic circulation.

- **Block.**-An area of land within a subdivision which is entirely bounded by streets or by street, rail right-of-way, waterway or exterior boundary of the subdivision.

- **Boulevard.**-The portion of the street right-of-way between the curb line and the lot line.

- **Building.**-Any structure used or intended for supporting or sheltering any use or occupancy.

- **Building Setback.**-The minimum distance between the building or structure, excluding entry steps, provided they extend no more than half way into the required setback area, and including all decks and attached structures and the lot line.

- **City Clerk.**-The appointed executive of the City, or his or her designed.

- **City Council.**-The governing body of the City of Mayer.

- **Comprehensive Plan.** -The comprehensive plan prepared and adopted by the city indicating the general locations recommended for major land uses, streets, parks, public buildings, and other public improvements.

- **County Board.** -The governing body of Carver County.

- **Crosswalk or Pedestrian Way.**- The publicly owned right-of-way which crosses a block and furnishes pedestrian access to adjacent streets or properties.
- **Design Standards.**- The standards for design of the subdivision and preparation of plats as provided herein.
- **Easement.**- A grant by a property owner for the use of an area of land by the public or other entities or individuals for specific purposes including, but not limited to, construction, location of utilities, drainage ways and roadways.
- **Easement, Drainage.** -An easement for the purpose of ponding or draining water.
- **Easement, Pedestrian.** -An easement for the purpose of providing pedestrian access to a place.
- **Easement, Utility.** -An easement for the placement of utilities.
- **Engineer.** -The City or County Engineer or a duly authorized consulting engineer.
- **Final Plat.** -A drawing or map of a subdivision meeting all of the requirements of the City, this Ordinance, and in such form as required by the County for purposes of recording.
- **Flood.** -A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.
- **Flood Fringe.** -That portion of the flood plain outside the floodway. Flood Fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Rate Maps.
- **Flood Plain.** -The area adjoining the watercourse which has been or hereafter may be covered by the regional (100 year) flood.
- **Floodway.** -The channel of the watercourse and those portions of the adjoining flood plain which are reasonably required to carry and discharge the regional flood.
- **Grade, Percentage of.** -The rise or fall of a street in feet and tenths of a foot or each one hundred (100) feet or horizontal distance measured at the center line of the Street.
- **Lot.** -The smallest unit of a subdivision individually numbered or designated on the plat for purposes of descriptions, recording, conveyance, development or taxation conforming to the zoning and other requirements of the City.
- **Lot (of Record).** -A parcel of land, whether subdivided or otherwise legally described, as of the effective date of this Ordinance legally described, as of the effective date of this Ordinance and recorded as such in the County Recorder's Office or approved by the City as a lot subsequent to such date, and which is occupied by or intended for occupant by one (1) principle building or principle use together with any accessory buildings or such open spaces as required by this Ordinance and having its principle frontage on a street, or a proposed street approved by the City.
- **Lot, Corner Lot.** -A lot with a street in front and along one of the sides.
- **Lot Depth.** -The mean horizontal distance between the street right-of-way line and the opposite rear line of the lot measured in the general direction of the side lot lines.
- **Lot, Double Frontage.** -A lot having frontage on two (2) parallel or approximately parallel streets.
- **Lot, Landlocked.** -A lot without access to a street.
- **Lot, Lake shore.**-A lot having frontage on a lake shore or other body of water.
- **Lot Width.** -The mean horizontal distance between the side property lines of a lot as measured at the minimum setback line.

- **Monuments.** -A metal marker set to mark specific points on a piece of property.
- **Owner.** -A Person(s), partnership(s), association(s), firm(s), Corporation(s), or combinations thereof, having proprietary interest in the land sought to be subdivided.
- **Parks and Playgrounds.** -Public land and open spaces dedicated or reserved for recreational purposes.
- **Pedestrian Way.** -Public land and open spaces dedicated or reserved for recreational purposes.
- **Planning Commission.** -The Planning Commission of the City of Mayer.
- **Plat.** -A map or drawing indicating the subdivision or resubdivision of land, intended to be filed for record.
- **Preliminary Plat.** -The preliminary plat map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission and the City for their consideration as to its' compliance with the City's ordinances, policies and these regulations, along with required supporting data.
- **Protective Covenants.** -Contracts made between private parties as to protecting and preserving the physical and economic integrity of any given area.
- **Reserve Strip.** - A purported road way, or strip of land reserved for the use of a limited number of persons or purposes as distinguished from a publicly dedicated road.
- **Right-of-Way.** -Land dedicated and publicly owned for use as a street, alley, or crosswalk.
- **Screen Plantings.** -Vegetation planted to screen one use from another one.
- **Service Lane.** -A frontage road or marginal access street parallel with and adjacent to high volume arterial streets and highways, which provides access to abutting properties and protects through traffic.
- **Sidewalk.** - A paved pedestrian pathway separated from the roadway by distance or grade.
- **Street.** - A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway thoroughfare, parkway, road, avenue or boulevard.
- **Street, Arterial or Major.** -A street of considerable continuity, which is used primarily for heavy through traffic between major traffic generation areas.
- **Street, Collector.** -A feeder street which provides connection primarily between arterial streets or arterial streets and minor streets. Collector streets include the principal entrance streets of a residential development and the principal streets for circulation within such development.
- **Street, Commercial or Industrial.** -A street designed to accommodate commercial or industrial traffic needs.
- **Street, Cul-de-sac.** -A comparatively short minor street having one (1) end open to traffic and the other end permanently terminated by a vehicular turn-around.
- **Street Extension.** -A platted or planned extension of an existing street.
- **Street, Marginal Access.** -A minor street which is parallel and adjacent to a highway or an arterial street, and which provides access to abutting properties and protection from through traffic. Parking shall be prohibited on these streets.
- **Street, Minor or Local.** -A street which serves primarily as access to abutting properties, and is not intended to carry through traffic.

- **Street, Partial.** -A street or right-of-way that only partially meets width requirements. Also referred to as a half street.

- **Street, Private.** -A street owned by a private individual or individuals and not maintained by the City.

- **Street, Right-of-Way.** -A tract of land platted or dedicated for use as a street. Normally includes both the paved portion of the right-of-way and an additional portion on either side.

- **Street Tree.** -A tree planted close to or within the street right-of-way.

- **Street Width.** -The street right-of-way width, measured at right angle to the center line of the street.

- **Subdivider.** -Any individual, firm, association, syndicate, partnership, corporation, trust or legal entity having sufficient ownership interest in the land sought to be subdivided to commerce and maintain proceedings to subdivide the same under this Ordinance.

- **Subdivision.** -The division of a lot, tract or parcel of land into two (2) or more lots; tracts or parcels for the purpose of transferring ownership or building development, or if a new street is involved, any division or development of a parcel of land. The term shall include re-subdivision of land.

- **Tangent.** -A straight line that is perpendicular to the radius of a curve where it intersects a curve.

- **Thoroughfare.** -A highway or expressway, designed for and carrying mainly through traffic, with limited access.

- **Vertical Curve.** -The surface curvature on a street center line located between lines of different percentage of grade.

SECTION 3. APPLICATION FOR SUBDIVISION

Subd. 1. Application Form.

To initiate a Subdivision Property, the subdivider shall complete an application form provided by the City and shall include all required information specified in the application instructions. An incomplete or inaccurate form need not be accepted by the City.

Subd. 2. Signature(s) Required.

The application form must be signed by the subdivider prior to submission to the City. Any application form not properly signed may be rejected at any time it is determined that the required signatures are not affixed.

Subd. 3. Proof of Ownership.

At the time of filing the application form, or at such other time as the City may permit, the subdivider shall file Proof of Ownership is a form acceptable to the City. The City may require Proof of Ownership including a current Abstract of Title or a Registered Property Certificate along with all applicable unrecorded documents affecting title, and an Opinion of Title by the subdivider's attorney. Failure to file the required Proof of Ownership shall be a basis for the City to deny the application or to discontinue processing the application until such Proof of Ownership is submitted.

Subd. 4. Application Fee.

The subdivider shall pay to the City at the time of filing the application form, the appropriate application fee for each type of subdivision which shall be established from time-to-time by Resolution of the City Council. An application which is not accompanied by the required application fee is deemed to be incomplete.

The subdivider shall pay to the City at the time of filing the application form, the appropriate application fee for each type of subdivision shall be established from time-to-time by Resolution of the City Council. An application form need not be accepted if the application fee is not paid.

Subd. 5. Cost Recovery.

It is the intent of the City to recover all expenses incurred in the review and approval process. The subdivider shall deposit with the City a sum of money equal to the amount required to defray

expenses of the City incurred in the review and approval process, including, without limitation, engineering, legal and consulting fees. In the event the original amount deposited is insufficient to cover expenses, the subdivider shall be notified and shall deposit such additional sum as the City deems reasonably necessary to cover its expenses. In the event the actual cost of the review is less than the estimate, the City shall refund to the subdivider the difference between the actual cost and the amount of money actually deposited by the subdivider. In no case shall the application fee, or any part of it be refunded. Failure to make required deposits shall be grounds for denial of the requested plat.

Subd. 6. Preliminary Plat Procedure.

For those subdivisions requiring a plat as specified herein, the procedure specified in this section shall be followed:

A. Filing the Preliminary Plat.

The subdivider shall file:

1. Fifteen (15) copies of the applications and preliminary plat with the City to complete the application.
2. One (1) copy of the application and preliminary plat with the Minnesota Department of Transportation for review as required by State Law if the proposed subdivision abuts any State or Federal Truck Highway.
3. One (1) copy of the application and preliminary plat with the State Commissioner of Natural Resources for review as required if the proposed subdivision includes a protected wetland that is subject to regulation as shoreland pursuant to the amended from time-to-time regulating the use of shoreland.
4. One (1) copy of the application and preliminary plat with the applicable watershed district as required by State Law.
5. Copies with all utility companies that may be affected.

Failure to file any of the copies as required by this SECTION may constitute a basis for rejection of the application by the City.

B. Review of the Preliminary Plat.

The City, after receipt of the application, Application fee, Proof of Ownership, and the requisite number of copies, shall distribute copies of the application and preliminary plat for review to City Officials, Staff Members and the County Zoning Administrator, County Surveyor, and if abutting State Highways, the Minnesota Department of Transportation.

C. Reports and Recommendations.

The City shall prepare a report on plat applications received.

D. Public Hearing.

The City on behalf of the Planning Commission, shall set a date for a public hearing. Notice of the same shall be provided in accordance with Minn. Stat. §462.358. Notice of hearing shall be given in accordance with State Law. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings.

E. The Planning Commission

The planning Commission shall consider the preliminary plat and hold a public hearing at its next available meeting.

F. Approval Factors.

In reviewing the preliminary plat, the City shall not approve the application unless the following standards are met:

1. Consistency with the design standards and other requirements of this Ordinance.
2. Consistency with the City's Comprehensive Plan or other development plans.
3. Consistency with the Zoning Ordinance.

4. The physical characteristics of the site, including but not limited to topography erosion, and flooding potential, and soil limitations, are suitable for the type of development or use contemplated.
5. The proposed Subdivision shall not have an adverse fiscal or environmental impact upon the City or its residents.
6. The Subdivision will promote the orderly use and development of public open space or contribute the same by cash in lieu of land contribution.
7. The proposed Subdivision will not have an adverse impact on environmental resources as defined in Minn. Stat. Chapter 116B.
8. The proposed Subdivision will not be premature due to lack of adequate infrastructure to support the proposed Subdivision, including, but not limited to, roadways, utilities, parks, schools, and other public facilities.
9. The proposed Subdivision will not result in traffic safety issues or cause traffic congestion.
10. The proposed Subdivision will not have an adverse impact on the public health, safety and welfare of the City and its residents.

G. City Authority.

The Planning Commission and City Staff shall have the authority to request additional information from the applicant concerning the preliminary plat or to retain expert testimony at the expense of the applicant concerning said information to be declared necessary to establish compliance with all pertinent sections of this Ordinance.

H. Recommendations.

Within sixty (60) days from the date of the public hearing, the Planning Commission shall make a finding of fact and recommendation such actions or conditions relating to the preliminary plat to the City Council.

I. Planning Commission Action

Upon receiving the report and recommendation of the Planning Commission, or until sixty (60) days after the public hearing at which the preliminary plat was considered, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made a part of the permanent written record of the City Council meeting.

J. Council Action.

Upon receiving the report and recommendation of the Planning Commission, or the lapse of sixty (60) days without a report and recommendation, the Council shall consider the application for preliminary plat approval based on the approval factors listed in subparagraph (F) above. The City Council's decision on the preliminary plat shall be made by a majority vote of the City Council.

K. After Preliminary Plat Approval.

Upon approval of the preliminary plat by the City Council, the subdivider shall submit the final plat to the Planning Commission within one (1) year after said approval, or approval of the preliminary plat shall be considered void. Prior to the expiration of the preliminary plat approval, the Planning Commission may extend the approval for an additional year. The extension shall be in writing specifically designating the expiration date. The extension shall not be subject to an additional fee, and only one (1) extension may be granted per preliminary plat.

L. Amending the Preliminary Plat.

A Preliminary Plat may be amended in accordance with the same standards and procedures that apply to approval of the Preliminary Plats, except the public hearing and fee may be waived by the City Council in its discretion, if they find the requested amendment to be of a small and insignificant nature.

M. Phased Development.

In the case of a subdivision to be developed in stages, the subdivider may be granted permission to prepare a preliminary plat for only that portion of the property which he proposes to develop at that time, provided such portion conforms with all the requirements of these regulations. The subdivider may be required, as a condition of approval, to submit an estimated time schedule for further staging of the development and its platting.

N. Compliance with Law.

All plats shall comply with the provisions of Minnesota State Statutes and the requirements of the Ordinance.

O. Improvements.

Required improvements shall conform to approved engineering standards established by the City Engineering or any applicable State, County, regulatory agency, and be in compliance with these regulations. No required improvements may be made by the subdivider until such time as the Final Plat has been approved and a Development Agreement has been approved and executed by the City Council.

Subd. 7. Final Plat.

A. Filing the Final Plat. The subdivider shall file:

1. Fifteen (15) copies of the applications and final plat with the City to complete the application.
2. One (1) copy of the application and final plat with the Minnesota Department of Transportation for review as required by State Law if the proposed subdivision abuts any State or Federal Truck Highway.
3. One (1) copy of the application and final plat with the State Commissioner of Natural Resources for review as required if the proposed subdivision includes a protected wetland that is subject to regulation as shoreland pursuant to the amended from time-to-time regulating the use of shoreland.
4. One (1) copy of the application and final plat with the applicable watershed district as required by State Law.
5. Copies with all utility companies that may be affected.

Failure to file any of the copies as required by this section may constitute a basis for rejection of the application by the City.

B. Reports and Recommendations.

1. Fifteen (15) copies of the application and final plat with the City to complete the application and receipt of the application, Application fee, Proof of Ownership, and the requisite number of copies, shall on a timely basis, distribute copies of the application and final plat for review, comment, and recommendation as follows:

The City shall advise the Planning Commission of any reports or comments that have been received about the final plat.

C. The City shall refer said application and final plat to the Planning Commission for consideration at least seven (7) days before the next regular meeting.

D The Planning Commission shall consider the final plat at its next available meeting.

The Planning Commission shall consider the final plat and hold a public hearing at its next regular meeting unless the filing date fails within twenty (20) working days of said meeting, in which case the final plat would be placed on the agenda and considered at the regular meeting following the next regular meeting. The City Clerk shall refer said application, along with all related information to the Planning Commission for consideration. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the final plat.

E. Recommendations.

The Planning Commission shall review the final plat to assure consistency with the approved preliminary plat. The Planning Commission shall make a recommendation for approval or disapproval with conditions and reasons thereof to the City Council. In case the plat is disapproved, the subdivider shall be notified in writing of the reason of such disapproval and what recommendations are necessary to meet the approval of the Commission.

F. Council Action.

The final plat, together with the recommendation of the Planning Commission shall be submitted to the City Council at its available meeting.

SECTION 4. PRELIMINARY AND FINAL PLAT DATA REQUIREMENTS

Subd. 1. Preliminary Plat.

The owner or subdivider shall prepare and submit a preliminary plat, containing the following information:

A. Identification and Description.

1. Proposed name of subdivision, not similar to any existing subdivision.
2. Date and North Point.
3. Scale of Plat, not less than one (1) inch to two hundred (200) feet. The plat shall utilize a bar scale. (Standard Engineer Scale).
4. Indication of any proposed covenants.
5. Location of map indicating location of proposed subdivision in relationship to general known area.
6. Names and addresses of the subdivider and surveyor making plat and property owners of record within three hundred and fifty (350) feet of the proposed subdivision.
7. Legal description of proposed subdivision.
8. An Abstract of Title or a Title Insurance Policy with the City as the Named Insured in an amount to be determined by the City.

B. Existing Conditions and Proposed Design Features.

1. Boundary line of proposed subdivision to such a degree of accuracy that no major changes are necessary in preparing the plat.
2. Zoning of land within and abutting the subdivision within three hundred (300) feet.
3. Layout dimensions and acreage of proposed lots and blocks.

4. Name, location and right-of-way width of existing or proposed streets, highways, alleys, sidewalks, and pedestrian ways.

5. High water mark of all lakes, rivers, streams and wetlands.

6. Location and dimensions of existing and proposed public sewer and water systems.

~~7. Existing and proposed storm water drainage system including drainage easements and drawing of water movements. Data should include size, grades, catch basin locations, manholes, hydrants, street pavement width and type. (See ordinance 144)~~

8. Boundary lines of adjoining unsubdivided or subdivided land within three hundred and fifty (350) feet, identifying by name and ownership.

9. Proposed zoning changes, if necessary.

10. Minimum front, side, and rear yard setbacks as required by the Zoning Ordinance.

11. Location, dimensions, sizes of areas, other than streets, alleys, pedestrian ways, and utility easements, proposed to be dedicated or reserved for public uses.

12. Existing topography, including contour lines at two (2) foot intervals. Water courses, wetlands, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. United State Geological Survey (U.S.G.S.) Data may be used for all topographic mapping where feasible.

C. Supplementary Information

1. No required improvements may be made by the subdivider until such time as the Final Plat has been approved and a Development Agreement has been approved and executed by the City Council.

Subd. 2. Final Plat.

The final plat shall be prepared in accordance with provisions of Minnesota State Statutes and shall include as a minimum the following information:

A. Name of subdivision.

B. Scale, north arrow, and date of plat.

C. All plats shall be of either two (2) standard sizes measuring 20 by 20 or 30 by 40 inches from outer edge to outer edge. A border line shall be placed one-half (1/2) inch inside the outer edges of the plat on the top, bottom, and right hand side of the plat, and two (2) inches inside the outer edge of the left hand side of the plat.

D. Durable iron monuments shall be set at angle and curve points on the outside boundary lines of the plat, at all block corners, and at all intermediate points on the block lines indicating changes of direction in the lines. The outside boundary lines of the plat shall be correctly designated showing bearings on all straight lines, angles at all angle points, and central angle and radii and arc length for all curves. All distances shall be shown between monuments as measured to the nearest hundredths of a foot. If a curved line constitutes the line of more than one lot in any block, the central angle for that part of each lot on the curved line shall be shown. The outside boundary lines shall close by latitude and departure with an error not to exceed one (1) foot in 7,500 feet.

E. In any instance where a river, stream, creek, lake, or pond constitutes a boundary line within bearings or angles and distances between all angle points and their relationship to a water line, and all distances measured on the survey line between lot lines shall be shown. The survey line shall be shown as a dashed line.

F. Locations, dimensions, and name or number of all existing or proposed lots, blocks, streets, highways, alleys, parks, and public lands.

G. All rivers, streams, creeks, lakes, ponds, swamps, and wetlands shall be correctly located and designated.

H. Name and boundary lines of any adjoining platted lands.

I. Location and width of all easements to be dedicated.

K. A written instrument of dedication signed and acknowledged by the owner of the land including a full and accurate description of the land platted and set forth what part of the land is dedicated and also to whom, and for what purpose these parts are dedicated.

L. A written surveyor's certificate certifying that the plat is a correct representation of the survey, that all distances are correctly shown on the plat, that all monuments have been correctly placed in the ground as shown, and that all outside boundary lines are correctly designated on the plat. If there are no wetlands, streets or highways to be designated, he shall so state. The certificate shall be sworn to before any officer authorized to administer an oath.

M. Delinquent tax certification as follows:

No delinquent taxes and transfer entered this _____ day of _____, 20

N. Certification of City approval as follows:

Approved by the City of Mayer, Minnesota this _____ day of _____, 20 .

Signed:

Mayor

Attested:

City Clerk

O. Any additional certification as required by Minnesota State Statutes.

SECTION 5. DESIGN STANDARDS

Subd. 1.

The proposed subdivision shall conform to the comprehensive plan and zoning ordinance. The design features are minimum requirements. The city may impose additional or more stringent requirements concerning lot size, streets and overall design as deemed appropriate considering the property being subdivided.

Subd. 2. Streets and Alleys.

A. Streets right-of-way widths shall be consistent with the City of Mayer Standard Detail Plates, adopted by the City.

B. Street right-of-way widths shall be consistent with the comprehensive plan and official map, and shall conform to county and state standards for truck highways. If no such plans or standards are applicable, right-of-way widths shall not be less than the following:

<u>Street Classifications</u>	Right of Way	Pavement
	Width (feet)	Width (feet)
Minor Arterial	100	36 to 44
Collector	80	36
Local Street (rural residential)	60	24
Local Street (urban residential)	60	28 to 32
Local Street (commercial/industry)	60	36
Cul-de-sac, turnaround radius (urban/residential)	60	36
Cul-de-sac, turnaround radius (rural residential)	60	42
Cul-de-sac, turnaround radius (commercial/industry)	60	48

C. Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two (2) streets be less than eighty (80) degrees. Intersections having more than four (4) corners are prohibited.

D. A tangent of at least three hundred (300) feet shall be introduced between reverse curves on arterial and collector streets.

E. When connecting street lines deflect from each other at one (1) point by more than ten (10) degrees they shall be connected by a curve with a radius adequate to ensure a sight distance within the right-of-way of not less than five hundred (500) feet for arterial, three hundred (300) feet for collectors, and one hundred (100) feet for all other streets.

F. Proper design shall consider required turning radius of vehicles for access points or entrances to and from a highway using standards adopted by the state department of transportation.

G. All centerline grades shall be at least five-tenths percent and shall not exceed five (5) percent, for arterial and seven (7) percent for all other streets and alleys. Whenever possible, grades within thirty (30) feet of intersections or railroad crossings shall not exceed three (3) percent.

H. Different connecting street grades shall be connected with vertical curves. Minimum length, in feet, of the vertical curves shall be twenty (20) times the algebraic difference in the percentage of grade of the two (2) adjacent slopes.

I. Local streets shall have a centerline offset of not less than three hundred (300) feet. Offset intersections shall be avoided.

J. The alignment of local streets shall discourage through traffic.

K. The maximum length of a street terminating in a cul-de-sac shall be (500) five hundred feet.

L. Where the proposed subdivision is adjacent to a limited access highway, arterial or collector street, there shall be no direct vehicular or pedestrian access from individual lots to such highways or streets. To the extent feasible access to arterial streets shall be at intervals of not less than one-fourth mile and through existing and established crossroads. Access along collector streets will be restricted and controlled on the final plat.

M. Half streets shall be prohibited.

N. Up to four (4) lots may be served by a private driveway if the city finds the following conditions to exist:

1. The prevailing development pattern makes it infeasible or inappropriate to construct a public street. In making this determination the city may consider the location of existing property lines and homes, local or geographic conditions and the existence of wetlands.
2. After reviewing the surrounding area it is concluded that an extension of the public street system is not required to serve other parcels in the area, improve access, or to provide a street system consistent with the comprehensive plan.
3. The use of a private driveway will permit enhanced protection of wetlands and mature trees.

O. If the use of the private driveway is to be allowed, they shall meet all standards for the Minnesota Uniform Fire Code and shall be subject to the following standards:

1. Common section of private driveways serving two (2) or more homes must be built to a seven-ton design, paved to a width of twenty (20) feet, utilize a maximum grade of ten (10) percent, and provide a turnaround area acceptable to the fire marshal based

upon guidelines provided by applicable fire codes. Plans for the driveway shall be submitted to the City Engineer. Upon completion of the driveway, the applicant shall be required to submit a set of "as-built" plans signed by a registered civil engineer.

2. Private driveways must be maintained in good condition and plowed within seventy-two (72) hours of a snowfall greater than two (2) inches. Covenants concerning maintenance shall be filed against all benefiting properties. Parking on the driveway or otherwise blocking all or part of the driveway shall be prohibited.

3. Private driveways that are not usable by emergency vehicles because of obstructions, snow accumulation, or poor maintenance are a public safety hazard. The city may remedy such conditions and assess the cost back to the property pursuant to Minnesota Statutes SECTION 429.101, Subd. 1(C).

4. The driveway must be provided with drainage improvements determined to be necessary by the city engineer.

5. Street addresses or city -approved street name sign, if required, must be posted at the point where the private driveway intersects the public right-of-way.

6. The driveway shall be designed to minimize impacts upon adjoining parcels. The city may require revised alignment and landscaping to minimize impact.

7. The driveway must be located within a strip property at least thirty (30) feet wide extending out to the public right-of-way or covered by a thirty-foot wide easement that is permanently recorded over all benefited and impacted parcels.

8. Private reserve strips controlling public access to streets shall be prohibited.

Subd. 3. Easements.

A. All easements shall be dedicated by appropriate language on the final plat in accordance with this section.

B. Easements at least ten (10) feet wide along all street right-of-way lines, five (5) feet along both sides of rear and side lot lines, shall be provided for utilities where necessary. If appropriate, easements of lesser or greater width may be required by the city. All utility easements shall have continuity of alignment from block to block.

C. Easements shall be provided along each side of the centerline of any water course or drainage channel, to a width sufficient to provide proper maintenance and protection and to provide for storm water run-off from a one hundred-year storm of twenty-four (24) hours duration. Where necessary, drainage easements corresponding to lot lines shall be provided, such easements for drainage purposes shall not be less than twenty (20) feet in width.

Subd. 4. Blocks.

The length and width of blocks shall be sufficient to provide convenient and safe access, circulation, control, and street design. Blocks shall not be longer than (1,200) feet, or shorter than One thousand two hundred or shorter than three hundred (300) feet except where topography of surrounding development limits ability to strictly comply or as specifically approved by the city council to foster innovative design consistent with sound planning principles.

Subd. 5. Lots.

A. All lots shall abut for their full required minimum frontage on a publicly dedicated street as required by the zoning ordinance or on a private drive. Minimum frontage shall be 50 percent of the required lot width under the Zoning Ordinance

B. Side lines of lots shall be substantially at right angles to straight street lines or substantially radial to curved street lines.

C. Lots shall be graded to drain away from building locations.

D. Lots shall be placed to preserve natural amenities, such as vegetation, wetlands, steep slopes, water courses and historic areas.

E. Lot remnants, spite strips, reserve strips, and unusable outlots or parcels are prohibited.

F. Streets for the proposed subdivision shall extend to the boundaries of the plat as to provide access to adjoining parcels.

G. Double frontage lots with frontage of two (2) parallel streets or reverse frontage shall have an additional depth of at least ten (10) feet to accommodate vegetative screening along the back lot line. Whenever possible, structures on double frontage lots should face the front of existing structures across the street. If it cannot be achieved, then such lots shall have an additional depth of ten (10) feet to accommodate vegetation screening along the back lot line.

H. Lot layouts should take into consideration the potential use of solar design features.

Subd. 6. Soil Erosion and Steep Slopes.

A. The development shall conform to the topography and soils to create the least potential for soil erosion.

B. The smallest practical increment of land shall be exposed at any one (1) time during development.

C. Detailed requirements for each plat shall be set forth in the development agreement.

~~D. Erosion and sediment control plans shall be submitted, approved and implemented prior to the first stage of development and construction. The Minnesota Construction Site Erosion and Sediment Control Planning Handbook is the official guide for the City of Mayer. The Developer must comply with all state and county requirements for erosion control, including any required NPDES Permits in compliance with Carver County regulations. The subdivision must include plans which will minimize soil erosion. (The requirements of the City of Mayer Storm Water Management Plan (Section 5.C) shall be adhered to.)~~
(Ordinance 144)

Subd. 7. Drainage.

The natural drainage system shall be used to the maximum extent feasible for the storage and flow of runoff. ~~The following requirements shall also apply: The requirements of the City of Mayer Storm Water Management Plan (Section 5.A) shall be adhered to.~~ (Ordinance 144)

A. Proposed drainage facilities shall have adequate capacity to accommodate potential runoff from their entire upstream drainage area, whether within or without the subdivision. The effect of the subdivision on existing downstream drainage areas outside the subdivision shall be considered in evaluating the adequacy of the storm water management plan.

B. The drainage system shall be constructed and operational as part of the first stage of development and construction.

C. Detailed requirements for each plat shall be set forth in the development contract.

Subd. 8. Wetlands, Shoreland and Flood Plain Areas.

Conservation and Preservation of the Natural Environment.

The subdivision shall be designed in accordance with all applicable shoreland and floodplain regulations and all wetland activities shall conform to the Wetland Conservation Act and the City of Mayer's Storm Water Management Plan (Section 5.D). All subdivisions are required to retain and maintain the features of the natural environment as much as possible through such measures as the preservation of native trees, shrubs, and grasses; existing undisturbed land forms; and wetlands, lakes, rivers, and natural ponding areas.

- A. The City shall require measures to preserve or to mitigate impacts upon sensitive natural features and water quality, and to the compliance, where applicable, with the requirements of shoreland and floodplain areas. The City shall consider the degree to which a maximum reasonable effort has been demonstrated to preserve and conserve the natural features, including mitigation measures, and the degree to which minimum adverse impact upon the natural environment will be realized as a result of the proposed development.
(Ordinances 144 and 145)

Subd. 9. Other Information.

Current applicable design standards shall be as set forth from time to time by resolution of the City Council. Other information as required from time to time by the City will be submitted by the applicant.

SECTION 6. PUBLIC USE DEDICATION OR CONTRIBUTION

(Section 6 is all new language to bring the City into compliance with current state law. Ordinance 145).

SECTION 6. PUBLIC USE DEDICATION OR CONTRIBUTION

1. In accordance with the provisions of Section 462.358 of the Minnesota Statutes, or amendments thereto, the subdivider shall dedicate, to the public, lands for highway rights-of-way, street rights-of-way, utility easements, wetland easements, and similar lands required for perpetual and public improvements.
2. The City of Mayer finds it in the public interest and necessary to provide future parks, trails, and other public open and recreational spaces for the citizens of Mayer. As such, for every new subdivision of land involving three or more lots which are to be developed for residential purposes, the City Council, with the recommendation of the Planning Commission, shall require a payment or dedication to the City of any one of the following, the details of which shall be reviewed on an annual basis at the beginning of each calendar year:
 - A. A reasonable portion of a land dedication for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, wetlands, or open space, up to 0.016 acres per resident expected in the proposed development, using the most recent average household size as determined by the Minnesota State Demographer's Office and the U.S. Census Bureau.
 - B. A payment of up to \$400 per expected resident in the proposed subdivision, using the most recent average household size as determined by the Minnesota State Demographer's Office and the U.S. Census Bureau.
 - C. A combination of land dedication and cash payment to the City for parks and open space purposes that reflects the values contained herein and in the City's Comprehensive Land Use Plan.
3. The amount of land and/or payment shall be set by the City Council, from the recommendation of the Planning Commission, after taking into consideration the open space, park, recreational, or common areas facilities which the applicant proposes to reserve for public use within the subdivision. If the area of the proposed subdivision contains land that has been officially designated as park or open space in the City's Comprehensive Plan, the subdivider shall dedicate the designated land for those purposes. In all cases, the following factors shall be taken into consideration when reviewing potential lands for park dedication:
 - A. The suitability of the land for its intended purpose.
 - B. The future needs of the community regarding parks, trails, and open spaces.
 - C. The amount of any fees imposed, consistent with the requirements and limitations contained in this Section.
 - D. Whether the land is adjacent to or near other public recreation lands.
 - E. Whether there is an opportunity to extend an existing or proposed trail or to enlarge an existing or proposed park or recreational facility.
 - F. Whether the land dedication would protect environmentally or historically significant or sensitive sites.
 - G. Whether the land dedication provides a unique public benefit or contains unique natural features.
4. Where private open space for park or recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision or owners of the development, the Planning Commission may consider granting a credit for park

dedication. A credit of up to 2.5% of the buildable area of the proposed open space may be given provided that the following conditions are met:

- A. The land area designated as open space and used in the calculation of the 2.5%-credit shall not include any area that is otherwise considered unbuildable, including, but not limited to, wetlands, steep slopes exceeding 12%, and the area within setbacks from property lines, required buffer zones, bluffs, and the ordinary high water mark, among others.
 - B. The land area designated as open space within the development is not occupied by non-recreational buildings, such as maintenance or caretaking buildings, and is available for use to all residents of the proposed subdivision.
 - C. 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 development and which cannot be defeated or eliminated without the consent of the City of Mayer.
 - D. The area required to obtain increased densities shall not be included in the computation of such private open space.
5. Funds received by the City, in lieu of land dedication, shall be placed in a special fund in accordance with Section 462.358 Subdivision 2b, of the Minnesota Statutes.
 6. All land dedication pursuant to this Ordinance shall be conveyed to the City through a means approved by the City Attorney.

Subd. 1. General.

A. Authority.

~~Pursuant to Minnesota Statute 462.358, as amended, the City Council shall require subdivider requesting platting or replatting of land or a planned unit development within the jurisdictional boundaries of this Ordinance to contribute a percent of the final gross area of the subdivision to be dedicated to the public for public uses as parks, playgrounds, public open space, or storm water holding areas or ponds; or that the subdivider contribute an equivalent amount in cash based upon the fair market value of the underdeveloped land as determined by the County Assessor at the time of final plat approval; or any combination thereof. The form of contribution (cash, land, or and combination) shall be determined based upon the following conditions outlined below.~~

B. Residential Subdivisions.

~~Except as otherwise provided in SECTION 6, Subd. 5, in residential subdivisions, the subdivider shall pay to the City of Mayer a sum equal to ten percent (10%) of the fair market value, as determined by the County Assessor at the time of final plat approval, of the undeveloped land proposed to be subdivided. Any sums so paid shall be deposited into a separate City fund to be used only for purposes outlined in SECTION 6, Subd. 1A.~~

C. Commercial, Industrial or other Nonresidential Subdivisions.

~~In nonresidential subdivisions, the City may decide not to require the subdivider to contribute land, cash or any combination thereof. In those instances, however, where the City deems it in the public interest to require a contribution, the subdivider shall dedicate five (5) percent of the undeveloped land proposed to be subdivided for purposes outlined in SECTION 6, Subd. 1A; or an equivalent amount in cash; or any combination thereof. Such contribution shall be based upon a finding of fact as outlined in SECTION 6, Subd. 1D.~~

Subd. 2. Special Fund.

~~All money collected from cash contributions shall be placed in a special fund from which only those public uses outlined in SECTION 6, Subd. 1A, may be realized.~~

Subd. 3. Delayed Contribution.

~~Upon petition by the subdivider, the City Council may approve a delay in the actual contribution of the cash required in lieu of land until such time as development occurs on the property being subdivided provided that a proper legal agreement is executed guaranteeing such contribution. Delayed contribution payment shall include eight percent interest (8%) per year.~~

Subd. 4. Land Dedication.

~~In such cases where the subdivider is required to dedicate land area, the City Council shall have the right to determine the geographic location and configuration of said dedication.~~

Subd. 5. Exception.

~~The subdivider, rather than making a cash payment in lieu of land dedication, shall dedicate land for park purposes if the area in which said land is located has officially been designated as park or open space in the City land use plan. In such case, the value of land contributed shall not be less~~

~~than ten percent (10%) of the fair market value of the undeveloped land proposed to be subdivided as determined by the County Assessor at the time of final plat approval.~~

Subd. 6. State Law Requirements.

~~In such cases where the subdivider is required to dedicate land to comply with State Law requirements the subdivider shall do so. Any land dedicated in such cases shall not count towards meeting the City's dedication requirements.~~

SECTION 7. REQUIRED IMPROVEMENTS

Subd. 1. General.

The following improvements shall be compiled with and provided in accordance with City standards and approval and as provided within the plat agreement as indicated in SECTION 7, Subd. 3 of this Ordinance.

Subd. 2. Improvements.

All improvements identified below and as included within the subdivision agreement shall be installed at the expense of the subdivider through either a Development Agreement, or Agreement for the City to install and specially assess the Property, at the discretion of the City, according to standards and specifications approved by the City Council:

- A. The full width of all street right-of-ways and utility easements as approved on the final plat will be finished at rough grade, i.e., no more than six (6) inches from the finished grade.
 - B. Sanitary sewer, water and drainage facilities, and electric, telephone and gas service lines shall be installed as required in the subdivision agreement. ~~Where City water and sewer facilities are not available for extension into the subdivision, the Council may permit the use of individual water and sewer systems in accordance with appropriate state and city laws, ordinances, and regulations.~~
- All new subdivisions shall be required to connect to the public sewer and water system.
- C. All road pavement, shoulders, drainage improvements and structures, curbs, turnarounds, and sidewalks shall conform to all construction standards and specifications adopted by the Planning Commission, City Engineer or City Council, and shall be incorporated into construction plans required to be submitted by the developer for plat approval.
 - D. Street signs and street lights will be installed as required by the subdivision agreement.
 - E. As required by the City, street trees and boulevard sodding shall be planted and sidewalks shall be installed.
 - F. Other miscellaneous facilities as may be required by the City shall be installed.

Where feasible, all utility service lines shall be placed underground within easements or dedicated right-of-ways. All drainage and other utility installations which traverse privately owned property shall be protected by proper easements and/or legal agreements.

Subd. 3. Subdivision Agreement.

Prior to the approval of the final plat by the City Council, the owner or subdivider of the land covered by the plat shall execute and submit to the Council an agreement, acceptable to the Council binding on his or theirs heirs, personal representatives and assigns, which includes, but is not limited to, the following:

- A. A listing or schedule of when and what improvements shall be required as recommended by the Planning Commission and approved by the City Council.
- B. A provision containing all conditions, if any, imposed by the City Council upon approval of the Final Plat.
- C. A provision requiring financial sureties to be provided by the City for the installation and/or financing of improvements required in the Subdivision.
- D. A provision requiring the payment of all City fees, consulting fees, and expenses, including without limitation, outside legal fees, engineering and planning fees.

E. Other obligations of the subdivider with respect to the development of the Property contained in this or other City Ordinances.

F. Provisions assuring timely payment of all fees, including all park dedication and other fees required by this Ordinance and other regulations of the City.

G. Said agreement shall be reviewed and approved by the City Attorney prior to review and approval by the City Council.

New Section 7 Subd. 3.5

- a. A Developer Agreement shall be required for any project which involves redevelopment in the Central Business District (C-2) and/or requires the construction of public improvements, including without limitation roads, municipal sewer services, municipal water services, and lighting.
- b. Prior to approval of and issuance of a building permit, the applicant shall provide for the construction of the required improvements at the applicant's expense and shall enter into a Developer Agreement with the City, providing a letter of credit to the City in an amount equal to at least 125% of the of the estimated cost of the uncompleted improvements. The security shall be released by the City upon the satisfactory completion of the required improvements.
- c. All costs of the City Engineer, City Attorney, City Planner, financial experts, consultants, City staff and other professional costs borne by the City in writing and/or executing the Developer Agreement, estimates of costs, inspectors, financial arrangements, assessments, and pursuing legal remedies in the event of default by the applicant, shall be borne by the applicant or applicant's successors.
- d. The Developer Agreement shall be reviewed by the City Attorney and approved by the City Council.
- e.

Subd. 4. Financing Required Improvements.

Prior to the final plat approval and included within the subdivision agreement, the owner or subdivider shall submit the City Council for approval an alternative to be utilized in the financing of the required improvements. Such alternative shall be limited to a combination of the following:

A. Cash deposit, cash escrow agreement, or performance bond, with sureties satisfactory to the City submitted to the City Clerk for a City determined percentage of the estimated cost of such improvements.

B. An agreement binding on his or their heirs including a provision that no private construction will be made, nor no building permit shall be filed for such construction, nor any property sold or conveyed until all improvements required have been completed in a manner approved and inspected by the City.

D. Improvements within the subdivision which have been completed prior to final plat approval shall be accepted as equivalent improvements in compliance with the requirements of SECTION 7 of this Ordinance, but only if the improvements conform to applicable State and City standards.

Improvement costs shall include all construction costs incurred in making such improvements, all expense incurred by the City for engineering, planning and legal fees, and all other expenses in connection with the making of such improvements.

SECTION 8. VARIANCES AND AMENDMENTS

Subd. 1. Procedure.

A. Application Form.

To request a variance, the requestor shall complete an application form provided by the City and shall include all required information specified in the application instructions. An incomplete or inaccurate application form need not be accepted by the City.

B. Public Hearing.

The City, on behalf of the Planning Commission, shall set a date for a public hearing. Notice of such hearing shall be published in the official newspaper of the municipality at least ten (10) days prior to the date of the meeting. In the requests for variances, such notice shall also be mailed not less than ten (10) days to all property owners of record

within three hundred and fifty (350) feet of the property to which the request relates, and if the variances related to land located in a Shoreland or Flood Plain District, said notice shall also be mailed to the Commissioner of the Department of Natural Resources at least ten (10) days prior to such hearings. A copy of the notice and a certified list of the property owners and addresses to which the notice was sent shall be supplied by the applicant or at their expense and made a part of the official record. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

C. The City shall refer said application, along with a staff report and other related information, to the Planning Commission for consideration.

D. The Planning Commission shall consider the request and hold a public hearing at its next regular meeting unless the filing date falls within twenty (20) days of said meeting, in which case the request would be placed on the agenda and considered at the regular meeting following the next regular meeting. The City shall refer said application, along with all related information to the City Planning Commission for consideration. The applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed amendment or conditional use.

E. Approval Factors.

In request for variances, the Planning Commission may recommend a variance from the provisions of this Ordinance when, in its opinion, undue hardship may result from strict compliance. In recommending any variance, the Commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its recommendations, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, and the number of persons to reside or work in the proposed subdivision, upon traffic conditions in the vicinity. A variance shall only be recommended when the Planning Commission finds:

1. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of their land.
2. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.
3. That the variance is to correct inequities resulting from an extreme physical hardship such as topography, soils, wetlands, etc.

F. Recommendations.

Within sixty (60) days from the date of the public hearing, the Planning Commission shall make a recommendation, and in requests for variances shall also make a finding of fact to the City Council.

G. Upon receiving the recommendation of the Planning Commission, or until sixty (60) days after the public hearing at which the request was considered, the City Council shall place the report and recommendation on the agenda for the next regular meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the City Council meeting.

H. Council Action.

Upon receiving the recommendation of the Planning Commission, the City Council shall either:

1. Approve or disapprove the request as recommended by the Planning Commission, or
2. Approve or disapprove the recommendation of the Planning Commission with modifications, alterations, or differing conditions. Such modifications, alterations, or differing conditions shall be in writing and made of the Council's record, or
3. Refer the recommendation back to the Planning Commission with future consideration. This procedure shall be followed only one time on a singular action.

Approval of a request shall require passage by two-thirds (2/3) vote of the full City Council. The City Clerk shall notify the applicant, in writing, of the Council's action. The variance decisions of the City Council shall be final, subject to the judicial review.

I. DNR Requirements.

Variance decisions affecting all or part of any land located within the "5" Shoreland District or "FP" Flood Plain District shall be mailed to the Commissioner of the Minnesota Department of Natural Resources within ten (10) days of the decision.

Subd. 2. Lapse of Variance.

Whenever within one (1) year after granting a variance the work as permitted by the variance shall not have been completed, then such variance shall become null and void unless a petition for extension of time in which to complete the terms has been granted by the City Council. Such extension shall be requested in writing and filed with the City Clerk at least thirty (30) days before the expiration of the original variance. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted by the variance. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision, and shall be made only one time for singular action.

SECTION 9. FEES

Subd. 1. To defray the administrative costs of processing requests for applications under this Ordinance a base fee shall be paid by all applicants, in accordance with a fee schedule adopted by resolution periodically by the City Council.

Subd. 2. In order to defray the additional cost of processing amendments for development, all applicants shall pay the total cost of staff and/or consulting time exclusively in producing materials for the applicants request, and all materials for said request.

1. "Materials" shall include, but not be limited to, maps, graphs, charts, drawings, etc., and all printing or reproduction of them.
2. "Staff and/or Consulting Time" shall include any time spent in either researching for or actual production of materials.
3. The hourly rate for "staff and/or consulting time" shall be established and made available to the applicant by the City Clerk prior to production of any materials and the applicant shall be given a reasonable estimate of project time and/or materials costs.

Subd. 3. Fees shall be payable at the time applications are filed with the City Clerk and are not refundable unless application is withdrawn prior to referral to the Planning Commission and prior to any publication required by the application. A deposit to cover staff or consulting time and special materials will be estimated and required by the City Clerk at the time the base fee is paid.

Subd. 4. Fee schedule for subdivision applications shall be set and adopted by resolution by the City Council.

SECTION 10. ENFORCEMENT, PENALTY, NOTIFICATION, AND DISCLOSURE

Subd. 1. Enforcement.

Unless approved as a final plat as provided herein, no subdivision shall be entitled to record in the County Recorder's Office or have validity; and the City Clerk shall not issue building permits for any structure on a lot in any proposed subdivision. The City shall not permit any public improvements to be installed unless the final plat is approved and recorded.

Subd. 2. Penalty.

Any firm, person or corporation who violates any of the provisions of these regulations, or who sells, leases or offers for sale or lease any lot, block or tract of land herewith regulated before all the requirements of this Ordinance have been complied with shall be guilty of a misdemeanor. Each day that the violation is permitted to exist constitutes a separate offense.

Subd. 3. Notification.

A certified copy of every ordinance, resolution, amendment or regulation adopted under this Ordinance shall be filed with the Carver County Recorder's Office. Copies of resolutions governing subdivision plats within the City, but contiguous to another city shall be filed with the governing body of the contiguous city.

SECTION 12. EFFECTIVE DATE

Subd. 1. This Ordinance shall take effect thirty (30) days from the date of its publication in the Carver County News.

ADOPTED this ____ day of ____, 2005, by the Mayer City Council.