

**SUBDIVISION  
ORDINANCE  
NO. 168**

**FOR THE**

**CITY OF  
ARLINGTON**

**Last updated December 4, 2014**

# TABLE OF CONTENTS

<b>SECTION 1: PURPOSE .....</b>	<b>3</b>
<b>SECTION 2: JURISDICTION.....</b>	<b>3</b>
<b>SECTION 3: AMENDMENTS .....</b>	<b>3</b>
<b>SECTION 4: BUILDING PERMITS.....</b>	<b>3</b>
<b>SECTION 5: SEPARABILITY.....</b>	<b>4</b>
<b>SECTION 6: INTERPRETATION.....</b>	<b>4</b>
<b>SECTION 7: DEFINITIONS .....</b>	<b>4</b>
<b>SECTION 7.25: BOUNDARY LINE ADJUSTMENTS .....</b>	<b>6</b>
<b>SECTION 7.5: MINOR ADMINISTRATIVE SUBDIVISIONS/CONSOLIDATIONS.....</b>	<b>8</b>
<b>SECTION 8: PRELIMINARY PLAT .....</b>	<b>9</b>
SUBDIVISION 1. PROCEDURE.....	9
SUBDIVISION 2. DATA STANDARDS.....	10
<b>SECTION 9: FINAL PLAT .....</b>	<b>13</b>
SUBDIVISION 1. PROCEDURE.....	13
<b>SECTION 10: SUBDIVISION DESIGN STANDARDS .....</b>	<b>14</b>
SUBDIVISION 1. GENERAL REQUIREMENTS.....	14
SUBDIVISION 2. LOT AND BLOCK STANDARDS.....	15
SUBDIVISION 3. STREET DESIGN STANDARDS .....	15
SUBDIVISION 4. STREET WIDTHS AND GRADES .....	16
SUBDIVISION 4.5. PEDESTRIAN CORRIDORS.....	16
SUBDIVISION 5. EASEMENTS.....	17
SUBDIVISION 6. EROSION AND SEDIMENT CONTROL.....	18
SUBDIVISION 7. PUBLIC LAND DEDICATION.....	18
SUBDIVISION 7.25 ENVIRONMENTAL PRESERVATION/PROTECTION MEASURES.....	20
SUBDIVISION 7.50 REQUIRED LANDSCAPING.....	22
<b>SECTION 11: ORDINANCE ADMINISTRATION.....</b>	<b>23</b>
SUBDIVISION 1. FINDINGS OF FACT.....	23
SUBDIVISION 2. CONDITIONAL APPROVAL.....	26
SUBDIVISION 3. VARIANCES, CITY COUNCIL APPROVAL, STANDARDS .....	27
SUBDIVISION 4. AMENDMENTS.....	29
SUBDIVISION 5. FEES.....	29
SUBDIVISION 6. VIOLATION/ENFORCEMENT .....	30

**THE COUNCIL OF THE CITY OF ARLINGTON SIBLEY COUNTY, MINNESOTA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1: PURPOSE**

All subdivisions of land hereafter submitted shall fully comply in all respects with the regulations to:

- A. Provide for and guide the orderly, economic and safe development of land, urban services and facilities.
- B. Encourage well-planned, efficient and attractive subdivisions by establishing adequate and impartial standards for design and construction.
- C. Provide for the health, safety and welfare of the residents of the City of Arlington by requiring the necessary services such as properly designed streets and adequate sewage and water service.
- D. Place the cost of improvements against those benefiting from their construction.
- E. Set the minimum requirements necessary to protect the public health, safety, comfort, convenience and general welfare.

**SECTION 2: JURISDICTION**

These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the City of Arlington. No land shall be subdivided within the corporate limits of the City of Arlington until:

- A. The subdivider or his/her agent shall submit a preliminary plat of the parcel to the Planning Commission through the City Administrator;
- B. Obtain approval of the preliminary and final plat by the City Council; and
- C. The approved plat is filed with the Sibley County Recorder's Office.

**SECTION 3: AMENDMENTS**

The provisions of this Ordinance may be amended by the City following a legally advertised public hearing before the Planning Commission and in accordance with the law, including the rules and regulations of any applicable state or federal agency.

**SECTION 4: BUILDING PERMITS**

No building permit or certificate of occupancy shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with, the provisions of these subdivision regulations.

## **SECTION 5: SEPARABILITY**

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

## **SECTION 6: INTERPRETATION**

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules:

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and the future tenses, and the future the present.
- C. The word “shall” is mandatory while the word “may” is permissive.
- D. Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable condition imposed by any other law, ordinance, code, statute, resolution, or regulation, the regulations which are more restrictive or impose higher standards or requirements shall prevail.
- E. All measured distances shall be expressed in feet and decimals of feet.

## **SECTION 7: DEFINITIONS**

The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

**Alley** – A public right-of-way which affords a secondary means of access to abutting property.

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

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

**Building** – Any structure built for the support, shelter or enclosure of persons, animals or movable property of any kind, and includes any structure.

**City** – The City of Arlington.

**Comprehensive Plan** – A compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development of the City of Arlington.

**Design Standards** – The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as right-of-way, blocks, easements and lots.

**Easement** – Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his/her property.

**Final Plat** – The final map of a subdivision and any accompanying materials presented to the City Council for approval and which, if approved, will be duly filed with the Sibley County Recorder’s Office.

**Improvements** – The construction or installation of public or private utilities including, but not limited to, potable water, sanitary sewer systems, storm sewers, roads and other thoroughfares, sidewalks, curbs and gutters, paving, barricades, trees and other plantings, lighting, fuel or energy and the transmission thereof, transportation systems or facilities connected therewith and communication systems which are necessary, desirable or convenient in the maintenance of the health, safety and the general welfare of the City of Arlington.

**Lot** – A parcel, piece or portion of land designated by metes and bounds, registered land survey, auditor’s plat, or other means and separated from other parcels or portions by said description for the purpose of sale, lease or separation thereof, abutting a public street.

**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 bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

**Outlot** – A lot remnant or parcel of land left over after platting, which is intended as open space or other future use, for which no building permit shall be issued.

**Parks and Playgrounds** – Public lands and open space in the City of Arlington dedicated or reserved for recreational purposes.

**Planning Commission** – The planning agency or planning department as created by the City of Arlington.

**Preliminary Plat** – A detailed drawing or map of a proposed subdivision meeting the requirements herein and submitted to the Planning Commission and City Council for their consideration, in compliance with the Comprehensive Plan and Zoning Ordinance, along with the required supporting data.

**Protective Covenants** – Contracts made between private parties as to the manner in which land may be used with the view to protecting and preserving the physical and economic integrity of a given area.

**Right-of-Way** – Land acquired by reservation or dedication intended for public use, and intended to be occupied by a street, trail, utility lines, oil or gas pipeline, storm sewer or similar uses.

**Streets** – A public right-of-way affording primary access by pedestrians and vehicles abutting properties whether designated as a street, highway, thoroughfare, parkway, road, avenue, or however otherwise designated. Types include:

**Arterial Street** – A street carrying larger volumes of traffic and serving as a link between various areas of the City.

**Collector Street** – A street which carries traffic from local streets to the major system of arterials and highways. It includes the principal entrance streets of a residential development and streets for circulation within such a development.

**Cul-de-Sac Street** – A local street having only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

**Local Street** – A street whose primary function is to provide direct access to abutting property and the local needs of the neighborhood.

**Frontage Road Street** – A local street which is parallel and adjacent to an arterial street or highways; and which will provide access to abutting properties and protect from through traffic.

**Private Street** – A street serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public and is owned by one (1) or more private parties.

**Street Width** – The shortest distance between the lot line delineating the right-of-way of a street.

**Subdivider** – Any person, firm or corporation commencing proceedings under these regulations to effect a subdivision of land hereunder for himself/herself or another.

**Subdivision** – The division of a parcel of land into two (2) or more lots or parcels of land for the purpose of transfer of ownership or building development. The term includes re-subdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

**Zoning Ordinance** – The Zoning Ordinance as adopted by the City Council of the City of Arlington controlling the use of land.

## **SECTION 7.25: BOUNDARY LINE ADJUSTMENTS**

*Ordinance 284  
Effective Date September 12, 2013*

- A. **Applicability/Purpose.** This section is established to provide for administrative approval for changes in property lines through the attachment of land to a contiguous lot, tract, or platted or non-platted parcel. A boundary line adjustment is intended to modify or correct the location of a boundary line, to remedy adverse topographical features, to remedy encroachments of structures, to enable the sale of a portion of a lot to an adjoining property, and/or to remedy errors in perceived boundary lines subsequent to an official land survey. A Boundary Line Adjustment may be allowed provided any residual parcel or any existing structure does not become non-compliant or become further non-compliant with the provisions of the Zoning Ordinance.
- B. **Application.** Any person having a legal or equitable interest in a property may file an application for a Boundary Line Adjustment. An application for Boundary Line Adjustment shall be filed with the Zoning Administrator on an approved form and shall be accompanied by an assessment search, proof of ownership of the subject property,

submittal of the required fee(s) and a certificate of survey, prepared and signed by a Minnesota Registered Land Surveyor, illustrating the following:

1. Existing site improvements and existing boundaries with lot dimension and area.
2. Any encroachments and easements of record.
3. Existing legal description(s) of property.
4. Identification of the boundary to be moved and the location of the proposed boundary line.
5. The dimensions, setbacks, existing site improvements, and square footage for all lots resulting from the proposed Boundary Line Adjustment.

C. Review of Boundary Line Adjustment. The Zoning Administrator shall review all applications for Boundary Line Adjustments to determine compliance with the standards identified in this Section and all other pertinent requirements of this Ordinance and the Zoning Ordinance as may be amended. Upon written approval of the request, the developer shall be responsible for filing the certificate of survey with the County Recorder's Office. Should the request be denied, the Zoning Administrator shall notify the developer, in writing, of the findings of fact for such denial.

D. Findings Required for Approval. In order for the Zoning Administrator to grant approval for a proposed Boundary Line Adjustment, each of the following provisions shall be met:

1. All necessary right-of-way, utility, and drainage easements are provided as requested.
2. The Boundary Line Adjustment shall not create any additional lot, tract, parcel, or division of land.
3. All lots resulting from the Boundary Line Adjustment shall conform to lot area and width requirements of the City of Arlington Zoning Ordinance including all requirements established for the zoning district in which the property is located.
4. The Boundary Line Adjustment shall not result in the "Expansion, Enlargement, or Intensification" of an existing legal non-conforming lot or structure as defined in Section 14 of the Zoning Ordinance as may be amended and relating to non-conformance. In the event of the Boundary Line Adjustment is requested to remedy an existing non-conforming lot or structural element and the proposed Boundary Line Adjustment brings the existing non-conforming lot or structural element nearer to conformity it shall be considered meeting this requirement. In no case shall a Boundary Line Adjustment further expand, enlarge, or intensify an existing non-conforming lot or structural element.
5. The Boundary Line Adjustment shall not result or have the effect of replatting, amending, altering, or vacating a plat.
6. The proposed Boundary Line Adjustment is in compliance with the Comprehensive Plan.

## SECTION 7.5: MINOR ADMINISTRATIVE SUBDIVISIONS/CONSOLIDATIONS

*Amended by Ordinance 210  
Effective Date September 5, 2007*

- A. **Applicability/Purpose.** This Section is established to provide for administrative approval of subdivisions that meet specified criteria and for the waiver of standard platting requirements specified elsewhere in this Ordinance. It is intended largely to facilitate the further division of previously platted lots, the combination of previously platted lots into fewer lots, or for the adjustment of a lot line by relocation of a common boundary.
- B. **Application.** Any person having a legal or equitable interest in a property may file an application for Administrative Subdivision. An application for Minor Subdivision shall be filed with the Zoning Administrator on an approved form and shall be accompanied by an assessment search, proof of ownership of the subject property, the submittal of required fee(s) and the submittal of a survey, prepared and signed by a Minnesota Registered Land Surveyor, depicting the following:
1. Scale, one (1) inch equals fifty (50) feet or less and North point.
  2. Existing zoning district, existing site improvements and existing boundaries with lot dimension and area.
  3. All encroachments and easements of record.
  4. Legal description of property; existing and proposed.
  5. The boundary(ies) and legal description(s) of the lots as they are proposed to be subdivided along with proposed zoning.
  6. The boundary and legal description of any proposed or required easements for drainage, utilities, or roadways on the property.
- C. **Review of Administrative Subdivision.** The Zoning Administrator shall review all applications for Administrative Subdivision to determine compliance with the standards identified in this section and all other pertinent requirements of this Title. Upon written approval of the request, the developer shall be responsible for filing the subdivision survey with the County Recorder's Office. Should the request be denied, the Zoning Administrator shall notify the developer, in writing, of the findings of fact for such denial.
- D. **Findings Required for Approval.** In order for the Zoning Administrator to grant approval for a proposed Administrative Subdivision, each of the provisions shown below shall be met:
1. The proposed subdivision of land will not result in more than two (2) lots.
  2. All necessary right-of-way, utility and drainage easements are provided.
  3. All lots to be created by the subdivision conform to lot area and width requirements of the City of Arlington Zoning Ordinance including all requirements established for the zoning district in which the property is located.



4. The proposed Administrative Subdivision is in compliance with the Comprehensive Plan.
  5. Lots created have direct access onto a public street.
  6. The property has not been divided through the provisions of this Section within the previous five (5) years.
  7. The subdivision meets all design and dedication standards as specified elsewhere in this Ordinance.
  8. All basic improvements required by this Ordinance are installed in accordance with City standards.
  9. No parcel of land or portion thereof shall result in buildings and/or uses becoming non-conforming.
- E. The City and/or its assigns may impose such conditions on any proposed Administrative Subdivision that are deemed reasonable and necessary to protect the public interest and to ensure compliance with the provisions of this Ordinance including, but not limited to, the following:
1. The developer shall provide required utility and drainage easements for all newly created lots and be responsible for the cost of filing and recording written easements with the County Recorder's Office.
  2. That there be no more than one (1) principal structure on a base lot in all residential districts.
  3. Separate public sewer and water services shall be provided to each subdivided lot and shall be subject to the review and approval of the City Engineer.
  4. In the case of the subdivision of base lots containing two (2)-family, townhouse or quadraminium lots, wherein the purpose is to permit individual private ownership of a single dwelling within such a structure, verification of fire walls in compliance with the building code provided by a certified building inspector at the expense of the applicant.
- F. All other Minor Subdivision requests shall be approved by Resolution of the City Council following consultation with the Planning Commission.

## **SECTION 8: PRELIMINARY PLAT**

### **SUBDIVISION 1. PROCEDURE**

Prior to dividing any tract of land into two (2) or more lots or parcels of land, the owner or subdivider shall proceed as follows:

- A. The subdivider shall file ten (10) copies of the preliminary plat with the City Administrator.
- B. At the time of the filing of the preliminary plat, the subdivider shall pay to the City a fee as provided for by City Council Resolution.
- C. The City Administrator shall refer copies of the preliminary plat to the Planning Commission and one (1) copy to the City Engineer.
- D. The City Engineer shall submit a written report, or be present for an oral report, to the Planning Commission, which shall deal with drainage, street and other engineering matters pertinent to said preliminary plat.
- E. The Planning Commission shall hold a public hearing on the preliminary plat within forty-five (45) days after said preliminary plat is filed with the City Administrator. At said hearing, all persons interested in the plat shall be heard. Notice of the time and place of the said hearing and the full legal description of the area to be subdivided shall be published once in the official newspaper of the City at least ten (10) days before the day of the hearing. The City Administrator shall send notice at least ten (10) days prior to the day of said hearing to all property owners within three hundred fifty (350) feet of the boundaries of the preliminary plat.
- F. The Planning Commission shall conduct the hearing on the preliminary plat and shall make its recommendation to the City Council. It shall be the duty of the Planning Commission to determine whether the preliminary plat is compatible with the Comprehensive Plan and conforms with or exceeds the design standards established by this Ordinance.
- G. After the City Council has received the recommendation of the Planning Commission, the Council shall act to approve or disapprove the preliminary plat.
- H. Approval of a preliminary plat by the City Council is tentative only, subject to the compliance with all requirements and recommendations as a basis for the preparation of the final plat.
- I. At the time of the filing of the preliminary plat, the subdivider of the land included in the plat shall submit to the City Administrator an application for Rezoning, should this be needed.
- J. The City Council shall act on the preliminary plat within thirty (30) days after the conclusion of the public hearing.

## **SUBDIVISION 2. DATA STANDARDS**

The preliminary plat of the proposed subdivision shall contain or have attached thereto the following information:

- A. Identification and Description

1. Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in Sibley County.
2. Legal description of property according to the records in the Sibley County Recorder's Office.
3. Names and addresses of the owner and subdivider of the land, and the designer and surveyor of said plat. If the subdivider is not the fee owner of the land, the subdivider shall submit the written consent of the fee owner with the filing of the preliminary plat.
4. Graphic scale of not more than one hundred (100) inches to an inch.
5. North point, designated as true north.
6. Date of preparation.
7. Certification by registered surveyor certifying to the accuracy of the survey.

B. Existing Conditions

1. Boundary line survey, including measured distances and angles, which shall be tied to the nearest quarter section or section line by traverse.
2. Existing zoning classification for tract of land in and abutting the preliminary plat.
3. Total acreage to tenths.
4. Location and names of existing or platted streets and other public way, parks and public open spaces, permanent buildings and structures, easements, and section and municipal boundary lines within the plat and to a distance of one hundred (100) feet beyond.
5. If the preliminary plat is a rearrangement or a replat of any recorded plat, the lot and block arrangement of the original plat, its original name, and all revised or vacated roadways shall be shown by dotted or dashed lines.
6. Location and width of existing streets including type of surfacing, railroads, sanitary sewers, water mains, storm sewers, culverts, grades, invert elevations and locations of catch basins, manholes and hydrants and any underground facilities within the plat and to a distance of one hundred (100) feet beyond shall be shown.
7. Topographic data within the tract and one hundred (100) feet beyond its boundaries, including contours at vertical intervals of not more than two (2) feet, except that where the horizontal contour interval is one hundred (100) feet or more, a one (1) foot vertical interval shall be shown. Water courses, lakes, marshes, wooded areas, rock outcrops and other significant physical features shall be shown. U. S. Geodetic survey data shall be used for all topographic mapping.

8. If applicable, limits of flood plain, floodways and flood areas.
9. Slope analysis. Identify in map form the following slope categories: 0 to 6%, 6% to 12%, 12% to 18% and over 18%.
10. A copy of the soil survey map covering the proposed plat issued by the Soil Conservation Service of the U. S. Department of Agriculture.

C. Subdivision Design Features

1. Layout of proposed streets, showing right-of-way widths and proposed names of streets. The name of any street heretofore used in the City shall not be used, unless the proposed street is an extension of an already named street, in which event said name shall be used.
2. Locations and widths of alleys, pedestrian ways and utility easements.
3. Profiles of existing and proposed centerline grades of streets, alleys, sanitary sewers, water mains, storm sewers, drainage ditches and culverts.
4. Layouts of lots and blocks with numbers of each, square footage of lots and lot dimensions scaled to the nearest tenth of a foot.
5. Areas, other than streets, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such areas.
6. Minimum front and side yard building setback lines as required by the Zoning Ordinance.
7. Proposed method of disposing of surface water discharge within and beyond the limits of the plat.
8. Whenever a portion of a tract of land is proposed for subdividing and said tract is large enough or is intended for future enlargement, a tentative plan for the future subdivision of the entire tract shall be submitted to the Planning Commission.
9. Proposed method of controlling soil erosion and sedimentation within and beyond the limits of the plat during all phases of construction and thereafter.

D. Additional Information to be Furnished

1. Statement of proposed use of lots, i.e. whether residential, commercial, industrial or combination thereof. If residential, state type and number of dwelling units. Furnish sufficient details for all types of usage in order to give perspective to the effect of the development on traffic, fire protection and density of population.
2. Source of water supply.
3. Facilities for sewage disposal.
4. If zoning changes are contemplated, the proposed zoning plan for the area.

5. In areas affected by inadequate surface drainage or subjected to periodic flooding, furnish proposals designed to make the area safe for occupancy and to provide for adequate street and lot drainage.
6. Proposals for street lighting, curb, gutter, sidewalks and boulevard improvements.
7. Such other information as shall be requested by the Planning Commission or City Engineer.

## **SECTION 9: FINAL PLAT**

### **SUBDIVISION 1. PROCEDURE**

Prior to City Council approval of a final plat, the following procedures shall be followed:

- A. Within six (6) months following approval of the preliminary plat, unless an extension of time is requested in writing by the subdivider and granted by the City Council, the subdivider shall file ten (10) copies of the final plat with the City Administrator and pay any fees so established by the City Council. The final plat shall incorporate all changes required by the City Council, and in all other respects it shall conform to the preliminary plat as approved. If the final plat is not filed within six (6) months following approval of the preliminary plat, the approval of the preliminary plat shall be considered void.
- B. The final plat may constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time, provided that such portion shall conform to all requirements of this Ordinance, and provided further that the remaining portion or portions of the preliminary plat not submitted as a final plat shall be subject to the right of the City of Arlington to adopt new or revised platting and subdivision regulations.
- C. At the time of filing of the final plat with the City Administrator, the subdivider shall also file with said Administrator an abstract of title or registered property abstract, certified to date, evidencing ownership of the premises involved in the plat.
- D. The City Administrator shall refer copies of the final plat to the City Engineer, and shall refer the abstract to the City Attorney for their examination.
- E. The City Engineer and the City Attorney shall submit either written or oral comments to the Planning Commission. The City Engineer shall state whether the final plat and the improvements conform to the engineering and design standards and specifications of the City of Arlington. The City Attorney shall state his/her opinion as to the title of the property involved.
- F. The subdivider shall pay the fees of the City Engineer and City Attorney for their services rendered in connection with the final plat.
- G. The final plat shall be prepared in accordance with all applicable State laws and County Ordinance.

- H. The Planning Commission shall review the final plat and make its recommendation to the City Council.
- I. Prior to the approval of a final plat, the applicant shall have executed a Development Agreement with the City of Arlington, which controls the installation of all required improvement and assures compliance with all conditions of approval. Said agreement will require all improvements and approval conditions to comply with approved engineering standards and applicable regulations.
- J. The City Council shall act on the final plat within sixty (60) days of the date on which it was filed with the City Administrator. The final plat shall not be approved if it does not conform to the preliminary plat including all changes required by the City Council, or does not meet the engineering and design standards and specifications of the City of Arlington.
- K. Following approval of the final plat by the City Council, the City Administrator shall promptly notify the subdivider of said approval and within ninety (90) days thereafter, the final plat shall be recorded with the Sibley County Recorder's Office.
- L. Space for certificates of approval and review to be filled in by the signatures of the Planning Commission Chairperson and the Mayor and City Administrator shall be included.
- M. The subdivider shall, within thirty (30) days of recording, furnish the City Administrator with two (2) blue or black line prints and one (1) mylar of the final plat showing evidence of the recording. Failure to furnish such copies shall be grounds for refusal to issue building permits for lots within a plat.

## **SECTION 10: SUBDIVISION DESIGN STANDARDS**

### **SUBDIVISION 1. GENERAL REQUIREMENTS**

- A. The Planning Commission in its review of a preliminary plat shall determine whether the proposed subdivision is in conformity with the Comprehensive Land Use Plan of the City of Arlington. They shall also take into consideration the requirements of the community and the best use of the land. Particular attention shall be given to the arrangement, location and widths of streets, drainage and lot sizes and arrangements.
- B. The preliminary plat shall cover all of the owner's contiguous land, but the final plat may cover only a portion of the preliminary plat provided it is in conformity with an approved preliminary plat.
- C. Where the parcel of land is subdivided into tracts larger than required for building lots, such tracts shall be divided so as to allow for the opening of streets and the ultimate extension of adjacent streets.
- D. Subdivisions indicating unplatted portions of land or private easements controlling access to public ways shall not be approved.

## **SUBDIVISION 2. LOT AND BLOCK STANDARDS**

- A. The maximum length of blocks shall be eighteen hundred (1,800) feet. Pedestrian ways at least eight (8) feet wide may be required at the approximate center of blocks over nine hundred (900) feet in length. Provisions for additional accessways to schools, parks, and other public grounds may be required. All blocks shall be so designed to provide for two (2) tiers of lots unless conditions exist to render this requirement undesirable.
- B. The minimum lot area and dimension shall be as specified in the respective zoning districts of the City of Arlington Zoning Ordinance. All lots shall have at least the minimum required frontage, as established by the Zoning Ordinance, on a publicly dedicated street. Lots with frontage on two (2) parallel streets shall not be permitted except where lots back on arterial streets or highways. In such cases, no direct vehicular access shall be permitted from individual lots to such street or highway. Lot remnants which are below minimum lot area or dimension must be added to adjacent or surrounding lots rather than to be allowed to remain as an unusable outlot or parcel, unless the subdivider can provide acceptable plans for the future use of such remnants.

## **SUBDIVISION 3. STREET DESIGN STANDARDS**

- A. All streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.
- B. The arrangement of streets in new subdivisions shall make provision for the continuation of existing and future streets in adjoining areas.
- C. Access shall be given to all lots and portions of the tract in a subdivision, unless the topography clearly indicates that such connection is not feasible. Reserved strips and land-locked areas shall not be created.
- D. Where adjoining areas are not subdivided, but may be at some point in the future, the arrangement of streets in a new subdivision shall make provision for the proper projection of streets into adjoining areas by carrying the streets to the boundaries of the new subdivision at appropriate locations. A temporary turn-around facility shall be provided at the closed end, in conformance with cul-de-sac requirements. Construction standards for temporary facilities shall be recommended by the City Engineer and approved by the City Council. Construction of said streets shall be to the boundary of the subdivision.
- E. Local streets shall be proposed so as to discourage their use by through traffic. The arrangement of arterial and collector streets shall be considered in their relation to reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, to their appropriate relationship to the proposed uses of the area to be served and in compliance with the City of Arlington's Comprehensive Plan.

- F. Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts with temporary cul-de-sacs, or when designed as cul-de-sac streets.
- G. Private streets and reserve strips shall be prohibited and no public improvements shall be approved for any private street. All streets shall be dedicated for public use.
- H. Street Intersections shall intersect as right angles, insofar as practical. In no case shall the angle formed by the intersection of two (2) streets be less than seventy-five (75) degrees. Intersections having more than four (4) corners shall be prohibited.
- I. A tangent of at least one hundred (100) feet in length shall be introduced between reverse curves on arterial and collector streets, and a tangent of at least fifty (50) feet in length shall be introduced on all other streets.
- J. Boulevard sodding shall be required.
- K. Cul-de-sac streets permanently designed as such, shall maintain the following standards:
  1. The maximum length of cul-de-sac streets shall be five hundred (500) feet measured along the centerline from the intersection of origin to the center point of the cul-de-sac turnaround.
  2. Each cul-de-sac shall have terminus of nearly circular shape with a minimum right-of-way diameter of sixty (60) feet.
  3. Where a temporary cul-de-sac is required, the turnaround right-of-way shall be placed adjacent to a plat boundary and a right-of-way of the same width as the street shall be carried to said property line in such a way as to permit future extension of the street into the adjoining tract. At such time as a street is extended, the acreage covered by the turnaround outside the boundaries of the extended street shall revert in ownership to the property owner fronting on the temporary turnaround.

**SUBDIVISION 4. STREET WIDTHS AND GRADES**

The following street widths and grades shall be observed by the subdivider.

<b>Street Category</b>	<b>Minimum Width &amp; ROW</b>	<b>Maximum Grade</b>	<b>Minimum Grade</b>
Arterial	100' & 120'	6%	0.5%
Collector	66' & 80'	6%	0.5%
Local	50' & 66'	6%	0.5%
Cul-De-Sac	60' radius	6%	0.5%
Frontage Road	40'	6%	0.5%

**SUBDIVISION 4.5. PEDESTRIAN CORRIDORS**

*Amended by Ordinance 289  
Effective Date: December 11, 2014*



- A. Applicant's shall define and construct a meaningful pedestrian circulation system subject to City approval which connects to the major sidewalk/trail/pathway system, as existing and proposed, and to schools, the hospital, the community center, parks, and shopping areas and shall provide easements to accommodate such movement. Said pedestrian ways shall be coordinated with the City of Arlington Comprehensive Plan, routes within adjacent subdivisions, routes envisioned within sidewalk/trail plans, or as otherwise directed by the Planning Commission and City Council.
- B. Developers of land abutting property that has been designated in the City's Comprehensive Trail Plan for the installation of a trail shall be required to dedicate the land for the trail to the City and construct the trail. In lieu of a trail donation, trail construction, or trail easement dedication, the City may require a cash donation for the trail system.
- C. Generally, the applicant will demonstrate how pedestrians will traverse the proposed development from one end to the other, either through the use of a neighborhood trail system, sidewalks, or combination of pedestrian improvements. Specifically, the Planning Commission and City Council shall consider the following land use and transportation context factors when determining whether or not sidewalks shall be required.
  - 1. Whether the corridor provides a primary access to a significant destination such as a park or recreational area, the hospital, the community center, a school, or shopping/commercial areas.
  - 2. Whether the corridor provides access across a natural or human-made barrier such as a creek or highway.
  - 3. Whether the corridor is an area where a relatively high number of users of non-motorized transportation modes can be anticipated.
  - 4. Whether a corridor provides important continuity or connectivity linkages for existing sidewalk, trail, or pathway networks.
  - 5. Whether nearby routes providing a similar level of service, convenience, and/or continuity currently exist.
  - 6. In blocks longer than six hundred (600) feet, a pedestrian crossway may be required near the center of the block.

#### **SUBDIVISION 5. EASEMENTS**

All easements shall be dedicated by appropriate language on the final plat as required by law and provisions of this Chapter.

- A. Utility easements shall be at least ten (10) feet, centered on rear and side lot lines of abutting lots. In those instances where a side or rear lot line abuts unplatted land, said easement shall be at least ten (10) feet wide. Utility easement shall have a continuity of alignment from block to block and lot to lot.

- B. Drainage easements shall be provided along each side of the centerline of any natural watercourse or drainage channel to a width sufficient to provide proper maintenance and protection and to provide storm water runoff.

#### **SUBDIVISION 6. EROSION AND SEDIMENT CONTROL**

The following guidelines shall be applied to the subdivision:

- A. The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion
- B. Appropriate control measures, as determined by the City Engineer, shall be installed prior to development when necessary.
- C. Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the areas to be planted. The soil shall be restored to a minimum depth of four (4) inches or a depth as may be established by the City Engineer and shall be a quality at least equal to the soil quality prior to development.
- D. Natural vegetation shall be protected wherever possible.
- E. As determined by the City Engineer, runoff water shall be diverted to a sedimentation basin before allowed to enter the natural drainage system. Storm water runoff from the developed site shall not, at any time, exceed the runoff rate existing prior to development except as may be approved by the City Council. The City shall apply National Urban Runoff Program (NURP) standards for the design of required stormwater ponds. All easements shall be dedicated by appropriate language on the final plat as required by law and provisions of this Chapter.

#### **SUBDIVISION 7. PUBLIC LAND DEDICATION**

*Amended by Ordinance 274  
Effective Date: November 22, 2012*

- A. Findings.
  - 1. The City Council finds that the preservation and development of parks, playgrounds, and open space areas within the City are essential to maintaining a healthy and desirable environment for residents and persons employed within the City, and it also finds that the value and attractiveness of residential, commercial and industrial developments to land owners, developers, purchasers, employers and employees is significantly enhanced by the presence of such park and open space amenities.
  - 2. Minnesota Statutes Section 462.358 Subd. 2b, as may be amended provides that municipal subdivision regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for conservation purposes for public use as parks, playgrounds, trails, wetlands, or open space, and that the municipality may alternatively accept an equivalent amount in cash.

3. The City Council finds that it is appropriate that each development within the City contribute toward the City's park system in proportion to the benefit provided and the burden it will place upon that system. Therefore, these park donation regulations are established to require new developments or re-subdivisions that create additional lots at the time of subdivision contribute toward the City's park system in rough proportion to the relative burden they will place upon that system.
4. The City Council finds it is appropriate to further the goals of the City's Comprehensive Plan and provide a means to assist developers and landowners in protecting and preserving open space, preserving/providing/connecting wildlife corridors, scenic vistas, historic sites, water resources and environmentally sensitive lands, and the county's rural character through the reasonable establishment of buffers adjacent to wetlands, the Boerner Wildlife Management Area, and High Island Creek.

B. Dedication of Land.

1. Pursuant to Minnesota Statutes, the City shall require all applicants requesting platting, or replatting which results in the creation of additional lots, of all lands in the City of Arlington, to dedicate ten (10) percent of the buildable area of all residential property being platted, subdivided or replatted for parks, playgrounds, public open space or to contribute an amount of cash, based on the fee schedule as set by the City Council, no later than at the time of final approval.
2. Furthermore, the City shall require all applicants requesting platting, or replatting which results in the creation of additional lots, of all lands in the City of Arlington, to dedicate five (5) percent of the buildable area of all commercial or industrial property being platted, subdivided or replatted for parks, playgrounds, public open space or to contribute an amount of cash, based on the fee schedule as set by the City Council, no later than at the time of final approval.
3. The City shall give due consideration to the public open space, trails, pathways, and recreational areas/facilities the applicant proposed for the subdivision. The City need not, but at its discretion may, consider sidewalks or protection/preservation of natural features required as part of the subdivision approval process under this standard relating to public land dedication.
4. The land to be dedicated for this purpose shall be in addition to the property dedicated for streets, alleys, waterways, storm water management, pedestrian ways or other public ways.
5. The City Council of the City of Arlington shall have the right to determine the geographic location and configuration of said land dedication. No area may be dedicated as parks, playgrounds or public lands until such areas have been approved by the City Council for the purpose to which they are to be dedicated. The applicant shall leave such dedicated land in a condition suitable to the City Council.

6. The City shall not require parkland dedication for re-subdivision, unless new lots are created, and then, said parkland dedication requirements shall only be applied to the new lots created.

C. Payment in Lieu of Land.

1. All monies collected from cash contributions shall be placed in a special fund from which only those public uses listed in Section A (Findings) above may be constructed or improved or land for those same uses may be acquired.
2. The City shall have the option of requiring a cash payment in lieu of the land dedication as set forth in Section B (Dedication of Land) of this Ordinance. The in lieu amount shall be based on the fair market value of unplatted land as determined by the City Assessor and approved year to year by the City Council. The cash payment shall be calculated by applying the percentages contained in Section B above, as may be amended, to the fair market value of unplatted land.
3. The City shall not collect a cash payment for re-subdivision, unless new lots are created, and then, said cash payment shall only be applied to the new lots created.

- D. Delayed Dedication Payment. Upon petition by the applicant, the Council may approve a delay in the actual dedication of the cash required in lieu of the land until such time as the development occurs on the property being platted, provided that a proper legal agreement is executed guaranteeing such dedication. Delayed dedication payment shall include interest at a rate of prime plus two (2) percent per year.

## **SUBDIVISION 7.25 ENVIRONMENTAL PRESERVATION/PROTECTION MEASURES**

*Amended by Ordinance 274  
Effective Date: November 22, 2012*

A. Findings.

1. Streambank and shoreline stabilization that remediate erosion are important tools to restore and protect water quality.
2. A stable streambank has the ability to maintain pattern and shape while transporting sediment without either aggrading or scouring the channel bed. Eroding and failing streambanks are often the symptom of an unstable stream, and may be caused by excessive current stress on the streambanks. Frequently, the source or cause of the excessive current stress is increased volume and rate of flow due to runoff from impervious surfaces such as roads, parking lots, etc.
3. Wetlands are part of an essential natural system of land and water which help to (a) control flooding and reduce damage from storm surges; (b) trap sediments and pollutants; (c) recharge groundwater; and (d) provide habitat for birds, amphibians, and other wildlife.
4. Adopting these standards is necessary for the preservation of the public health, safety, and welfare and mitigation of adverse impacts.

B. Preservation/Protection of Natural Features Required.

1. Existing natural features which maintain native, historic, and/or culturally significant landscapes in the City such as tree massings, slopes greater than eighteen (18) percent over a horizontal distance of fifty (50) feet, areas abutting High Island Creek, streambanks, delineated wetlands, assets identified on the County Biological Survey and similar assets shall be preserved insofar as possible through harmonious design of the subdivision, installation of required buffers, dedication of conservation easements, and use of similar tools designed to protect and preserve natural areas and vital community assets as identified in the Arlington Comprehensive Plan as may be amended.
2. The City Council reserves the right to decline approval of a subdivision if due regard is not shown for the preservation of natural features such as large trees, watercourses, scenic points, historical spots and similar community assets which, if preserved, will add attractiveness and stability to the proposed development of the property.
3. The City need not, but at its discretion may, consider preservation/protection of natural features as part of the subdivision approval process under Section 10, Subdivision 7B (Public Land Dedication) of the Subdivision Ordinance, as may be amended.

C. Wetland Systems and Watercourses. Where the subdivision of a lot or tract of land contains drainage ways, watercourses, floodable areas, streambanks, riparian areas, or wetlands and thus may be unsuitable for development, such areas shall be handled as follows:

1. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.
2. If said land is designated, in whole or part, as park, open space or other public use on an adopted plan of the City, the applicant shall dedicate said land to the City in a manner defined by the City but typically through easement, dedication, or platted outlot.
3. An approved wetland replacement application or a certificate of exemption must be obtained in strict conformance with the provisions of the Minnesota Wetland Conservation Act prior to approval of a grading permit to allow wetland disturbing activities.

D. Buffers Required.

1. A non-mown and naturally vegetated protective buffer comprised of natural vegetation as approved or recommended by the Sibley County National Resource Conservation Service (NRCS) Office shall be established and maintained around all wetlands and the High Island Creek watercourse within areas developed or redeveloped, in accordance with the following provisions:

- a. Minimum Width: The buffer shall have a defined minimum width from the delineated edge of the wetland as specified and agreed to by the City Council at the time of development.
- b. The required buffer shall be platted as an outlot or placed in an easement, or put in a conservation easement if established as part of a subdivision application.
- c. A building setback of ten (10) feet for a side yard and twenty (20) feet for a rear yard shall be provided from all required buffers at the time of development.

**SUBDIVISION 7.50 REQUIRED LANDSCAPING**

*Amended by Ordinance 274  
Effective Date: November 22, 2012*

- A. The applicant shall plant shade trees on the property of the subdivision. Such trees are to be planted within five (5) feet of the right of way of the streets within and abutting the subdivision, or at the discretion of the City Council within the right of way of such streets. One (1) tree from the below list shall be planted for every forty (40) feet of frontage along each street, unless the City Council, upon recommendation of the City Engineer, shall grant a waiver. Such waiver shall be granted only if there are existing trees which, in the opinion of the City Council comply with these regulations. A petition may be granted to plant trees other than those listed below, provided the subdivider has obtained approval of the City Council for the substitution prior to planting. No street shall be accepted for dedication until the City Engineer shall inform the City Council that compliance has been made with these regulations.

List of Acceptable Shade Trees

- Common Name, Latin Name
- Birch, River Betula nigra
- Ginkgo (male only), Ginkgo biloba
- Hackberry, Celtis occidentalis
- Hawthorne, Thornless Crataelus spp.
- Honeylocus, Thornless Gleditsia triacanthos
- Ironwood (Basswood), Ostrya virginiana
- Linden, American Tilia americana
- Maple (Sugar or Hard), Acer saccharum
- Maple (Red), Acer rubrum
- Oak (Bicolor), Quercus bicolor
- Oak (Bur), Quercus macrocarpa
- Oak (Red), Quercus rubra
- Oak (White), Quercus alba
- Others, if recommended by the City Forester

- B. Planting strips shall be placed along highways and railroad lines to screen the view and to reduce noise levels in residential areas.

## **SUBDIVISION 7.75 PEDESTRIAN CORRIDORS**

*Amended by Ordinance 274  
Effective Date: November 22, 2012*

- A. Applicant's shall define and construct a meaningful pedestrian circulation system subject to City approval which connects to the major sidewalk/trail/pathway system, as existing and proposed, to schools, parks, and shopping areas and shall provide easements to accommodate such movement. Said pedestrian ways shall be coordinated with the City of Arlington Trail Map, routes within adjacent subdivisions, routes envisioned within the Comprehensive Plan, or as otherwise directed by the Park Board, Planning Commission, and City Council.
- B. Developers of land abutting property that has been designated in the City's Comprehensive Plan for the installation of a trail shall be required to dedicate the land for the trail to the City and construct the trail. In lieu of a trail donation, trail construction, or trail easement dedication, the City may require a cash donation for the trail system.
- C. Generally, the applicant will demonstrate how pedestrians will traverse the proposed development from one end to the other, either through the use of a neighborhood trail system, sidewalks, or combination of pedestrian improvements. Specifically, the Park Board, Planning Commission, and City Council shall consider the following land use and transportation context factors when determining whether or not sidewalks shall be required:
  - 1. Whether the corridor provides a primary access to a significant destination such as a park or recreational area, a school, or shopping/commercial areas.
  - 2. Whether the corridor provides access across a natural or human-made barrier such as High Island Creek or Highway 5.
  - 3. Whether the corridor is an area where a relatively high number of users of non-motorized transportation modes can be anticipated.
  - 4. Whether a corridor provides important continuity or connectivity linkages for existing sidewalk, trail or pathway networks.
  - 5. Whether nearby routes providing a similar level of service, convenience, and/or continuity currently exist.

## **SECTION 11: ORDINANCE ADMINISTRATION**

*Amended by Ordinance 221  
Effective Date February 7, 2008*

### **SUBDIVISION 1. FINDINGS OF FACT**

- A. Planning Commission Recommendation. The Planning Commission upon making its formal recommendation to the City Council under this Ordinance and pertaining specifically to the request for subdivision of land shall make said recommendation through Resolution of the Commission. The recommending Resolution shall contain findings of fact pursuant to this Ordinance.

- B. City Council Action. The City Council upon taking a formal action under this Ordinance and pertaining specifically to the request for subdivision of land shall do so by Resolution of the City Council. The Resolution shall contain findings of fact pursuant to the following and as outlined in this Ordinance.
- C. Recommendation/official action pertaining to requests for variance from this Ordinance shall include findings of fact pursuant to those identified in this Ordinance.
- D. Premature Subdivisions. Any preliminary plat of a proposed subdivision deemed premature for development shall be denied by the City Council. A subdivision may be deemed premature should any one or more of the conditions set forth in the following provisions exist. The burden shall be upon the applicant to show that the proposed subdivision is not premature.
  - 1. Lack of adequate drainage: A condition of inadequate drainage shall be deemed to exist if:
    - a. Surface or subsurface water retention/detention and runoff is such that it constitutes a danger to the structural security of the proposed development or flood of the subdivision or downstream property.
    - b. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.
    - c. The proposed site grading and development will cause siltation on downstream land.
    - d. Factors to be considered in making these determinations shall include, but shall not be limited to: average rainfall for the area; the relation of the land to flood plains; the nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems; the slope of the land and its effect on effluents; and the presence of streams as related to effluent disposal.
  - 2. Lack of Adequate Water Supply: A proposed subdivision shall be deemed to lack an adequate water supply if:
    - a. There is inadequate capacity in the present system to support the subdivision if developed to its maximum permissible density indicated in the Arlington Comprehensive Plan, as may be amended.
    - b. The orderly extension of municipal drinking water is not feasible or is not proposed as part of subdivision improvements.
  - 3. Lack of Adequate Roads or Highways to Serve the Subdivision: A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:
    - a. Roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and surface condition that an increase in traffic volume generated by the proposed



subdivision would create a hazard to public safety and general welfare, or aggravate an already hazardous condition, and when, with due regard to the advice of the City Engineer, Sibley County Highway Engineer and/or the Minnesota Department of Transportation, said roads are inadequate for the intended use; or

- b. The traffic volume generated by the proposed subdivision would create unreasonable traffic congestion or unsafe conditions on roadways existing at the time of the application or proposed for completion.
  4. Lack of Adequate Waste Disposal Systems: A proposed subdivision shall be deemed to lack adequate waste disposal systems if:
    - a. There is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density indicated in the Arlington Comprehensive Plan, as may be amended.
    - b. The orderly extension of municipal sanitary sewer is not feasible or is not proposed as part of subdivision improvements.
  5. Provision of Public Improvements/Services: If public improvements, such as recreational facilities, electrical facilities, streets and utilities and/or public administration and/or public protection services such as police and fire service reasonably necessitated by the subdivision and which must be provided at public expense, cannot be reasonably provided within the next two (2) fiscal years the proposed subdivision shall be deemed premature.
  6. Threat to Environmentally Essential Areas: The proposed subdivision is inconsistent with policies and standards of the City, the County, the State, or Federal Government relating to environmentally sensitive areas and protections thereof.
  7. Inconsistency With Comprehensive Plan: The proposed subdivision is inconsistent with the purposes, objectives and recommendations of the duly adopted Comprehensive Plan of Arlington, as may be amended.
  8. Inconsistent with Capital Improvement Plans. A proposed subdivision shall be deemed inconsistent with capital improvement plans when improvements and/or services necessary to accommodate the proposed subdivision have not been programmed in the City, County or other regional capital improvement plans. The City Council may waive this criterion when it can be demonstrated that a revision to capital improvement programs can be accommodated.
- E. Disqualification/Denial of Plats. The City Council may deny the subdivision if it makes any one or more of the following findings:
1. That the proposed subdivision qualifies as a premature subdivision under Section 11.1(D) of this Ordinance.
  2. If deemed a 'premature subdivision' the proposed subdivision shall be denied.

3. That the proposed subdivision is in direct conflict with adopted applicable local control (e.g. Zoning Ordinance; Subdivision Ordinance) and/or general or specific official plans of the City, County or Region.
4. That the physical characteristics of the site, including but not limited to, topography, percolation rate, soil conditions, 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, design, or use contemplated.
5. That the site is not physically suitable for the proposed density of development.
6. That the design of the subdivision or the type of improvements are likely to cause serious public health concerns.
7. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage.
8. That the design of the subdivision or the type of improvements will conflict with easements of record or with easements established by judgment of a court.
9. That the proposed subdivision, its site, or its design adversely affects the flood-carrying capacity of the floodway, increases flood stages and velocities, or increases flood hazards within the floodway fringe or within other areas of the City.
10. That the proposed subdivision is inconsistent with the policies and standards for defined shoreland and/or wetland.

## **SUBDIVISION 2. CONDITIONAL APPROVAL**

- A. The City may condition approval on the construction and installation of sewers, streets, electric, gas, drainage and water facilities, and similar utilities and improvements or, in lieu thereof, on the receipt by the municipality of a cash deposit, certified check, irrevocable letter of credit, or bond in an amount and with surety and conditions sufficient to assure the municipality that the utilities and improvements will be constructed or installed according to the specifications of the municipality. The City may also condition approval on compliance with other requirements reasonably related to the provisions of the regulations and to execute development contracts embodying the terms and conditions of approval.
- B. The City may not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee.
- C. This paragraph must not be construed to preclude the municipality from conditioning approval of any proposed subdivision or development on an agreement to waive a challenge to the cost associated with City installed improvements of the type described in Mn. Statute 429.

### **SUBDIVISION 3. VARIANCES, CITY COUNCIL APPROVAL, STANDARDS**

A. Findings: The City Council may approve a variance from the minimum standards of this Ordinance (not procedure provisions) when, in its opinion, exceptional and undue hardship may result from strict compliance. In approving any variance, the City Council shall prescribe any conditions that it deems necessary to or desirable to the public interest. In making its approval, the City Council shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be approved when the City Council finds that each and every one of the following apply:

1. That there are special circumstances or highly unique conditions affecting the property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his/her land.
2. That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which the property is situated.
3. That the granting of the variance will not increase the flood hazard or flood damage potential.
4. That the use proposed by the applicant would not result in a stage increase violating Minnesota Statute 103f, as amended from time to time, and any applicable requirements imposed by FEMA.
5. That the variance is to correct inequities resulting from an extreme physical hardship such as topography.
6. Hardships relating to economic difficulties shall not be considered for the purpose of granting a variance.
7. That the hardship is not a result of an action or actions by the owner, applicant, or any agent thereof.
8. The variance sought is the least variance required.

B. Procedures:

1. Request for variances, as provided within this Section, shall be filed with the City on an official application form. Such application shall be accompanied by a fee as provided for by City Council Resolution. Such application shall also be accompanied by five (5) large scale copies and ten (10) reduced scale (not less than 11" x 17") copies of detailed written and graphic materials fully explaining the proposed change, development, or use. If, in the opinion of the Zoning Administrator, reduced scale drawings are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility. The request for

variance shall be placed on the agenda of the Planning Commission meeting occurring after the date of submission of the application. The request shall be considered as being officially submitted when all the information requirements are complied with.

2. Proof of Ownership or Authorization: The applicant shall supply proof of title and the legal description of the property for which the variance is requested, consisting of an abstract of title or registered property abstract currently certified together with any unrecorded or equitable ownership interest and, if applicable, supply documented authorization from the owner(s) of the property in question to proceed with the requested variance.
3. Upon receipt of said application, the City shall set a public hearing following proper hearing notification as applicable. Notice of said hearing shall consist of a legal property description and description of request, and be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of said hearing shall be mailed to surrounding area property owners at least ten (10) days prior to the hearing. Requests affecting and located within platted areas of the City shall be noticed to all property owners at least ten (10) days prior to the hearing. Requests affecting and located within nonplatted areas of the City shall be noticed to all property owners within three hundred fifty (350) feet of the outside boundary of the property in question. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the record of the proceeding.
4. For properties within the Shoreland Overlay Districts and/or the Floodway or Flood Fringe Overlay Districts, the City shall submit to the Minnesota Department of Natural Resources Area Hydrologist a copy of the application for proposed variances sufficiently in advance so that the Department will receive at least ten (10) day's notice of the hearing.
5. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Section provided a bona fide attempt has been made to comply with the notice requirements of this Section.
6. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission.
7. The Planning Commission, City Council and/or Zoning Administrator shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relations to all pertinent sections of this Ordinance. Failure of an applicant to supply all necessary supportive information may be grounds for denial of the request.
8. The applicant or a designated representative thereof shall appear before the Planning Commission and/or City Council to answer questions concerning the proposed variance.

9. The City Council shall reach a decision within sixty (60) days after the receipt of a complete application.
10. The City Council shall not act upon a variance or appeal until they have received a staff report, with findings of fact and a recommendation, and a Planning Commission recommendation to the City Council.
11. Whenever an application for a variance has been considered and denied by the City Council, a similar application and proposal for the variance affecting the same property shall not be considered again by the City Council for at least one (1) year from the date of its denial except as follows:
  - a. Applications are withdrawn prior to the City Council taking action on the matter.
  - b. If the City Council determines that the circumstances surrounding a previous application have changed significantly.
  - c. If the City Council decides to reconsider the matter by a majority three-fifth's (3/5ths) vote of the entire City Council, whether present, absent, or abstaining.

#### **SUBDIVISION 4. AMENDMENTS**

The provisions of this Ordinance may be amended by the City Council following a legally advertised public hearing before the Planning Commission and in accordance with the law, including the rules and regulations of any applicable state or federal agency.

#### **SUBDIVISION 5. FEES**

- A. Fees and charges, as well as expenses incurred by the City for engineering, planning, legal, and other services related to the processing of applications under this Ordinance shall be established via Resolution approved by the Council and collected by the City Administrator for deposit in the City's accounts. Fees shall be established for the processing of requests for platting, major and minor subdivisions, review of plans, and such other subdivision-related procedures as the Council may from time to time establish. The Council may also establish charges for public hearings, special meetings, or other such Council actions as are necessary to process applications.
- B. Such fees, charges and estimated expenses (as well as a deposit, if so required by the Zoning Administrator) shall be collected prior to City action on any application. All such applications shall be accompanied by a written statement between the City and the applicant/landowner (when the applicant is not the same person or entity as the landowner, both the landowner and the applicant must sign the agreement) whereby the applicant/landowner agrees to pay all applicable fees, charges and expenses as set by the Council as provided above, and which allows the City to assess the above fees, charges and expenses against the landowner if such monies are not paid within thirty (30) days after a bill is sent to the applicant/landowner.

- C. These fees shall be in addition to building permit fees, inspection fees, trunk storm water facility costs, zoning fees, charges, expenses and other such fees, charges and expenses currently required by the City or which may be established in the future.

#### **SUBDIVISION 6. VIOLATION/ENFORCEMENT**

- A. Any person violating any provision of this Ordinance shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment not exceeding ninety (90) days, or both. Each day a violation is allowed to continue, it shall be construed as a separate offense. Compliance with the terms of this Ordinance may be obtained by injunctive relief in proceedings instituted by the City in a court of competent jurisdiction.
- B. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to, the issuance of administrative citations as authorized by the City of Arlington.