

SECTION 1030  
SUBDIVISION ORDINANCE

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SECTION 1030  
SUBDIVISION ORDINANCE

AN ORDINANCE ESTABLISHING AN UPDATE AND CONTEMPORARY  
SUBDIVISION ORDINANCE FOR THE CITY OF TONKA BAY, MINNESOTA,  
AND PROVIDING A PENALTY FOR VIOLATION THEREOF.

THE CITY COUNCIL OF THE CITY OF TONKA BAY DOES ORDAIN:

SECTION 1. GENERAL PROVISIONS

- Subd. A.     Short Title. This Ordinance shall be known as the “SUBDIVISION ORDINANCE OF THE CITY OF TONKA BAY,” and will be referred to herein as “this Ordinance.”
- Subd. B.     Purpose. The intent of this Ordinance is to protect the public health, safety and general welfare of the community and its people by establishing minimum regulations governing the subdivision and platting of land within the City of Tonka Bay, defining certain terms used therein; providing for the preparation of plats; providing for the installation of streets and other improvements; providing for the dedication of certain lands for parks and playgrounds; establishing procedures for approval and the recording of subdivisions and plats; providing penalties for violation of this Ordinance; and repealing Ordinances or parts of Ordinances inconsistent herewith.
- Subd. C.     Approvals Necessary for Acceptance of Subdivision Plats. Before any plat shall be recorded or be of any validity, it shall be approved by the City Council of Tonka Bay as having fulfilled the requirements of this Ordinance.
- Subd. D.     Conditions for Recording. No plat of any subdivision shall be entitled to be recorded in the Hennepin County Recorder’s Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Ordinance.
- Subd. E.     Building Permits. No building permits shall be considered for issuance by the City of Tonka Bay for the construction of any building, structure or improvement to the land or to any lot in a subdivision as defined herein, until all requirements of this Ordinance have been fully complied with.
- Subd. F.     Exceptions. When requesting a subdivision, if the following conditions exist, the City Clerk shall bring the request to the

attention of the City Council, whereupon the said request shall be reviewed and the City Council may exempt the subdivider from complying with any procedural requirements of this Ordinance that are deemed appropriate.

1. Simple Subdivision. In the case of a request to divide a lot 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 or any structure to be in violation with this Ordinance or the Zoning Ordinance.
2. In the case of a request to divide a base lot upon which a two-family dwelling or a quadraminium which is a part of a recorded plat where the division is to permit individual private ownership of a single dwelling unit within such a structure and the newly created property lines will not cause any of the unit lots or the structure to be in violation of this Ordinance or the Zoning Ordinance.

Subd. G. 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.

Subd. H. Conflict. Whenever there is a difference between minimum standards or dimensions specified herein and those contained in other official regulations, resolutions or ordinances of the City, the most restrictive standards shall apply.

Subd. I. Comprehensive Revision. The Council intends this Ordinance to be a comprehensive revision to Ordinance Number 51 as amended. The Ordinance is not intended to repeal, abrogate, annul or in any way impair or interfere with exiting provisions of other laws or ordinances except those specifically repealed by, or in conflict with this Ordinance, or with private restrictions placed upon property by deed, covenant, or other private agreement, or with restrictive covenants running with the land to which the City is a party.

Subd. J. Repeal. Ordinance Number 51, as amended, of the City of Tonka Bay is hereby repealed.

## SECTION 2. RULES

For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; and the word shall is mandatory and not discretionary.

### SECTION 3. DEFINITIONS

Subd. A. Administrator. The City Administrator of the City of Tonka Bay.

Alley. A public right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

Applicant. The owner of land proposed to be subdivided or his representative who has consent from the owner of the premises.

Subd. B. Block. An area of land within a subdivision that is entirely bounded by streets, or by streets and the entire boundary or boundaries of the subdivision, or a combination of the above with a river, lake or unsubdivided acreage.

Boulevard. The portion of a street right-of-way not occupied by street pavement.

Boundary Lines. Lines indicating the bounds or limits of any tract or parcel of land.

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

Building Line. A line measured across the width of a lot at the point where the principal structure is placed in accordance with setback provisions.

Butt Lot. An interior lot, the rear lot line of which abuts the side lot line of an adjoining interior lot or lots.

Subd. C. City. The City of Tonka Bay.

City Council. The governing body of the City of Tonka Bay.

Clerk. The City Clerk of the City of Tonka Bay.

Comprehensive Plan. The group of maps, charts and texts that make up the Environmental, land Use, Transportation and Community Facilities Plans of the City of Tonka Bay.

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.

Subd. D. 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 rights-of-way, blocks, easements and lots.

Development Contract. A contract between the City and a developer regulating and establishing the terms and conditions by which property is subdivided and developed in accordance with the regulations of this ordinance.

Double Frontage Lots. Lots which have a front line abutting on one street and a back or rear line abutting on another street.

Subd. E. Easement. A grant by a property owner for the use of a strip of land and for the purpose of constructing and maintaining drives, utilities, including, but not limited to, wetlands, ponding areas, sanitary sewers, watermains, electric lines, telephone lines, storm sewer or storm drainageways, and gas lines.

Subd. F. Final Plat. A drawing or map of a subdivision, meeting all of the requirements of the City and in such form as required by Hennepin County for the purpose of recording.

Frontage. The width of a lot or building site measured on the line separating it from a public street or way. For Lakeshore lots, the boundary abutting the lakeshore shall be considered the front.

Subd. G. No definitions.

Subd. H. No definitions.

Subd. I. No definitions.

Subd. J. No definitions.

Subd. K. No definitions.

Subd. L. Lot. Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of the current Tonka Bay Zoning Ordinance, having not less than the minimum area required by said

Zoning Ordinance for a building site in the district in which such lot is situated, and having its principal frontage on a street.

Lot – Base. A lot meeting all the specifications within the Zoning District in which it is located prior to being divided into a two-family or quadraminium subdivision.

Lot – Corner. A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

Lot – Unit. Lots created from the subdivision of a two-family dwelling or a quadraminium, having different minimum lot size requirements than the conventional base lot within the Zoning District in which they are located.

Lot Improvement. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

Subd. M. No definitions.

Subd. N. Natural Waterway. Any natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also means to include any all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.

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

Owner. Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm association, public or quasi-public corporation, private corporation, or a combination of them.

Subd. P. Parks and Playgrounds. Public land and open spaces in the City of Tonka Bay dedicated or reserved for recreation purposes.

Percentage of Grade. On street centerline, means the distance vertically from the horizontal in feet and tenths of a foot for each one hundred (100) feet of horizontal distance.

Pedestrian Way. A public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

Plat. The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes, Chapter 505 and containing all elements and requirements set forth in this Ordinance.

Preliminary Plat. A tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.

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 any given area.

Public Improvement. Any drainage ditch, roadway, parkway, sidewalk, pedestrian-way, tree, lawn, off-street parking area, lot improvement, or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

Subd. Q. No definitions.

Subd. R. Reserve Strips. Narrow strips of land usually withheld from the street right-of-way to form a barrier between certain property and the public street or thoroughfare.

Right-of-Way. Land covered by a public road or other land dedicated for public use or for certain private use such as land over which a power line passes.

Subd. S. Setback. The distance between a building and the property line nearest thereto.

Street. A public right-of-way affording primary access by pedestrian or vehicles or both, to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard.

Streets – Collector. Those streets which carry traffic from local streets to the major system of arterials and highways. Collector streets primarily provide principal access to residential neighborhoods, including, to a lesser degree, direct land access.

Streets – Cul-de-sac. A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Streets – Local. Those streets which are used primarily for access to abutting properties and for local traffic movement.

Streets – Marginal Access. Those local streets which are parallel and adjacent to thoroughfares and highways; and which provide access to abutting properties and protection from through traffic.

Streets – Arterial. Those streets carrying larger volumes of traffic and serving as links between various sub-areas of the community. Arterial streets are intended to provide for collection and distribution of traffic between highways and collector streets; hence regulation of direct access to property is critical.

Street Width. The shortest distance between lines of lots delineating the street right-of-way.

Subdivider. Any individual, firm, association, syndicate, co-partners, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Ordinance.

Subdivision. The division of land for the purpose of transfer of ownership or building development. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

- Subd. T. Topography. The detailed description of the features of a relatively small area, also the relief features or surface configuration of an area.
- Subd. U. No definitions.
- Subd. V. No definitions.
- Subd. W. Wetlands. See Tonka Bay Ordinance No. 67 for definition.
- Subd. X. No definitions.
- Subd. Y. No definitions.

Subd. Z. Zoning. The reservation of certain specific areas within the municipality for buildings and structures for certain purposes with other limitations such as height, lot coverage and other stipulated requirements.

#### SECTION 4. PROCEDURES FOR FILING AND REVIEW

Subd. A. Sketch Plan. In order to insure that all applicants are informed of the procedural requirements and minimum standards of this Ordinance and the requirements or limitations imposed by other City Ordinances or Plans prior to the development of a preliminary plat, all applicants shall present a sketch plan to the City Clerk prior to filing a preliminary plat.

Subd. B. Preliminary Plat.

1. Filing. Ten (10) copies of the preliminary plat and a list of owners of property located within three hundred fifty (350) feet of the subject property obtained from and certified by Hennepin County, shall be submitted to the City Administrator. The required filing fee as established by City Council resolution shall be paid and any necessary applications for variances from the provisions of this Ordinance shall be submitted with the required fee. The proposed plat shall be placed on the agenda of the first possible City Council meeting occurring after ten (10) days from the date of submission. The plan shall be considered as being officially submitted when all requirements are met.
2. Hearing. Upon receipt of an application, the City Clerk shall set a public hearing for public review of the preliminary plat. Said hearing shall be established once adequate time has been allowed for staff review of the plat. The City Council shall conduct the hearing. Notice of said hearing shall consist of a legal property description, 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 at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.
3. Technical Assistance Reports. After the public hearing has been set, the City 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 City Council.

4. Review by Other Agencies or Jurisdictions. The City Administrator shall refer copies of the preliminary plat to the Watershed District, Metropolitan, State, or other public jurisdictions for their review and comment, where appropriate and when required.
5. City Council Action.
  - a. The City Council shall grant preliminary approval of or disapprove the subdivision request within one hundred twenty (120) days following submission of the application. If the Council fails to preliminarily approve or disapprove an application within the review period, the application shall be deemed preliminarily approved.
  - b. If all requirements of this Ordinance are complied with, the Council shall act upon the preliminary plat and may impose conditions and restrictions which are deemed necessary.
  - c. If the preliminary plat is not approved by the City Council, the reasons for such action shall be recorded in the proceedings of the Council and transmitted to the applicant. If the preliminary plat is approved, such approval shall not constitute final acceptance of the layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this Ordinance to be indicated on the final plat. The City Council may require such revisions in the preliminary plat and final plat as it deems necessary for the health, safety, general welfare and convenience of the City of Tonka Bay.
  - d. If the preliminary plat is approved by the City Council, the subdivider must submit a final plat within one hundred (100) days after said approval or approval of the preliminary plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council.

Subd. C. Final Plat.

1. Filing. After the preliminary plat has been approved, final plat shall be submitted for review as set forth in the paragraphs which follow.
2. Approval of the City Council. Ten (10) copies of the final plat shall be submitted to the City Administrator for distribution to the City Council and appropriate City staff, twenty (20) days

prior to the Council meeting at which consideration is requested. During the said twenty (20) days, the City Staff shall examine the final plat and prepare a recommendation to the City Council. If accepted, the final plat shall be approved by resolution, which resolution shall provide for the acceptance of all agreements for basic improvements, public dedication and other requirements as indicated by the City Council. If disapproved, the grounds for any refusal to approve a plat shall be set forth in the proceedings of the Council. Nature of approval, disapproval, or any delay in decision of the final plat will be conveyed to the subdivider within ten (10) days after the meeting of the City Council at which such plat was considered.

3. **Special Assessments.** When any existing special assessments which have been levied against the property described are to be divided and allocated to the respective lots in the proposed plat, the City Clerk shall estimate the clerical cost of preparing a revised assessment role, filing the same with the County Auditor, and making such division and allocation, and upon approval by the Council of such cost, the same shall be paid to the City Clerk before the final plat approval.
4. **Street Addresses.** With submission of the final plat, six (6) copies of the plat map showing all addresses correctly labeled in conformance with all applicable Hennepin County and City ordinances and policies shall be supplied to the City Administrator for subsequent distribution to the utility companies and local school districts.
5. **Recording Final Plat.** If the final plat is approved by the City Council, the subdivider shall record it with the Hennepin County Recorder within one hundred (100) days after said approval, or approval of the final plat shall be considered void, unless a request for time extension is submitted in writing and approved by the City Council. The subdivider shall, immediately upon recording, furnish the City Administrator with a print and reproducible tracing of the final plat showing evidence of the recording. No building permits shall be let for construction of any structure on any lot in said plat until the City has received evidence of the plat being recorded by Hennepin County.

SECTION 5. RESERVED

## SECTION 6. PLAT AND DATA REQUIREMENTS

Subd. A. Sketch Plan. Sketch Plans shall contain, at a minimum, the following information:

1. Plat boundary
2. North arrow
3. Scale
4. Street layout on and adjacent to plat
5. Designation of land use and current or proposed zoning
6. Significant topographical or physical features
7. General lot locations and layout
8. Preliminary evaluation by the applicant that the subdivision is not classified as premature based upon criteria established in Section 5 of this Ordinance.

Subd. B. Preliminary Plat. The subdivider shall prepare and submit a preliminary plat, together with any necessary supplementary information. The preliminary plat shall contain the information set forth in the paragraphs which follows:

1. General Requirements.
  - a. Proposed name of subdivision; names shall not duplicate or too closely resemble names of existing subdivisions.
  - b. Location of boundary lines in relation to known section, quarter section or quarter-quarter section lines comprising a legal description of the property.
  - c. Names and addresses of all persons having property interest, the developer, designer, and surveyor together with his registration number.
  - d. Graphic scale, not less than one (1) inch equals one hundred (100) feet and one (1) inch equals fifty (50) feet is preferred.
  - e. Date of preparation.
  - f. Arrow pointing north.
2. Existing Conditions.

- a. Boundary line and total acreage of proposed plat, clearly indicated.
  - b. Existing zoning classifications for land within and abutting the subdivision.
  - c. Location, widths and names of all existing or previously platted streets or other public ways, showing type, width and condition of improvements, if any, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of three hundred fifty (350) feet beyond the tract.
  - d. Location and size of existing sewers, watermains, culverts or other underground facilities within the tract and to a distance of three hundred fifty (350) feet beyond the tract. Such data as grades, invert elevations and locations of catch basins, manholes and hydrants shall also be shown.
  - e. Boundary lines of adjoining unsubdivided or subdivided land, within three hundred fifty (350) feet, identified by name and ownership, including all contiguous land owned or controlled by the subdivider.
  - f. Accurate topographic data, including contours at vertical intervals of not more than two (2) feet. Water courses, wetlands, rock outcrops, power transmission poles and lines, and other significant features shall also be shown within three hundred fifty (350) feet beyond the tract.
3. Proposed Design Features.
- a. Layout of proposed streets showing the right-of-way widths, centerline gradients, typical cross sections, and proposed names of streets in conformance with City and County street identification policies. The name of any street heretofore used in the City or its environs shall not be used unless the proposed street is a logical extension of an already named street, in which event the same name shall be used.
  - b. Locations and widths of proposed alleys and pedestrian ways.
  - c. Locations and size of proposed sewer lines and watermains.
  - d. Location, dimension and purpose of all easements.
  - e. Layout, numbers, lot areas and preliminary dimensions of lots and blocks.

- f. Minimum front and side street building setback lines.
  - g. When lots are located on a curve, the width of the lot shall be measured at the building setback line.
  - h. Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
  - i. Water Supply. Watermains shall be provided to serve the subdivision by extension of an existing community system wherever feasible. Service connections shall be stubbed into the property lien and all necessary fire hydrants shall also be provided. Extensions of the public water supply system shall be designed so as to provide public water in accordance with the standards of the City of Tonka Bay.
  - j. Sewage Disposal, Public. Sanitary sewer mains and service connections shall be installed in accordance with the standards of the City of Tonka Bay.
  - k. Sewage Disposal, Private. On-site septic systems shall not be installed within the City limits of the City of Tonka Bay.
4. Supplementary Information.
- a. Any or all of the supplementary information requirements set forth in this subdivision shall be submitted when deemed necessary by the City staff or City Council.
  - b. Proposed protective covenants.
  - c. An accurate soil survey of the subdivision prepared by a qualified person. The soil survey shall consist of test holes to a depth necessary to determine the various types of soil to be encountered before reaching a stable base. Such test holes when ordered by the City authorities, shall be drilled at the expense of the owner or developer and the information disclosed shall be furnished to the City Council together with a copy of the proposed plat showing the location of each test hole. The information required by the City Council shall include a report as to the various types of soil encountered and their depths, the level of the ground water, and a seepage test and may include additional information. The number of test holes to be drilled and their location on the property which is proposed to be platted will be as directed by the City Council or their authorized representative. In questionable cases, the

owner shall be required to furnish to the City Council a report from a recognized engineering laboratory as to the safety and practicability of the use of the area for building construction, including the feasibility for installation of sewage facilities.

- d. Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business, so as to reveal the effect of the development on traffic, fire hazards, and congestion of population.
- e. If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, shall be shown. Such proposed zoning plan shall be information only and shall not vest any rights in the applicant.
- f. Provision for surface water disposal, ponding, drainage, and flood control.
- g. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, it shall be required that the subdivider submits a sketch plan of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions shall be required to relate well with existing or potential adjacent subdivisions.
- h. Where structures are to be placed on large or excessively deep lots which are subject to potential replat, the preliminary plat shall indicate a logical way in which the lots could possibly be resubdivided in the future.
- i. A plan for soil erosion and sediment control both during construction and after development has been completed. The plan shall include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures and landscaping of the erosion and sediment control system.
- j. A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted.
- k. A financial statement of the developer satisfactory to the City.
- l. Such other information as may be required.

Subd. C

Final Plat. The owner or subdivider shall submit a final plat together with any necessary supplementary information. The final plat, prepared for recording purposes, shall be prepared in accordance with provisions of Minnesota State Statutes and Hennepin County regulations, and such final plat shall contain the following information:

1. Name of subdivision, which shall not duplicate or too closely approximate the name of any existing subdivision.
2. Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close.
3. The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing County monuments on the nearest section lines, including true angles and distances to such reference points or monuments.
4. Location of lots, streets, public highways, alleys, parks and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground shall be shown.
5. Dimensions shall be shown from all angle points of curve to lot lines.
6. Lots shall be numbered clearly. Blocks are to be numbered, with numbers shown clearly in the center of the block.
7. The exact locations, widths, and names of all streets to be dedicated.
8. Name and address of surveyor making the plat.
9. Scale of plat (the scale to be shown graphically on a bar scale), date and north arrow.
10. Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements".

11. Statement dedicating all streets, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.

Subd. D Address Map. The Address Map shall be prepared in accordance with City and County policy and shall include all addresses of lots as platted.

Subd. E Certification Required.

1. Certification by registered surveyor in the form required by Chapter 505.03, Minnesota Statutes, as amended.
2. Execution by all owners of any interest in the land or any holders of a mortgage thereon of the certificates required by Chapter 505.03, Minnesota Statutes, as amended, and which certificate shall include a dedication of the utility easements and other public areas in such form as approved by the City Council.
3. Space for certificates of approval and review to be filled in by the signatures of the Mayor and City Clerk. The form of approval of the City Council is as follows:

Approved by the City of Tonka Bay, Minnesota  
This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signed \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

## SECTION 7. DESIGN STANDARDS

Subd. A Blocks. In general, intersecting streets, determining block lengths, shall be provided at such intervals so as to serve cross-traffic adequately and to meet existing streets.

Subd. B Lots.

1. Area. The minimum lot area, width and depth shall not be less than that established by the Tonka Bay Zoning Ordinance in effect at the time of adoption of the final plat.

2. Corner Lots. Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the Zoning Ordinance.
3. Butt Lots. Butt lots shall be platted at least five (5) feet wider than the average interior lots in the block.
4. Side Lot Lines. Side lot lines shall be approximately at right angles to street lines or radial to curved street lines.
5. Frontage. Every lot as required in the Tonka Bay Zoning Ordinance must have the minimum frontage on a public street other than an alley. Lakeshore lots must have the minimum lot width on the rear lot line.
6. Setback Lines. Setback or building lines shall be shown on the preliminary plat for all lots intended for residential use and shall not be less than the setback required by the Tonka Bay Zoning Ordinance as may be amended.
7. Features. In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions which if preserved will add attractiveness and stability to the proposed development.
8. 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.
9. Political Boundaries. No singular plat shall extend over a political boundary.
10. Frontage on Two Streets. Double frontage, or lots with frontage on two (2) parallel streets, shall not be permitted except: where lots back on arterial streets or highways, or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least twenty (20) feet in order to allow space for screen planting along the back lot line.
11. Turn Around Access. Where proposed residential lots abut a collector or arterial street, they should be platted in such a manner as to encourage turnaround access and egress on each lot.

Subd. C. Streets and Alleys.

1. Streets, Continuous. Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.
2. Local Streets and Dead-end Streets. Local streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs shall be permitted where topography or other physical conditions justify their use. Cul-de-sacs shall not be longer than five hundred (500) feet, including a terminal turnaround which shall be provided at the closed end, with a right-of-way radius of not less than sixty (60) feet.
3. Street Plans for Future Subdivisions. Where the plat to be submitted includes only part of the tract owned or intended for development, a future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.
4. Temporary Cul-de-Sac. In those instances where a street is terminated pending future extension in conjunction with future subdivision, a temporary turnaround facility shall be provided at the closed end, in conformance with cul-de-sac requirements.
5. Provisions for Resubdivision of Large Lots and Parcels. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.
6. Street Intersections. Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. Under normal conditions, the minimum angle of

intersection jogs with an offset of less than one hundred twenty-five (125) feet shall be avoided.

7. Subdivisions Abutting Mayor Rights-of-Way. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a County Highway or thoroughfare, provisions may be made for a marginal access street approximately parallel and adjacent to the boundary of such right-of-way, provided that due consideration is given to proper circulation design, or for a street at a distance suitable for the appropriate use of land between such street and right-of-way. Such distance shall be determined with due consideration of the minimum distance required for approach connections to future grade separations, or for lot depths.
8. Sidewalks. In those cases where the City Council deems appropriate and necessary, sidewalks of not less than four (4) feet in width shall be provided.
9. Pedestrian ways. Pedestrian ways, where permitted, shall be at least fifteen (15) feet wide.
10. Service Access, Alleys. Service access may be provided in commercial districts for off-street loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than thirty (30) feet wide in commercial areas. Dead-end alleys shall be avoided wherever possible, but if unavoided, such dead-end alleys may be approved if adequate turnaround facilities are provided at the closed end.
11. Half Streets. Dedication of half streets shall not be considered for approval except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations or where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided.
12. Streets Grades. Except when upon the recommendation of the City Engineer that the topography warrants a greater maximum, the grade in all streets and alleys in any subdivision shall not be greater than eight (8) percent. In addition, there shall be a minimum grade on all streets and

thoroughfares of not less than .5 percent. Grades on local streets within 100 feet of the right-of-way of an intersecting collector or arterial street shall not be greater than two (2) percent.

13. Curb Radius. The minimum curb radii for arterials, collector streets, local streets and alleys shall be as follows:

a. Arterial Streets, Collector and Local Streets	10 feet
b. Alleys	4 feet

14. Reverse Curves. Minimum design standards for collector and arterial streets shall comply with Minnesota State Aid Standards.

15. Reserve Strips. Reserve strips controlling access to streets shall be prohibited except under conditions accepted by the City Council.

16. Street Right-of-Way Width. Street right-of-way widths shall conform to the following standards.

a. Arterial Street	100 feet
b. Collector Street	66 feet
c. Local Street	50 feet

17. Private Streets. No new private streets shall be approved nor shall public improvements be approved for any private street which may hereafter be created or attempted to be created.

Subd. D Easements.

1. Width and location. An easement for utilities and drainage at least eight (8) feet wide shall be provided along each side and rear line of each lot, and an easement ten (10) feet wide shall be provided adjacent to street right-of-way. If necessary for the extension of water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.
2. Continuous Utility Easement Locations. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council after a public hearing.

Subd. E      Erosion and Sediment Control.

1.      The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.
2.      Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.
3.      Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
4.      When soil is exposed, the exposure shall be for the shortest feasible period of time as specified in the development agreement.
5.      Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. Topsoil shall be restored or provided to a depth of four (4) inches and shall be of a quality at least equal to the soil quality prior to development.
6.      Natural vegetation shall be protected wherever practical.
7.      Runoff water shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system.

Subd. F      Protected Areas.

1.      Where land proposed for subdivision is deemed environmentally sensitive by the City due to the existence of wetlands, drainageways, water courses, floodable areas or steep slopes, the design of said subdivision shall clearly reflect all necessary measures of protection to insure against adverse environmental impact.
2.      Based upon the necessity to control and maintain certain sensitive areas, the City shall determine whether said protection will be accomplished through lot enlargement and redesign, easement, or dedication of those sensitive areas in the form of outlots.

3. In general, measures of protection shall include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the subdivider shall be required to demonstrate that the proposed design will not require construction on slopes over eighteen (18) percent, or result in significant alteration to the natural drainage system such that adverse impacts cannot be contained within the plat boundary.

## SECTION 8. PARK LAND DEDICATION REQUIREMENTS

- Subd. A Dedication Required. Subdividers as a prerequisite to approval of a subdivision shall dedicate to the City of dedicate to the public use, for park or playground purposes, for public open space or trail systems a reasonable part of the land being subdivided or in lieu thereof a cash equivalent. The form of contribution, cash or land, (or any combination shall be decided by the City.
- Subd. B Land Dedication. Land to be dedicated shall be reasonably adaptable for use for active park and recreation purposes and shall be at a location convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size, shape, topography, geology, hydrology, tree cover, access and location.
- Subd. C Council Determines. The City Council shall determine the location of the land and the amount of land to be conveyed or dedicated within a proposed subdivision.
- Subd. D Cash Contribution. When a cash contribution is made in lieu of a dedication of land, the City Council shall determine the amount of cash that should be so contributed, which determination shall be based upon the market value of the unimproved land. "Market Value" shall be determined according to the Hennepin County Property Tax Listing as of the time of filing the final plat.
- Subd. E Planned Parks. Where a proposed park, playground or other recreational area, proposed school site or other public ground that has been indicated in the official map and/or comprehensive plan is located in whole, or in part, within a proposed subdivision, such proposed public site should be designated as such and should be dedicated to the City, school district or other proper governmental unit. If the subdivider chooses not to dedicate an area in excess of the land required hereunder for such proposed site, the City shall

not be required to act to approve or disapprove the preliminary plat of the subdivision for a period of sixty (60) days after the subdivider meets all the provisions of the subdivision ordinance in order to permit the Council, School Board or other appropriate governmental unit to consider the proposed plat and to consider taking steps to acquire, through purchase or condemnation, all or part of the public site proposed under the official map or comprehensive plan.

Subd. F Park Dedication Not to be Used in Calculating Density. Land area conveyed or dedicated hereunder may not be included by a subdivider as an allowance for purposes of calculating the density requirements of the subdivision as set out in the City Zoning Ordinance and shall be in addition to and not in lieu of open space requirements for Planned Unit Developments pursuant to the City Zoning Ordinance.

Subd. G Private Open Space. Where private open space for park and recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas may be used for credit at the discretion of the City Council against the requirement of dedication for park and recreation purposes, provided the City Council finds it is in the public interest to do so and that the following standards are met:

1. That yards, court areas, setbacks and other open space required to be maintained by the zoning and building regulations shall not be included in the computation of such private open space; and
2. That the private ownership and maintenance of the open space is adequately provided for by written agreement; and
3. That the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract and which cannot be eliminated without the consent of the City Council; and
4. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, hydrological, geology, access and location of the private open space land; and

5. That facilities proposed for the open space are in substantial accordance with the provisions of recreational elements of the comprehensive plan, and are approved by the City Council; and
6. That where such credit is granted, the amount of credit shall not exceed twenty-five (25) percent of the park land dedication requirements for the development.

Subd. H Separate Park Fund. The City shall maintain a separate fund into which all cash contributions received from owners or developers in lieu of conveyance or dedication of land for park or playground, public open space or trail purposes shall be deposited and shall make, from time to time, appropriations from such fund for acquisition of land for park and playground purposes, for developing existing park and playground sites, for public open space and trails, or for debt retirement in connection with land previously acquired for parks and playgrounds, which will benefit the residents of the City.

Subd. I Time of Payment or Contribution. The scheduling or dedication and/or cash payments shall be established in a development agreement between the City and subdivider.

Subd. J Amount to be Dedicated.

1. Reservation of Land. Where proposed park, playground, school site or other public site shown on an adopted plan or official map is embraced in part or in whole by a boundary of a proposed subdivision, and such public sites are not dedicated to the City or Board of Education, such public ground shall be shown as reserved land on the preliminary plat to allow the City/State Agency or the Board of Education 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.
2. Dedication of Land. Pursuant to Minnesota Statutes as now in existence or hereinafter amended, the City shall require all subdividers/developers requesting platting or replatting of land in the City, to dedicate a percentage of the gross area of all property subdivided to be dedicated for parks, playgrounds, public open space or linear park and trail systems, or to contribute an equivalent amount of cash based upon the conditions outlined below. Form of contribution, i.e., cash, land or any combination thereof, shall be decided by the City based upon need and conformance with approved City plans. In such

cases where the developer is required to dedicate land area, the City shall have the right to determine the geographic location and configuration of such dedication.

- a. Schedule for Dedication of Public Land in All Areas Zoned Residential. All areas zoned residential subdivisions, ten (10) percent of the undeveloped land proposed to be subdivided or such lesser percentage as the City shall determine to be specifically and uniquely attributable to the proposed development or an equivalent amount in cash based upon the fair market value of the undeveloped land as determined by the City at the time of the final plat approval or any combination thereof.
- b. Commercial, Industrial or Other Non-Residential Subdivisions. Seven (7) percent of the undeveloped land proposed to be subdivided or an equivalent amount of cash based upon fair market value of the undeveloped land as determined by the City at the time of the final plat approval or any combination thereof.
- c. The percentage set forth in paragraphs a. and b. shall be in addition to the property dedicated for streets, alleys, waterways, pedestrian ways or other public ways. No area 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.
- d. Cash in Lieu of Land. All monies collected from cash contributions shall be placed in a special fund to be spent only on those public uses as allowed by Minnesota Statutes.
- e. Delayed Dedication Payment. Upon petition by the Developer, the Council may approve a delay in the actual dedication of the cash required in lieu of land until such time the development occurs on the property being platted, provided that a proper legal agreement is executed guaranteeing such dedication. Delayed dedication payment shall include eight (8) percent interest per year.

## SECTION 9. REQUIRED BASIC IMPROVEMENTS

Subd. A General Provisions.

1. Before a final plat is delivered by the City to the subdivider, the subdivider of the land covered by said plat shall pay all applicable fees and execute and submit to the City Council a developer's agreement which shall be binding on his or their heirs, personal representatives and assigns, a part of which agreement shall be set forth that the subdivider will cause no private construction to be made on the lands within said plat, nor shall the subdivider file or cause to be filed any application for building permits for such construction until all improvements required under this Ordinance have been made or arranged for in the manner and conforming to the requirements as set forth herein.
2. Prior to the delivery of the approved final plat, the subdivider shall deposit with the City Treasurer an amount equal to a minimum of one hundred twenty-five (125) percent of the City engineer's estimated cost of the required improvements within the plat, either in a cash escrow fund performance and indemnity bond, or letter of credit. The surety involved in said financial guarantees shall be approved by the City. The said cash escrow letter of credit or performance and indemnity bond shall be conditioned upon:
  - a. The making and installing of all of the improvements required by the terms and conditions set forth by the City within one (1) year.
  - b. Satisfactory completion of the work and payment therefore, which work was undertaken by the subdivider in accordance with the developer's agreement referred to above.
  - c. The payment by the subdivider to the City of all expenses incurred by the City, which expenses shall include but not be limited to expenses for engineering, fiscal, legal, construction and administration. In instances where a cash escrow is submitted in lieu of a letter of credit or performance and indemnity bond, there shall be a cash escrow agreement which shall provided that in the event the required improvements are not completed within one (1) year, all amounts held under the cash escrow agreement shall be automatically turned over and delivered to the City and applied by the City to the cost of completing the

required improvements. If the funds available within said cash escrow agreement are not sufficient to complete the required improvements, the necessary additional cost to the City shall be assessed against the subdivision. Any balance remaining in the cash escrow fund after such improvements have been made and all expenses therefore have been paid, shall be returned to the subdivider. In instances where a letter of credit is issued in lieu of a cash escrow or performance and indemnity bond is used in lieu of a cash escrow or letter of credit, the said bond shall be in a form acceptable to the City and shall comply with all requirements as set forth in Minnesota Statutes as amended, which Statutes relate to Surety Bonds.

3. No final plat shall be approved by the Council without first receiving a report signed by the City Engineer and the City Attorney certifying that the improvements described therein together with the agreements and documents required under this Section of the Ordinance, meet the requirements of the City. The City Treasurer shall also certify that all fees required to be paid to the City in connection with the plat have been paid.
4. The City of Tonka Bay shall where appropriate require of a subdivider submission of a Warranty/Maintenance Bond in the amount equal to the original cost of the improvements or such less amount determined by the City Council, which shall be in force for one year following the final acceptance of any required improvements and shall guarantee satisfactory performance of the said improvements.
5. Reproducible “as-built drawings” as required by the City Engineer shall be furnished to the City by the subdivider of all required improvements. Such “as-built drawings” shall be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.
6. All of the required improvements to be installed under the provisions of this Ordinance shall be approved by and subject to the inspection of the City Engineer. All of the City’s expenses incurred as the result of the required improvements shall be paid either directly, indirectly or by reimbursement to the City by the subdivider.

Subd. B Monuments.

1. Monuments of a permanent character as required by Section 505.02 of Minnesota Statutes as now in existence or hereinafter amended, shall be placed at each corner or angle on the outside boundary of the final plat. The boundary line of the property to be included with the plat is to be fully dimensioned.
2. Pipes or steel rods shall be placed at each lot corner. All United States, State, County or other official benchmarks, monuments, or triangulations in or adjacent to the property, shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and blocks, as an aid to future surveys shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.
3. To insure that all irons and monuments are correctly in place following the final grading of a plat, a second monumentation will be required. Proof of the second monumentation shall be in the form of a surveyor's certificate and this requirement shall additionally be a condition of certificate of occupancy as provided for in the Tonka Bay Zoning Ordinance as may be amended.

Subd. C Minimum Street Improvements.

1. Grading. All streets shall be graded for the full width of the right-of-way and in such manner as to provide a minimum finished surface width as recommended by the City Engineer. All streets shall be undercut below the established grade for the width of the finished surface to a depth adequate to accommodate the sub base, base, and bituminous surfacing.
2. Sub grade. The sub grade of the streets shall be constructed as to satisfactorily sustain the street in a stable condition. Any unsuitable or undesirable materials shall be removed.
3. Sub base and Base. All streets shall be constructed having a gravel sub base of six (6) inch minimum thickness using gravel conforming to M.H.D. Spec. No. 3138, Class 4, and a gravel base of three (3) inch minimum thickness using gravel

conforming to M.H.D. Spec. No. 3138, Class 5. The total minimum thickness of the sub base and base as mentioned above, are applicable to the A-6 sub grade soil group. For other soil groups, the following factors shall be employed to determine the total minimum thickness of the sub base and base. Adjustment of the total thickness shall be made in the sub base only and the three (3) inch minimum thickness of the base shall not be decreased.

<u>Sub grade Soil Group</u>	<u>Factor</u>
A-2	75%
A-3	50%
A-4	125%
A-5	130%
A-7-6	130%
A-7-5	120%

Soil group classifications are in accordance with A.A.S.H.O. designations: M145-49.

4. Bituminous Surfacing. All streets shall be surfaced with a plant-mixed machine-laid bituminous mat, having a minimum thickness of one and one-half (1-1/2) inches using bituminous material conforming to M.H.D. Spec. No. 2341. An integrant curb being three (3) inches in height shall be machine or hand formed on each side of the bituminous mat.
5. Seal Coat. A bituminous seal coat shall be applied to the finished bituminous surface after the installation of curbing. The seal coat shall be constructed in accordance with the requirements of M.H.D. Spec. No. 2356. The type and grades of materials and rate of application of the same shall be as specified by the City Engineer. The City may require bituminous seal coating to be applied.
6. When required, the curb and gutter shall be constructed in accordance with the standards and specifications for street construction as set forth and approved by the City Council. The City Council may require concrete curbs and gutters.
7. The grade and drainage requirements for each plat shall be approved by the City Engineer at the expense of the applicant. Every plat presented for final signature shall be accompanied by a Certificate of the City Engineer that the

grade and drainage requirements have been met. In an area not having municipal storm sewer trunk, the applicant shall be responsible before planting to provide for a storm water disposal plan without damage to properties outside the platted area, and said storm water disposal plan shall be submitted to the City Engineer, who shall report to the City Council on the feasibility of the plan presented. No plat shall be approved before an adequate storm water disposal plan is presented and approved by the City Engineer and City Council. The use of dry wells for the purpose of storm water disposal is prohibited.

8. Boulevards. The boulevards (area between the backs of the curbs and the property line) shall be uniformly finished to match the top of the rolled curb and sodded or seeded to present a pleasing finished appearance.
9. Driveways. All that portion of the boulevard designated as driveway shall be surfaced with plant-mixed machine-laid bituminous material conforming to M.H.D. Spec. No. 2341 on a four (4) inch gravel base.
10. Street signs of the design approved by the City Council shall be installed at each street intersection.
11. Street lighting fixtures as may be required by the City Council shall be installed.

Subd. D Tree Planting. Trees, type of which shall be approved by the City Council, having a trunk diameter (measured twelve (12) inches above the ground) of not less than one and three-fourths (1-3/4) inches shall be planted along all streets where trees do not exist, and not less than one per lot. This requirement will be satisfied, and it is preferable if an equivalent number of the same size exist or are planted in a naturalistic way. The trees shall be planted in at least one cubic yard of growing soil and shall survive one growing season or be replaced.

Subd. E Sanitary Sewer and Water Distribution Improvements.

1. Sanitary sewers and water facilities shall be installed in accordance with the standards and specifications as required by the City Council and subject to the approval of the City Engineer.

- Subd. F      Public Utilities. Telephone, electric and/or gas service lines are to be placed underground in accordance with the provisions of all applicable City ordinances.
- Subd. G      Election by City to Install Improvements. In accordance with Tonka Bay city policy, it is the subdivider's responsibility to install all required improvements except that the City reserves the right to elect to install all or any part of the improvements required under the provisions of this Ordinance in lieu of requiring the subdivider to install such improvements, pursuant to MSA 429, as amended.

## SECTION 10 NON-PLATTED SUBDIVISION

- Subd. A      Registered Land Surveys. Subdivision by registered land survey shall only be allowed for Torrens property and shall meet the requirements of Section 508.47, Minnesota Statutes. The provisions of this ordinance shall apply to all registered land surveys within the City of Tonka Bay, and the standards, regulations and procedures hereof shall govern the subdivision of land by registered land survey. Unless approval has been obtained from the City Council in accordance with the standards set forth in this Ordinance, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts unless so approved.
- Subd. B      Conveyance by Metes and Bounds. No division of one (1) or more parcels in which the land conveyed is described by metes and bounds shall be made or recorded if the parcels described in the conveyance are twenty (20) acres or less in area and five hundred (500) feet or less in width unless such parcel was a separate parcel of record at the effective date of this ordinance. Building permits will be withheld for buildings or tracts which have been subdivided and conveyed by this method and the City may refuse to take over tracts as streets or roads to improve, repair or maintain any such tracts.

## SECTION 11 VARIANCES, STANDARDS, PROCEDURES

- Subd. A      Findings. The City Council, serving as the Board of Adjustment and Appeals, may approve a variance from the minimum standards of this ordinance (not procedural provisions) when, in its opinion, undue hardship may result from strict compliance. In considering any variance, the Council shall prescribe any conditions that it deems necessary to or desirable for the public interest. In making its decision, the City Council shall take into account the nature of

the subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. A variance shall only be granted when the City Council finds:

1. That there are special and highly unique circumstances or conditions affecting said property which are not common to other properties in the City and that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable and minimum use of his land.
2. That the granting of the variance will not be detrimental to the public health, welfare or injurious to other property in the territory in which property is situated.
3. That the variance is to correct inequities resulting from an extreme hardship limited to topography, soils or other physical factors of the land.

Subd. B Procedures.

1. Requests for a variance or appeal shall be filed with the City Administrator on an official application form. Such application shall be accompanied by a fee as established by City Council resolution. This fee shall not be refunded. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials necessary for the explanation of the request, and a list of property owners located within three hundred fifty (350) feet of the subject property. The request shall be placed on the agenda of the first possible City Council meeting occurring after ten (10) days from the date of submission. The request shall be considered as being officially submitted when all the information requirements are complied with.
2. Upon receipt of said application, the City Clerk shall set a public hearing for the next regular meeting of the City Council. The City Council shall conduct the hearing. Notice of said hearing shall contain a legal property description, description of request and map detailing property location, and be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred fifty (350) feet of the boundary of the property in question.

3. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Ordinance.
4. After the public hearing has been set, the City 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 City Council. Additionally, the City Administrator shall refer the application to other local, state and special units of government where appropriate and when required.
5. The City staff 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 relation to all pertinent sections of this Ordinance.
6. The applicant or a representative thereof shall appear before the City Council in order to answer questions concerning the proposed variance request.
7. The City Council serving as the Board of Adjustment and Appeals shall make a finding of fact and shall decide whether to approve or deny a request for a variance or an appeal within thirty (30) days after the public hearing on said request.
8. A variance of this zoning ordinance or grant of an appeal shall be by four-fifths (4/5) vote of the full City Council serving as the Board of Adjustment and Appeals.
9. The City Administrator shall notify the originator of the variance request or appeal of the City Council's, serving as the Board of Adjustment and Appeals, decision in writing.

## SECTION 12 VIOLATIONS AND PENALTY

Subd. A Misrepresentation as to Construction, Supervision, or Inspection of Improvements. It shall be unlawful for any person, firm or corporation owning an addition or subdivision of land within the City to represent that any improvement upon any of the streets, alleys or avenues of said addition or subdivision or any sewer in said addition or subdivision has been constructed according to the plans

and specifications approved by the City Council, or has been supervised or inspected by the City, when such improvements have not been so constructed, supervised or inspected.

Subd. B Penalty. Anyone violating any of the provisions of this Ordinance shall be guilty of an offense punishable by a fine of not more than five hundred (\$500) dollars or by a commitment to jail for a period of not to exceed ninety (90) days. Each month during which compliance is delayed shall constitute a separate offense.