

CHAPTER 154: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

§ 154.01 TITLE.

This chapter shall be known and may be cited as the Lake City Subdivision Regulations. (1981 Code, §225.03)

§154.02 INTENT AND PURPOSE.

(A) The process of dividing raw land into separate parcels for other uses, including residential, industrial and commercial sites, is one of the most important factors in the growth of any community. Once the land has been subdivided and the streets, homes and other structures have been constructed, the basic character of this permanent addition to the community has become firmly established. It is therefore to the interest of the general public, the developer and the future landowners that subdivisions be conceived, designed and developed in accordance with the highest possible standards of excellence.

(B) All subdivisions of land hereafter submitted for approval shall fully comply, in all respects, with the regulations set forth herein. It is the purpose of these regulations to:

- (1) Encourage well planned, efficient and attractive subdivisions by establishing adequate standards for design and construction;
- (2) Provide for the health and safety of residents by requiring the necessary services such as properly designed streets and adequate sewage and water service;
- (3) Place the cost of improvements against those benefiting from their construction;
- (4) Secure the rights of the public with respect to public lands and waters;
- (5) Improve land records by establishing standards for surveys and plats;
- (6) Protect the environmentally sensitive areas in the city;
- (7) Preserve energy by allowing solar and earth-sheltered structures. (1981 Code, § 255.05)

§ 154.03 SCOPE AND LEGAL AUTHORITY.

(A) *Scope.* The rules and regulations governing plats and subdivision of land contained herein shall apply within the city and within two miles of the city boundaries as permitted by Minnesota State Statutes and as approved by the city. Except in the case of resubdivision, this chapter shall not apply to any lot or lots forming a part of a subdivision recorded in the Office of the Goodhue and Wabasha County Recorder prior to the effective date

of this chapter, nor is it intended by this chapter to repeal, annul or be in conflict with restrictive covenants running with the land. Where this chapter imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

(B) *Amendments.* The provisions of this chapter may be amended by the Lake City Council.

(C) *Validity.* Should a court of competent jurisdiction declare any part of this chapter to be invalid, such decision shall not affect the validity of the remainder.

(D) *Restrictions of filing and recording conveyances.*

(1) No conveyance of land in which the land conveyed is described by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1960, or to an unapproved plat made after these regulations become effective, shall be made or recorded unless the parcel described in the conveyance:

- (a) Was a separate parcel of record April 1, 1945, or the date of adoption of subdivision regulations, under Laws 1945, Chapter 287, or the adoption of subdivision regulations pursuant to a home rule charter; or
- (b) Was the subject of a written agreement to convey entered into prior to such time; or
- (c) Was a separate parcel of not less than two and one-half acres in area and 150 feet in width on January 1, 1966; or
- (d) Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980; or
- (e) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width; or
- (f) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels any one of which is less than 20 acres in area or 500 feet in width.
- (g) In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not

interfere with the purpose of the subdivision regulations, the platting authority may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded. Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subdivision shall be guilty of a misdemeanor. A municipality may enjoin such conveyance or may institute civil action in any court of competent jurisdiction.

- (h) These subdivision regulations shall be applicable to any parcels which are taken from existing parcels of record by metes and bounds description and the city may deny the issuance of building permits to any parcels so divided, pending compliance with the subdivision regulations.

(E) *Platting.* Any subdivision creating parcels, tracts or lots after the adoption of these regulations shall be platted.

(F) *City costs.* Any costs directly related to a given development, but not limited to professional fees and expenses incurred by the city for consultants, including, but not limited to planners, engineers, architects and attorneys, who the city determines in its sole judgment are necessary to assist the city in reviewing, implementing or enforcing the provisions of this chapter shall be reimbursed to the city by the applicant from a deposit made by the applicant with the city. The amount of the deposit, or any addition thereto required by the city, shall be established by the Planning Commission, which shall thereafter, from time to time, make an accounting thereof to the applicant. The city and the applicant may agree to share the costs of consultants based upon a specific written agreement. Any funds not used by the city shall be returned to the applicant at the conclusion of the project.
(1981 Code, § 225.07)

§ 154.04 RULES AND DEFINITIONS.

(A) *Rules.*

- (1) Words used in the present tense include the past and future tense; the singular number includes the plural and the plural includes the singular; the word **SHALL** is mandatory, and the words **SHOULD** and **MAY** are permissive.
- (2) In the event of conflicting provisions in the rest of these regulations, the more restrictive shall apply.

(B) *Definitions.* For the purpose of these regulations, certain terms and words are defined as follows, and to the extent that such terms or words are not herein defined, the definition thereof shall be as defined in the Lake City Zoning Code.

ALLEY. A public right-of-way less than 50 feet in width which normally affords a secondary means of vehicular access to abutting property.

ATTORNEY. The attorney employed by the city unless otherwise stated.

BLOCK. The enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.

BOULEVARD. The portion of the street right-of-way between the curb line and the property line.

BUTT LOT. A lot at the end of a block and located between two corner lots.

CLUSTER DEVELOPMENT. A subdivision development planned and constructed so as to group housing units into patterns while providing a unified network of open space and wooded areas and meeting the overall density regulations of this chapter and the zoning ordinance.

COMMUNITY. Lake City.

COMPREHENSIVE PLAN. A plan prepared by the city, including a compilation of policy statements, goals, standards and maps indicating the general locations recommended for the various functional classes of land use and for the general physical development of the community and includes any plan or parts thereof.

CONCEPT PLAN or **SKETCH PLAN.** A generalized plan of a proposed subdivision indicating lot layouts, streets, park areas and water and sewer systems presented to the city officials at the pre-application meeting.

CONTOUR MAP. A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

COPY. A print or reproduction made from a tracing.

CORNER LOT. A lot bordered on at least two sides by streets.

COUNTY. Goodhue or Wabasha County, Minnesota.

COUNTY BOARD. Goodhue or Wabasha County Board of Commissioners.

DEVELOPMENT. The act of building structures and installing site improvements.

DOUBLE FRONTAGE LOTS. Lots which have a front line abutting on one street and a back or rear line abutting on another street.

DRAINAGE COURSE. A watercourse or indenture for the drainage of surface water.

EASEMENT. A grant by an owner of land for a specific use by persons other than the owner.

ENGINEER. The registered engineer employed by the city unless otherwise stated.

FINAL PLAT. The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the City Council for approval and which, if approved, will be submitted to the County Recorder.

GOVERNING BODY. Lake City Council.

KEY MAP. A map drawn to comparatively small scale which definitely shows the area proposed to be platted and the areas surrounding it to a given distance.

LOT. A parcel of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

METES AND BOUNDS DESCRIPTION. A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

MINIMUM SUBDIVISION DESIGN STANDARDS. The guides, principles and specifications for the preparation of subdivision plats indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

OWNER. An individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

PEDESTRIAN WAY. A public right-of-way across or within a block intended to be used by pedestrians.

PERSON. Any individual, firm, association, syndicate or partnership, corporation, trust or any other legal entity.

PLAT. The drawing or map of a subdivision prepared for filing of record pursuant to the Zoning Code and containing all elements and requirements set forth in applicable local regulations adopted pursuant to M.S. §462.358, as it may be amended from time to time, and the Zoning Code.

PRELIMINARY APPROVAL. Official action taken by a municipality on an application to create a subdivision that establishes the rights and obligations set forth in M.S. § 462.358, as it

may be amended from time to time, and the applicable subdivision regulation. In accordance with M.S. § 462.358, as it may be amended from time to time, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing without limitation the number, layout and location of lots, tracts, blocks and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities and lands to be dedicated for public use.

PRELIMINARY PLAT. The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission and City Council for their consideration.

PRIVATE STREET. A street serving as vehicular access to one or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

PROTECTIVE COVENANTS. Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

RIGHT-OF-WAY. The publicly owned land along a street or highway corridor, a portion of which is covered by the street or highway pavement.

STREET WIDTH. For the purpose of this chapter, the shortest distance between the lines delineating the right-of-way.

STREETS.

- (a) **STREET.** A public way for vehicular traffic, whether designed as a street, highway, thoroughfare, arterial parkway, throughway road, avenue, lane, place or however otherwise designated.
- (b) **COLLECTOR STREET.** A street which carries traffic from local streets to arterials.
- (c) **CUL-DE-SAC.** A street turnaround with only one outlet.
- (d) **SERVICE STREET.** Marginal access street or otherwise designated as a minor street, which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.
- (e) **LOCAL STREET.** A street of limited continuity used primarily for access to the abutting properties and the local need of a neighborhood.
- (f) **ARTERIAL STREET.** A street or highway with access restrictions designed to carry large volumes of traffic between various sections of the city and beyond.

SUBDIVIDER. Any person commencing proceedings under this chapter to effect a subdivision of land hereunder for himself or for another.

SUBDIVISION. The separation of an area, parcel or tract of land under single ownership into two or more parcels, tracts, lots or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads or alleys for residential, commercial, industrial or other use or any combination thereof, except the following separations:

- (a) Where all the resulting parcels, tracts, lots or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
- (b) Creating cemetery lots;
- (c) Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

TRACING. A plat or map drawn on transparent paper or cloth which can be reproduced by using regular reproduction procedure.

ZONING ORDINANCE. A zoning ordinance or resolution controlling the use of land as adopted by the city. (1981 Code, § 225.09)

DATA FOR PRELIMINARY AND FINAL PLATS

§ 154.20 DATA FOR PRELIMINARY PLAT.

- (A) *Identification and description.*
 - (1) Proposed name of subdivision and street names, which shall not duplicate or be similar in pronunciation or spelling to the name of any plat heretofore recorded in Goodhue or Wabasha County.
 - (2) Location by section, township, range and by legal description.
 - (3) Name of municipality.
 - (4) Names and addresses of the record owner and any agent having control of the land, subdivider, land surveyor, engineer and designer of the plan.
 - (5) Graphic scale not less than one inch to 100 feet.
 - (6) North point.

- (7) key map, including area within one-mile radius of plat.
 - (8) Date of preparation.
 - (9) A current abstract of title or a registered property certificate along with any unrecorded documents and an opinion of title by the subdivider's attorney.
- (B) *Existing conditions in proposed tract.*
- (1) Boundary line of proposed subdivision, clearly indicated and to a close degree of accuracy.
 - (2) Existing zoning classifications for land within and abutting the subdivision, including flood plain and shoreland districts, if applicable.
 - (3) A general statement of the approximate acreage and dimensions of the lots.
 - (4) Location, right-of-way width and names of existing or platted streets or other public ways, parks and other public lands, permanent buildings and structures, easements and section and corporate lines within the plan.
 - (5) Boundary lines of adjoining unsubdivided or subdivided land, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.
 - (6) Topographic data, including contours at vertical intervals of two feet, watercourses, marshes, rock outcrops, power transmission poles and lines and other significant features may also be required to be shown.
 - (7) An analysis of the soils by representatives of the Goodhue or Wabasha County Soil and Water Conservation District. The city may require soil borings if deemed necessary by the Planning Commission or City Council.
 - (8) If applicable, limits of the flood plain, floodway and flood fringe areas.
 - (9) Existing zoning and land use in the area within 100 feet of the boundaries of the tract.
 - (10) Plans for water supply, sewage disposal, drainage and flood control. Location and size of existing sewers, water mains, culverts or other underground facilities within the preliminary plan area. Such data as existing grades, invert elevations and location of catch basins, manholes, hydrants and street pavement width and type shall also be shown.

(C) *Subdivision design features.*

- (1) Layout and width of proposed streets and utility easements, pedestrian ways showing street names, lot dimensions, parks and other public areas. The street layout shall include all contiguous land owned or controlled by the subdivider.
- (2) Proposed use of all parcels, and if zoning change is contemplated, proposed zoning amendment.
- (3) Preliminary street grades and drainage plan.
- (4) Layout, numbers and preliminary dimensions of lots and blocks.
- (5) When lots are located on a curve, the width of the lot at the building setback line.

(D) *Other information.*

- (1) Where a subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require that the subdivider submit a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision.
- (2) Potential resubdivision and use of excessively deep or wide (over 200 feet) lots shall be indicated in a satisfactory manner.
- (3) A plan for soil erosion and sediment control both during construction and after development has been completed.
- (4) Such other information as may be requested by the city staff, Planning Commission or City Council. (1981 Code, § 225.13(A))

§ 154.21 DATA AND REQUIREMENTS FOR FINAL PLAT.

(A) The plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall comply with the appropriate provisions of Minnesota Statutes and of these regulations.

(B) Data as required by the City Engineer; for example, accurate angular and linear dimensions for all lines, angles and curvatures used to describe boundaries, streets, easements and other important features.

- (C) Identification and description data as required for the preliminary plat.
- (D) Boundaries of the property lines of all proposed streets and alleys with their width and other areas intended for public use.
- (E) Lines of adjoining streets and alleys with their width and names.
- (F) All lot lines and easements, with figures showing their dimensions.
- (G) An identification system for all lots and blocks.
- (H) Certification by a registered land surveyor to the effect that the plat represents a survey made by him or her and that monuments and marker thereon exist as located and that all dimensional and geodetic details are correct.
- (I) Notarized certification by the owner and by any mortgage holder of record of adoption of the plat and the dedication of streets and other public areas.
- (J) Certifications showing that all taxes currently due have been paid.
- (K) Title opinion by a practicing attorney-at-law based upon an examination of an abstract of the records of the Goodhue or Wabasha County Recorder for the lands included within the plat and showing the title to be in the name of the owner or subdivider. The date of continuation of the abstract examined or the date of the examination of the records shall be within 30 days prior to the date the final plat is filed with the County Auditor. The owner or subdivider shown in the title opinion shall be the owner of record of the platted lands on the date of recording of the plat with the Goodhue or Wabasha County Recorder.
- (L) Execution by all owners of any interest in the land and any holders of a mortgage therein of the certificate required by Minnesota Statutes and which certificate shall include an accurate legal description of any area to be dedicated for public use and shall include a dedication to the city of sufficient easements to accommodate utility services in such form as shall be approved by the City Attorney. (1981 Code, § 225.13(B))

§ 154.22 CERTIFICATIONS.

The final plat shall include the required certifications by the city and county officials. This shall include a signature by the Chairperson of the Planning Commission indicating that the plat has been reviewed by the Planning Commission.

- (A) Form for approval by signature of county officials concerned with the recording of the plat.
 - (1) Checked and approved as to compliance with M.S. Ch. 505, as it may be amended from time to time.
 Dated this _____ day of _____, 20____

(Name) Goodhue or Wabasha County Engineer

- (2) No delinquent taxes and transfer entered this ____ of _____, 20__.

(Name) Goodhue or Wabasha County Auditor

- (3) Document Number _____

I hereby certify this instrument was filed in the office of the County Recorder for record on this ____ day of _____, 20__, at ____ o'clock __.m. and was duly recorded in Book _____ of _____ on page _____.

(Name) County Recorder, Goodhue or Wabasha County

- (4) If property being platted is in the Torrens Systems, use the following:

Document Number _____.

I hereby certify this instrument was filed in this office of the Registrar of Titles for record on this ____ day of _____, 20__, at ____ o'clock __.m. and was duly recorded in Book _____ of _____, on page _____.

- (B) Form of approval by signature of city officials.

- (1) Checked and approved as in compliance with the Lake City Zoning Ordinance and Subdivision Regulations.

(Chairman, Lake City Planning Commission)

- (2) Form for approval by the City Attorney:

I hereby certify that proper evidence of title has been presented to and examined by me, and I hereby approve this plat as to form and execution.

Dated this ____ day of _____, 20 ____.

(Name) Lake City Attorney

- (3) Approved by Lake City Council on this ____ day of _____, 20__.

Mayor, Lake City

Attest:

City Administrator

(1981 Code, § 225.13 (C))

SUBDIVISION DESIGN STANDARDS

§ 154.35 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SOLAR ENERGY STATEMENT. A detailed analysis prepared by the subdivider or developer which includes the following information:

- (1) Solar orientation of all lots and streets;
- (2) Probable siting of all improvements within the development and their relationship to solar orientation;
- (3) Documents with regards to access to direct sunlight for solar energy devices within the development;
- (4) Other energy considerations affecting or included in the development;
- (5) Location of a solar benchmark if necessary for purposes of identifying solar access. The solar benchmark shall serve as a reference point for solar easements and covenants within the subdivision.

SOLAR LOT. A lot which is in compliance with the following specifications:

- (1) The designated north/south lot lines lie within +15 degrees east or west of the axis;
- (2) On December 21, at solar noon, 75% of the surface area of the lot receives direct sunlight when shadowed by a hypothetical wall ten feet tall located along the southernmost boundary of the lot in question. For rectilinear lots lying off a due north/south direction and for curvilinear lots, the hypothetical wall shall continue on the adjacent south property lines until a complete shadow pattern for the given lot, if found.
(1981 Code, § 225.15(J))

§ 154.36 CONFORMITY WITH THE COMPREHENSIVE PLAN.

The proposed subdivision shall conform to the Comprehensive Plan adopted by the city. (1981 Code, § 225.15(A))

§ 154.37 STREETS AND THOROUGHFARES.

(A) *General street design.*

- (1) The design of all streets shall be considered in relation to existing and planned streets, to reasonable circulation of traffic, topographical conditions, to run-off of storm water and to the proposed uses of the area to be served.
- (2) Where new streets extend existing adjoining streets their projection shall be at the same or greater width, but in no case less than the minimum required width.
- (3) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets so that parcels will not be land-locked. When a new subdivision adjoins developable land, then the new streets shall be carried to the boundaries of such unsubdivided land.

(B) *Street names.* Street names shall not duplicate the names of other streets.

(C) *Street width and grade.*

(1) *Street grade.*

- (a) Unless necessitated by exceptional topography subject to the approval of the City Council and maximum centerline grade of any street or public way shall not exceed the following:

- | | |
|---|--|
| (1) Arterial streets: | 6%; |
| (2) Collector streets: | 8%; |
| (3) Local Streets, alleys and frontage streets: | 10%; |
| (4) Pedestrian ways: | 12%, unless steps of acceptable design are provided. The grade of any street shall in no case exceed 12% or be less than 0.5%. |

- (b) The following standards of street design shall be observed by the subdivider. The City Council may require the subdivider to conform to urban section standards if the average lot width in the proposed subdivision is less than 150 feet measured at the street setback line. If the average lot width is in excess of 150 feet the subdivider may conform to the rural section standards.

(2) *Street width.*

Urban Section Standards

<i>Street Type</i>	<i>Right-of-Way Width to be Reserved</i>	<i>Right-of-Way Width to be Reserved</i>	<i>Pavement Width</i>
Arterial street Four-lane divided Not divided	120 feet 70 feet	100 feet 70 feet	Dual: 34 feet (20 feet median) 48 feet
Collector Street	66 feet	66 feet	44 feet
Minor streets, 1,000 or more feet in length for single-family development and in all multi-family developments	60 feet	60 feet	36 feet
Minor streets less than 1,000 feet in length in single-family developments and cul-de-sac and frontage street	50 feet	50 feet	26 feet
Alleys	25 feet	25 feet	20 feet

Rural Section Standards

<i>Street Type</i>	<i>Right-of-Way Width to be Reserved</i>	<i>Right-of Way Width to be Reserved</i>	<i>Pavement Width</i>
Arterial streets Four-lane divided	150 feet	100 feet	Dual: 24 feet 10 feet outside shoulder; 4 feet inside shoulders; (60 feet median)
Not divided	100 feet	100 feet	24 feet: 10 feet outside shoulders
Collector Streets	60 feet	60 feet	22 feet: 10 feet outside shoulders
Minor Streets	50 feet	50 feet	22 feet: 8 feet outside shoulders

(D) *Street intersections.* Insofar as practical, streets shall intersect at right angles. In no case shall the angle formed by the intersection of two streets be less than 60 degrees. Intersections having more than four corners shall be prohibited. Adequate land for future intersection and interchange construction needs shall be dedicated to the city.

(E) *Tangents.* A tangent of at least 150 feet shall be introduced between reverse curves on collector streets and 100 feet on lesser streets.

(F) *Deflections.* When connecting street lines deflect from each other at one point by more than ten degrees they shall be connected by a curve with a radius adequate to ensure a sight distance of no less than 500 feet for arterials, 300 feet for collectors and 100 feet for all other streets.

(G) *Street jogs.* Street jogs with centerline offsets of less than 150 feet shall be avoided.

(H) *Local streets.* Local streets shall be laid out so as not to encourage through traffic.

(I) *Cul-de-sac.* The maximum length of a street terminating in a cul-de-sac shall be 500 feet, measured from the centerline of the street of origin to the end of the right-of-way.

(J) *Access to arterial streets.* In the case where a proposed plat is adjacent to a limited access highway (arterial), there shall be no direct vehicular or pedestrian access from individual lots to such highways. As a general requirement, access arterials shall be at intervals of not less than one-quarter mile and through existing and established cross roads where possible. The City Council may require the developer to provide local service drives along the right-of-way of such facilities, or they may require that lots should back on the arterial, in which case, vehicular and pedestrian access between the lots and arterial shall be prohibited.

(K) *Half streets.* Half streets shall be prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted.

(L) *Private streets.* Private streets shall be prohibited.

(M) *Corners.* Curb lines at street intersections shall be rounded at a radius of not less than 15 feet.

(N) *Pedestrian walkways.* The Planning Commission and/or Council may require the provision of pedestrian ways in proximity to public service areas such as parks, schools, shopping facilities or in other appropriate locations of a similar nature. The design of the pedestrian walkways shall be considered in their relation to existing and planned pedestrian walkways, to reasonable circulation of traffic, to topographic conditions, to run-off of storm water and to the proposed uses of the area to be served. Pedestrian right-of-ways shall be at least ten feet wide.

(O) *Hardship to owners of adjoining property.* The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

(P) *Alleys.* Alleys shall be prohibited in residential areas unless special permission is granted by the City Council for their provision. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement. Dead-end alleys shall be avoided, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end. (1981 Code, § 225.15(B))

§ 154.38 BLOCKS.

(A) Block lengths shall not exceed 1,000 feet, and if possible, shall not be less than 400 feet. In blocks longer than 800 feet, a pedestrian crossway with the minimum right-of-way of ten feet may be required near the center of the block. The use of additional access ways to schools, parks and other destinations may be required also.

(B) The lengths, widths and shapes of blocks shall be appropriate for the topography and the type of development contemplated. (1981 Code, § 225.15(C))

§ 154.39 LOTS.

(A) *Size.* The lot dimensions shall be such as to comply with the minimum lot areas specified in the zoning ordinance.

(B) *Side lot lines.* Sidelines of lots shall be substantially at right angles to straight street lines or radial to curved street lines.

(C) *Drainage.* Lots shall be graded so as to provide drainage away from building locations.

(D) *Natural features.* In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, wetlands, steep slopes, water courses or similar conditions, and plans adjusted to preserve those which will add attractiveness, safety and stability to the proposed development.

(E) *Lot remnants.* All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable parcels unless the owner can show plans for future use of such remnant.

(F) *Double frontage lots.* Double frontage (lots with frontage on two parallel streets) or reverse frontage shall not be permitted except where lots back on an arterial or collector street. Such lots shall have an additional depth of at least ten feet in order to allow for screen planting along the back lot line.

(G) *Lots along arterial streets.* There shall be no direct vehicular access to arterial streets and highways, and residential lots shall be separated from primary streets and railroad rights-of-way by a 25-foot buffer strip, which may be in the form of added depth or width of lots backing on or siding on the street or railroad right-of-way. (1981 Code, § 225.15(D))

§ 154.40 EASEMENTS.

(A) *Utilities.* Easements of at least ten feet wide centered on side and rear lot lines shall be provided for utilities where necessary. Easements for storm or sanitary sewers shall be at least 20 feet wide. They shall have continuity of alignment from block to block. Temporary construction easements may be required where installation depths are greater than ten feet. Utility easements shall be kept free of any vegetation or structures that would interfere with the free movement of utility service vehicles.

(B) *Water courses.* When a subdivision is traversed by a water course, drainage way, channel or stream there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water courses and with such further width or construction as may be determined to be necessary by the City Engineer. (1981 Code, § 225.15(E))

§ 154.41 TREE REMOVAL AND CONSERVATION OF VEGETATION.

The standards related to tree removal contained in Chapter 97 shall be applicable to all proposed subdivisions. (1981 Code, § 225.15(F))

§ 154.42 SOIL EROSION AND SEDIMENT CONTROL.

The standards related to soil erosion and sediment control contained in the Zoning Code shall be applicable to all proposed subdivisions. (1981 Code, § 225.15(G))

§ 154.43 PARKS, OPEN SPACE AND PUBLIC USE.

(A) Where a proposed park, playground, school site or other public site shown on an adopted Comprehensive Plan or official map is embraced in part or in whole by a boundary of a proposed subdivision, such public ground shall be shown as reserved land on the preliminary plat to allow the Council, Board of Education or county and state agency the opportunity to consider and take action toward acquisition of such public ground or park or school site by purchase or other means prior to approval of the final plat.

(B) (1) It is declared general policy that in all new subdivisions, a percentage of the gross area of all property subdivided shall be dedicated for parks, playgrounds or other public use. Such percentage shall be in addition to the property dedicated for streets, alleys, waterways, pedestrian ways or other public ways. The following schedule shall be applicable to all subdivisions. This schedule is based upon density of the development allowed in each district and is intended to equalize the amount and value of land dedicated for parks per dwelling unit in the various districts.

(2) In areas zoned:

- (a) R-1 5% of the total land area;
- (b) R-2 6% of the total land area;
- (c) R-3 8% of the total land area;
- (d) R-4 10% of the total land area.

- (3) No areas may be dedicated as parks, playgrounds or public lands until such areas have been approved for the purpose to which they are to be dedicated. The parkland shall be graded to the contours set forth in the preliminary plat.
- (4) The developer shall provide a minimum of three inches of black dirt over the entire park area and the area shall be seeded with a type of seed approved by the city. The financial guarantees by the developer to the city shall be in effect at least until such time that the parkland is graded and seeded.
- (5) At least 50% of the gross area dedicated for parks, open space or public use shall be suitable for active recreation use; active recreation meaning organized playground activities such as softball, football and the like. These areas to be used for organized playground activities shall have a slope of less than 2% grade and be largely clear of forest vegetation. Other areas to be dedicated may be forested and may have steeper slopes.

(C) When the subdivision is small or does not include a park or public area shown on the Comprehensive Plan, or if in the judgment of the Council the area proposed to be dedicated is not suitable or desirable for park/playground purposes because of location, size or other reason, the Council may require, in lieu of land dedication, a payment to the municipality of a sum equal to the percentage listed above of the undeveloped value of the land to be subdivided. The undeveloped land value shall be the value of the land when ready to be platted but not including utility costs. The City Council and/or its agents shall have the authority to make the final determination of the value of the land for purposes of park dedication. If requested, the City Council shall provide the developer or landowner with the methodology used to calculate the value of the land.

(D) Such dedication of land for public use shall be without restrictions or reservations and shall be transferred to the city by deed or by plat. Money given to the city in lieu of land shall be used by the city only for acquiring or developing public parkland. (1981 Code, 5 225.15(H))

§ 154.44 STANDARDS FOR SOLAR LOTS.

All subdivisions and planned unit developments proposed after the effective date of this chapter shall be designed to accommodate the use of both active and passive solar energy systems.
(1981 Code, § 225.15(I))

§ 154.45 PERFORMANCE STANDARDS.

(A) At the time a subdivider or developer submits a preliminary plat for Planning Commission review, a solar energy statement for the proposed development shall be presented for consideration.

(B) To provide increased opportunity for south orientation of structures, streets shall be designed running in east/west directions and lots designed on a north/south axis. This provision shall apply where conditions reasonably warrant such design.

(C) When a proposed subdivision or planned unit development abuts an area developed with or specified for multi-story structures, the location of open space should be designed such that it will buffer shorter structures from the shadows cast by taller structures.

(D) The Planning Commission may recommend to the City Council that specific solar standards be modified and/or waived under the following circumstances:

- (1) The topography of the site is unsuitable for purposes of compliance with some or all of the solar standards;
- (2) Compliance with some or all of the solar standards would adversely affect the natural features of the area being proposed for development;
- (3) Other design techniques such as clustering are a suitable means of achieving more efficient solar orientation and access.
(1981 Code, § 225.15(J))

§ 154.46 REQUIRED IMPROVEMENTS.

The subdivider-developer shall be required to provide the following improvements for all subdivisions unless the Council elects to do so under a cash escrow agreement.

(A) *Monuments.* Steel monuments shall be placed within six inches of final elevation at all lot corners, block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat. Such installation shall be the subdivider's expense and responsibility. All U.S., state, county or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

(B) *Streets.*

- (1) *Grading.* Streets shall be graded to the full width of the right-of-way in accordance with street grades submitted to and approved by the Engineer or as approved by him or her. All street grading and gravel base construction shall be in accordance with specifications on file in the Engineer's office. Grading shall be complete prior to installation of applicable underground utilities, either private or public in nature. Gravel base construction shall be undertaken after completion of the installation of underground utilities.
- (2) *Surfacing.* Following the City Engineer's approval of street grading and after utility installation, streets shall be surfaced and provided with concrete curbs and gutters in accordance with the latest recommended plans and specifications prepared by the Engineer and approved by the City Council and on file in the Recorder's Office.
- (3) *Rural street section.* When permanent rural street sections have been approved by the City Council the subdivider shall finish grading all shoulders and road ditches, install all necessary culverts at intersections and, if required, surface ditch inverts to prevent erosion and sedimentation in accordance with plans and standard specifications approved by the City Council.

(C) *Sidewalks and driveways.* Driveways shall be constructed from the curb and gutter to the property line or proper side of sidewalk. In cases where driveways are constructed after curbing and sidewalk are in place, the sidewalk shall be reconstructed in accordance with driveway specifications to the width of the driveway.

(D) *Utilities.*

- (1) *Installation.* All utilities, whether private or public, shall be installed underground so as to enhance the visual appearance of the area, unless special permission is granted by the Council for other installations. Where utilities are to be installed in street or alley rights-of-way, such installations shall take place prior to street surfacing. Water and sewer services shall be laid to the property line.
- (2) *Sanitary sewer.* Sanitary sewer facilities adequate to serve the subdivision shall be installed in accordance with the latest plans and specifications of the City Engineer and shall meet the requirements of the master plan for sanitary sewer extensions of the city. All new construction shall be connected to the municipal sanitary sewer system. If public sewer facilities are not available, the subdivider shall make provisions for adequate private sewage disposal systems meeting state standards.
- (3) *Water supply.* Water distribution facilities adequate to serve the subdivision

shall be installed in accordance with the latest plans and specifications of the Engineer and shall meet the requirements of the master plan for water main extensions of this municipality. All new construction shall be connected to this municipal water system.

(E) *Drainage facilities.* Storm sewer and/or other surface drainage facilities shall be installed as determined to be necessary by the city Engineer for the proper drainage of surface waters.

(F) *Other utilities.* The subdivider shall cause gas, electrical power and telephone facilities to be installed in such a manner as to make adequate service available to each lot in the subdivision. No such electrical or telephone service shall be located on overhead poles along the front lot lines unless otherwise allowed due to exceptional topography or other physical barrier.

(G) *Tree planting or street trees.* In areas lacking trees as determined by the city, street trees shall be planted not less than 40 feet apart, with a minimum of one per lot. No trees shall be planted within 40 feet of the intersection of curb lines on corner lots. The minimum size shall measure one and one-half inches in diameter at ground line. Only those locations approved by the Council shall be used.

(H) *Specifications and inspections.* Unless otherwise stated, all of the required improvements shall conform to engineering standards and specifications as required by the City Council. Such improvements shall be subject to inspection and approval by and shall be made in sequence as determined by the City Engineer. (1981 Code, § 225.17)

Cross-reference: Trees, see Chapter 97

§ 154.47 PLANNED UNIT DEVELOPMENTS.

Upon receiving a report from the Planning Commission, the City Council may grant a variance from the provisions of these regulations in the case of a planned unit development, as defined in the Zoning Code, provided that the Council shall find that the proposed development is fully consistent with the purposes and intent of these regulations. This provision is intended to provide the necessary flexibility for new land planning and land development trends and techniques. (1981 Code, § 225.21(B))

§ 154.48 MINOR SUBDIVISIONS.

(A) In the case of a subdivision resulting in three parcels or less situated in a locality where conditions are well defined, the City Council may exempt the subdivider from complying with some of the requirements of these regulations. In the case of a request to subdivide a lot which is a part of the recorded lot, or where the subdivision is to permit the adding of a parcel of land to an abutting lot or to create not more than three 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 City Council, after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision.

(B) In the case of a request to divide a lot which is a 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 lots and the newly created property line will not cause the other remaining portion of the lot to be in violation with this regulation or the Zoning Code, the division may be approved by the City Council after submission of a survey by a registered land surveyor showing the original lot and the proposed subdivision. (1981 Code, § 225.21(C))

PAYMENT FOR INSTALLATION OF IMPROVEMENTS

§ 154.60 GENERAL.

The required improvements as listed in this chapter are to be furnished and installed at the sole expense of the subdivider. However, if the cost of an improvement would by general policy be assessed only in part to the improved property and the remaining cost paid out of general tax levy, provision may be made for the payment of a portion of the cost by the community. Further, if any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such lands, to be assessed against the same. In such a situation, the subdivider will be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision. (1981 Code, § 225.19(A))

§ 154.61 AGREEMENT PROVIDING FOR THE INSTALLATION OF IMPROVEMENTS.

(A) Prior to the installation of any required improvements and prior to approval of the plat, the subdivider shall enter into a contract in writing with the community requiring the subdivider to furnish and construct the improvements at his or her sole cost and in accordance with plans and specifications and usual contract conditions. This shall include provision for supervision of details of construction by the engineer and shall grant to the engineer authority to correlate the work to be done under said contract by any subcontractor authorized to proceed thereunder and with any other work being done or contracted by the community in the vicinity. The agreement shall require the subdivider to make an escrow deposit or, in lieu thereof, to furnish a performance bond, the amount of the deposit or penal amount of the bond to be equal to 125% of the engineer's estimate of the total cost of the improvements to be furnished under the contract, or such lesser amount as the Council has authorized, including the cost of inspection. On request of the subdivider, the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat. In such event the amount of the deposit or bond may be reduced in a sum equal to the estimated cost of the improvements so completed prior to the acceptance of the plat. The time for completion of the work and the several parts thereof shall be determined by the governing body upon recommendation of the engineer after consultation with the subdivider. It shall be reasonable with relation to the work to be done, the seasons of the year and proper correlation with construction activities in the plat and subdivision.

(B) No subdivider shall be permitted to start work on any other subdivision without special approval of the City Council if he or she has previously defaulted on work or commitments. (1981 Code, § 225.19(B))

§ 154.62 FINANCIAL GUARANTEE.

(A) *General.* The contract provided for in § 154.61 shall require the subdivider to make an escrow deposit or, in lieu thereof, furnish a performance bond. The escrow deposit or performance bond shall conform to the requirements of this section.

(B) *Escrow deposit.* An escrow deposit shall be made with the City Treasurer in a sum equal to 125% of the total cost as estimated by the engineer of all the improvements to be furnished and installed by the subdivider pursuant to the contract, which have not been completed prior to approval of the plat. The total costs shall include costs of inspection by the community. The community shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by the community for completion of the work in case of default of the subdivider under said contract and for any damages sustained on account of any breach thereof. Upon completion of the work and termination of any liability, the balance remaining in said deposit shall be refunded to the subdivider.

(C) *Performance bond.* In lieu of making the escrow deposit, the subdivider may furnish a bank letter or credit of performance bond with corporate surety in a penal sum equal to 125% of the total cost as estimated by the engineer of all the improvements to be furnished and installed by the subdivider pursuant to the contract which have not been completed prior to the approval of the plat. The bond shall be approved as to form by the attorney and filed with the clerk.

(D) *Default.* In the event the subdivider defaults in the terms or conditions of the contract with the city for such improvements, the city may complete the project referred to in the contract and assess all costs of the completion incurred by the city against the real property being subdivided as a special assessment and collect it the same as if it were any other special assessment levied by the city against real property. (1981 Code, § 225.19(C))

§ 154.63 CONSTRUCTION PLANS AND INSPECTION.

(A) Construction plans for the required improvements conforming in all respects with the standards and ordinances of the community shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota and the plans shall contain his or her certificate. Such plans together with the quantities of construction items shall be submitted to the engineer for his or her approval and for his or her estimate of the total costs of the required improvement. Upon approval, such plans shall become a part of the required contract. The tracings of the plans approved by the engineer plus two prints shall be furnished to the community to be filed as a public record.

(B) All required improvements on the site that are to be installed under the provision of this regulation shall be inspected during the course of construction by the community engineer

at the subdivider's expense and acceptance by the community shall be subject to the engineer's certificate of compliance with the contract. (1981 Code, § 225.19(D))

§ 154.64 IMPROVEMENTS COMPLETED PRIOR TO APPROVAL OF PLAT.

Improvements within a subdivision which have been completed prior to application for approval of the plat or execution of the contract for installation of the required improvements shall be accepted as equivalent improvements in compliance with the requirements only if the engineer shall certify that he or she is satisfied that the existing improvements conform to applicable standards. (1981 Code, § 225.19(E))

ADMINISTRATION AND ENFORCEMENT

§ 154.75 PLAT PRESENTATION PROCEDURES.

The following procedures shall be followed in the administration of this chapter, and no real property within the jurisdiction of this chapter shall be subdivided and offered for sale or a plat recorded until a preliminary plat and a final plat of the proposed subdivision have been reviewed by the Planning Commission and the city staff and until the final plat has been approved by the City Council as set forth in the procedures provided herein. PUDs shall be presented in the same manner as other plats for the review of the Planning Commission and the approval of the City Council. (1981 Code, § 225.11(A))

§ 154.76 PRE-APPLICATION MEETING.

(A) Prior to the preparation of a preliminary plat, the subdividers or owners shall meet with the Zoning Administrator, City Engineer and other appropriate officials in order to be made fully aware of all applicable ordinances, regulations and plans in the area to be subdivided. At this time or at subsequent informal meetings, the subdivider may submit a general sketch plan of the proposed subdivision and preliminary proposals for the provision of water supply and waste disposal. The sketch plan can be presented in simple form but should show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivisions and developments and to the natural resources and topography of the site.

(B) The subdivider is urged to avail himself or herself of the advice and assistance of the local planning staff at this point in order to save time and effort and to facilitate the approval of the preliminary plat. (1981 Code, S 225.11(B))

§ 154.77 PRELIMINARY PLAT.

(A) After the pre-application meeting, the subdivider shall submit fourteen (14) copies of the preliminary plat to the Planning Department at least thirty (30) days prior to the Planning Commission meeting at which such plat is to be considered. The subdivider shall include a written statement along with the preliminary plat describing the proposed subdivision. The written statement shall include the anticipated development of existing natural features and

vegetation and any other information required by the subdivision regulations. (Ord. 368, 3/22/2004)

(B) The Zoning Administrator shall submit one copy of the preliminary plat to each Planning Commission member, the City Attorney, City Engineer and any other appropriate city officials. One copy shall also be submitted to the County Engineer if the plat abuts a county road and one copy to the State Department of Transportation if the plat abuts a state highway for review and comment.

(C) The City Attorney, City Engineer and Zoning Administrator and other appropriate city officials shall review the preliminary plat and shall transmit a report of their findings and recommendations together with any supporting material to the Planning Commission prior to the meeting at which such plat is to be considered. The subdivider shall be required to pay the cost of such services and the City Council shall establish a fee from time to time to cover such costs.

(D) The Planning Commission may require qualified technical and staff services such as economic and legal to review the preliminary plat and advise on its suitability regarding general planning; conformity with plans of other private and public organizations and agencies; and adequacy of proposed water supply, sewage disposal, drainage and flood control, special assessment procedures and other features. The subdivider shall also be required to pay the cost of such services.

(E) After the plat has been filed with the city and after reports and certifications have been received as requested, the Planning Commission shall hold a public hearing on the preliminary plat after notice of the time and place thereof has been published once in the official newspaper at least (10) ten days before the day of the hearing. This shall constitute the public hearing on the plat as required by state law. Following the conclusion of the public hearing, the Planning Commission shall make its report to the City Council.

(F) The Planning Commission may forward to the City Council a favorable, conditional or unfavorable report, and the report shall contain a statement of findings and recommendations.

(G) The City Council shall act to approve or disapprove. The preliminary application must be approved or disapproved by the City Council within the time limits specified in Minnesota Law (M.S. § 15.99, as it may be amended from time to time), unless an extension in accordance with said law has been invoked by the city. If the city fails to preliminarily approve or disapprove an application within the review period, the application shall be deemed approved, and upon demand the city shall execute a certificate to that effect. If the City Council disapproves the preliminary plat, the grounds for any such disapproval shall be set forth in the minutes of the City Council meeting and reported to the owners and subdividers.

(H) The approval of a preliminary plat is an acceptance of the general layout as submitted and indicates to the subdivider that he or she may proceed toward preparation of a final plat in accordance with the terms of approval and provisions of the subdivision regulations.

(I) During the intervening time between approval of the preliminary plat and the signing of the final plat, the subdivider must submit acceptable engineering plans for all required improvements to the City Engineer for review.

(J) In the case of all subdivisions, the Planning Commission shall recommend denial of, and the City Council may deny, approval of a preliminary or final plat if it makes any of the following findings:

- (1) That the proposed subdivision, including the design, is in conflict with any adopted component of the Lake City Comprehensive Plan;
- (2) That the physical characteristics of this site, including but not limited to topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention are such that the site is not suitable for the type of development or use contemplated;
- (3) That the site is not physically suitable for the proposed density of development;
- (4) That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage;
- (5) That the design of the subdivision or the type of improvements is likely to cause serious public health problems;
- (6) That the design of the subdivision or the type of improvements will conflict with easements of record. (1981 Code, § 225.11(C)) (Am. Ord. 368, passed 3-22-2004)

§ 154.78 FINAL PLAT.

(A) The subdivider shall engage a registered land surveyor to prepare a final plat, which shall constitute that portion of the preliminary plat which the subdivider proposes to record and develop at the time.

(B) The subdivider shall submit 14 copies of the final plat to the Planning Department at least 30 days before Planning Commission meeting at which such plat is to be considered. Such final plat shall be submitted within one year of preliminary plat approval; otherwise, such approval shall become null and void. In the event the preliminary plat is not entirely platted in final form within five years of approval, such preliminary plat shall be considered null and void.

(C) The final plat shall incorporate all changes required by the City Attorney, County Engineer regarding country roads and State Department of Transportation regarding state highways, but in all other respects it shall conform to the preliminary plat as approved.

(D) The Zoning Administrator shall transmit one copy of the final plat to each member of the Planning Commission, City Engineer, City Attorney and other appropriate city officials.

(E) The city staff shall review the final plat and shall transmit reports of their recommendations to all Planning Commission members prior to the meeting at which such plat is to be considered.

(F) The Planning Commission shall study the final plat, considering the reports of the City Engineer, City Attorney and other municipal departments and/or employees and then shall transmit its recommendations to the Council.

(G) The City Council shall act upon the final plat after receiving the recommendations of the Planning Commission, whereupon the City Clerk shall notify the subdivider of the Council's action. Upon request by the applicant for final plat approval by the city, the City Council shall act to approve or disapprove, which shall occur within the time limits established by Minnesota Law (M.S. § 15.99, as it may be amended from time to time) provided that the applicant has complied with all conditions and requirements upon which the preliminary approval was conditioned, either through performance or agreement assuring performance. If the city fails to certify final approval within the time frame, and if the applicant has complied with all conditions or requirements, the final plat shall be deemed approved and upon demand, the city shall execute a certificate to that effect.

(H) Upon approval of the final plat by the city of Lake City Council, the subdivider shall record such final plat with the Goodhue or Wabasha County Recorder, as provided for by that office, within 180 days after approval. Otherwise, the approval of the final plat shall be considered void. The subdivider shall, within 30 days of recording, furnish the City Clerk with the reproducible print of the final plat showing evidence of the recording. (1981 Code, § 225.11(D)) (Am. Ord. 368, passed 3-22-2004)

§ 154.79 EFFECT OF SUBDIVISION APPROVAL.

(A) For one year following preliminary approval and for two years following final approval, unless the subdivider and the municipality agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development, density, lot size, lot layout or dedication or platting required or permitted by the approved application.

(B) Thereafter, pursuant to its regulations, the city may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, the city may by resolution or agreement grant the rights referred to herein for such periods of time longer than two years which it determines to be reasonable and appropriate. (1981 Code, § 225.11(E))

§ 154.80 DISCLOSURE BY SELLER; PURCHASER'S ACTION FOR DAMAGES.

A person conveying a new parcel of land which, or the plat for which, has not previously been filed or recorded, and which is part of or would constitute a subdivision to which adopted subdivision regulations apply, shall attach to the instrument of conveyance either:

(A) Recordable certification by the clerk of the city that the subdivision regulations do not apply, or that the subdivision has been approved by the City Council or that the restrictions on the division of taxes and filing and recording have been waived by resolution of the City Council in this case because compliance will create an unnecessary hardship and failure to comply will not interfere with the purpose of the regulations; or

(B) A statement which names and identifies the location of the appropriate city offices and advises the grantee that subdivision and zoning regulations may restrict the use or restrict or prohibit the development of the parcel, or construction of it, and that the division of taxes and the filing or recording of the conveyance may be prohibited without prior recordable certification of approval, non-applicability or waiver from the city. In any action commenced by a buyer of such a parcel against the seller thereof, the misrepresentation of or the failure to disclose material facts in accordance with this chapter shall be grounds for damages. If the buyer establishes his or her right to damages, a district court hearing the matter may in its discretion also award to the buyer an amount sufficient to pay all or any part of the costs incurred in maintaining the action, including reasonable attorney fees and an amount for punitive damages not exceeding 5% of the purchase price of the land.

(1981 Code, § 225.11(F))

§ 154.81 MODIFICATIONS, EXCEPTIONS AND VARIANCES.

(A) *Hardship.* The City Council may grant a variance upon receiving a report from the Planning Commission in any particular case where the subdivider can show by reason of exceptional topography or any other physical conditions that strict compliance with these regulations would cause exceptional and undue hardship, provided such relief may be granted without detriment to the public welfare and without impairing the intent and purpose of these regulations. The Planning Commission may recommend variations from the requirements of this chapter in specific which, in its opinion, do not affect the Comprehensive Plan or the intent of this chapter. Any modifications thus recommended shall be entered in the minutes of the Planning Commission in setting forth the reasons that justify the modifications. The City Council may approve variances from these requirements in specific cases, which in its opinion meets the above requirements and do not adversely affect the purposes of this chapter.

(B) *Additional criteria.* In determining whether a variance should be issued for any of the requirements in § 154.46, the criteria used shall include, but not be limited to the following:

- (1) The economic feasibility of the subdivision and its improvements;
- (2) The best interest of the city;

- (3) That the reasonably anticipated value will be a benefit to the property;
- (4) That the value of the requested improvements will go no higher than the land value as benefited by the improvements;
- (5) That should a petition be submitted it shall be signed by and consented to by all owners in the subdivision. (1981 Code, § 225.21(A))

§ 154.82 BUILDING PERMITS.

No building permit shall be issued for any construction, enlargement, alteration or repair, demolition or moving of any building or structure on any lot or parcel until all the requirements of these regulations have been fully met. (1981 Code, § 225.23(A))

§ 154.99 PENALTY.

Any 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 these regulations have been complied with shall be guilty of a misdemeanor and, upon conviction thereof be subject to fine and/or imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense. (1981 Code, § 225.23(B))