

SECTION 300 SUBDIVISION REGULATIONS  
(amended 2/17/04)

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## SECTION 300 SUBDIVISION REGULATIONS

### 300.01 INTRODUCTION.

Subd. 1. Purpose. To regulate the subdividing of land within the City of Wabasha in order to:

- A. Assure that new additions will harmonize with overall development objectives of the community;
- B. Encourage well planned subdivisions by establishing adequate development standards;
- C. Improve land records by establishing standards for surveys and plats;
- D. Place the cost of improvements against those profiting therefrom;
- E. Assure that public improvements such as streets, utilities and drainage facilities are constructed to satisfactory standards;
- F. Safeguard the interests of the public, the homeowner, the subdivider and the municipality.

Subd. 2. Validity. Should any section or provision of this Section be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Section as a whole or any part thereof than the part so declared to be invalid.

Subd. 3. Geographic Jurisdiction. The area within the corporate limits of Wabasha, MN.

### 300.03 CONVEYANCE BY METES AND BOUNDS.

No conveyance of land in which the land conveyed is described by metes and bounds, or by reference to an unapproved registered land survey, or to an unapproved plat made after the effective date of this Section, shall be made or recorded unless the parcel described in the conveyance:

Subd. 1. Was a separate parcel of record at the effective date of this Section, or;

Subd. 2. Was the subject of a written agreement to convey entered into prior to the effective date of this Section, or;

Subd. 3. Was a separate parcel of not less than two and one half acres in area and 150 feet in width on the effective date of this Section, or;

Subd. 4. Is a single parcel of land of not less than five acres in area and 300 feet in width with a recorded certified land survey on file with the Wabasha County Recorder. The City will not issue a building permit for structures on such a

parcel until it receives a copy of the certified land survey. Aliquot descriptions (description using the nomenclature of the U.S. Public Land Survey) shall be exempt from this requirement.

Subd. 5. Building permits shall be withheld for structures on tracts that have been subdivided and conveyed by methods prohibited by this Section and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.

Subd. 6. Meets the criteria outlined in Section 300.04 of this Chapter.

#### 300.04 ADMINISTRATIVE LOT SPLIT

Subd. 1. Purpose. The purpose of this Section is to allow owners of certain properties to divide those properties into parcels smaller than five acres without going through the full subdivision process as described in this chapter. The administrative lot split provision shall not be utilized for the sole purpose of avoiding the full subdivision process.

Subd. 2. Lot Split Criteria. An administrative lot split shall meet the following criteria:

1. One parcel divided into Two parcels:
  - a. The two new parcels shall have the minimum frontage required on a public street, designated private street or designated private way.
  - b. The parcels must meet the minimum standards for lot width and area in their zoning district.
  - c. Further subdivision of the two new parcels using the administrative lot split process cannot take place within five years of the original lot split.
  - d. Further subdivision of either of the two new parcels into three or more parcels may be applied for at any time but shall comply with the subdivision process pursuant to Section 300.07.
2. One parcel divided into Three parcels:
  - a. The three new parcels shall have the minimum frontage required on a public street, designated private street or designated private way.
  - b. The parcels must meet the minimum standards for lot width and area in their zoning district.
  - c. The applicant shall designate two lots that shall not be subdivided further. The remaining lot may be further subdivided only through the subdivision process pursuant to Section 300.07.
3. Lots created herein shall conform to the general character of the surrounding area and future land use plan for the area as outlined in the Wabasha Comprehensive Plan.

4. The property owner shall demonstrate in the application the reason for the administrative lot split. An intent to avoid the subdivision regulations is not a sufficient reason for an administrative lot split.
5. The applicant shall demonstrate that adequate drainage is provided to accommodate development on the parcels.

Subd. 3. Dedication of Street and Public Utility Easements. When it is determined that additional public street easements are required along existing public roads in order to improve drainage or roadway safety, the owner shall be required to dedicate such necessary street easements as a condition of administrative lot split approval.

When public utility easements and/or environmental corridor easements are required as a result of a metes and bounds subdivision, the owner shall dedicate such necessary easements as a condition of administrative lot split approval.

Subd. 4. Applications. All applications under this section shall be filed with the City and shall have attached thereto a legal description and certificate of survey of the land to be subdivided showing all new and residual parcels and any deed covenants or restrictions that exist or are proposed. In order to receive final approval of the application, the Wabasha County Recorder shall record an original of the certificate of survey and a copy of the recorded survey submitted to the City. No building permits for lots subdivided through this process shall be issued without a copy of the recorded survey.

Subd. 5. Filing Fee. A filing fee as established by the City Council shall accompany all applications for metes and bounds subdivision approval.

Subd. 6. Appeals. All appeals of the decisions of the Zoning Administrator regarding this Section shall be made directly to the Board of Adjustment. Appeals must be filed within ten (10) days of the date of the decision of the Zoning Administrator. The Board shall hold a public hearing within sixty (60) days from receipt of a written appeal and shall dispose of all requests within sixty (60) days of the hearing. The decision of the Board of Adjustment shall be final.

#### 300.05 DEFINITIONS.

Subd. 1. "Alley" shall mean a public right-of-way usually less than 24 feet in width which normally affords a secondary means of vehicular access to abutting property.

Subd. 2. "Arterial Street" shall mean a street which provides for the movement of relatively heavy traffic to, from or within the City of Wabasha. It has a secondary function of providing access to abutting land. An arterial street system is designated on Wabasha's Comprehensive Plan.

- Subd. 3. "Block" shall mean an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.
- Subd. 4. "City" shall mean the City of Wabasha, Minnesota.
- Subd. 5. "City Clerk or Clerk" shall mean the City Clerk of Wabasha, MN.
- Subd. 6. "City Council or Council" shall mean the City Council of Wabasha, MN.
- Subd. 7. "City Engineer or Engineer" shall mean the consulting engineering firm retained by the City of Wabasha, Minnesota on a continuing service basis.
- Subd. 8. "Collector Street" shall mean a street which collects and distributes internal traffic within an urban area, such as a residential neighborhood, between arterial and local streets. It provides access to abutting land.
- Subd. 9. "Cul-de-sac" shall mean a short street having but one end open to traffic and the other end being permanently terminated to a vehicular turn around.
- Subd. 10. "Easement" shall mean a grant by the owner of land to a person or persons or to the general public for a specific use of said land.
- Subd. 11. "Half Street" shall mean a street having only one half of its intended roadway width developed to accommodate traffic.
- Subd. 12. "Improvements" shall mean pavement, curbs, gutters, sidewalks, sewer and water facilities, grading, street signs, plantings, and other items for the welfare of property owners, and/or the general public.
- Subd. 13. "Local Street" shall mean a street of little or no continuity designed to provide access to abutting property and leading into collector or arterial streets.
- Subd. 14. "Lot" shall mean a piece, parcel or plat of land intended for building development or as a unit for transfer of ownership.
- Subd. 15. "Planned Residential Development" shall mean a tract of land containing not less than two acres and which contains or will contain two or more principal buildings, developed or to be developed under unified ownership or control, the development of which is unique and of a substantial different character than that of the surrounding areas.

- Subd. 16. "Plat, Final" shall mean a finished drawing prepared by a registered land surveyor showing completely and accurately all legal and engineering information and certification necessary for recording.
- Subd. 17. "Plat, Preliminary" shall mean a drawing showing the proposed layout of a subdivision in sufficient detail to indicate its workability in all aspects, but not in final form for recording, and not completely computed.
- Subd. 18. "Private Way" means a dead end, very low volume residential street that connects to a public street and functions similar to an individual driveway by providing a low standard two-way traffic flow. Private ways shall be allowed only when an applicant demonstrates there is no other reasonable means of access. Private ways must meet the following standards:
- a) Minimum designated width of 33 feet. The driving surface must be a minimum of 12 feet in width.
  - b) A private way may not provide access to more than three improved lots, parcels, or principal buildings.
  - c) Private ways may not be used in subdivisions of ten or more lots or in areas where future subdivision of adjacent land feasible.
  - d) Private ways cannot be dedicated for public acceptance and all maintenance and improvements shall be controlled by proprietorship, corporation, association, deed covenants, and/or road agreement. These documents shall be submitted to the City prior to approving any lot split or subdivision containing a private way.
  - e) A private way may not exceed 300 feet in length.
  - f) Lots shall be considered conforming if the lot width required by the zoning ordinance is met along the private way.
- Subd. 19 "Private Streets" function exclusively as residential streets serving four or more dwelling units, lots, parcels, or principal buildings. Maintenance and improvements shall be controlled by proprietorship, corporation, association, deed covenants and/or road agreement. Design and construction shall be in accordance with the applicable standards and specifications for public streets of the pertinent street classification.
- Subd. 20. "Subdivider" shall mean a person, firm or corporation undertaking the subdivision, or resubdivision of a tract or parcel of land according to the requirements of this Section.
- Subd. 21. "Subdivision" shall mean the division of parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land; provided however, that the following situations shall be except:

- A. Where land is to be divided into lots or parcels of five acres or more for agricultural purposes and not involving a new street.
  - B. Where an agreement to convey land has been entered into prior to the effective date of this Section and the instrument showing the agreement to convey is recorded in the office of the Wabasha County Register of Deeds within one year thereafter.
  - C. Where a parcel of land is co-extensive with a lot unit or units described with reference to a plat or auditor's subdivision duly filed and of record in the office of the Wabasha county Register of Deeds prior to the effective date of this Section.
  - D. Where the division of property meets the standards defined in Section 300.04.
- Subd. 22. "Zoning Commission" shall mean the Planning Commission of Wabasha, Minnesota.

### 300.07 PROCEDURES FOR PLAT REVIEW/APPROVAL.

The following procedures shall be followed in the administration of this Subsection and no real property within the jurisdiction of this Section shall be subdivided and offered for sale or a plat recorded until a Final Plat has been approved by the City Council as set forth in the procedures provided herein and filed with the Register of Deeds of Wabasha County, Minnesota. Plans of Planned Developments for housing, commercial, industrial or other uses or for any combination of uses designed for sale or rental purposes shall be presented in the same manner as other plats for the review of the Planning Commission and the approval of the City Council.

- Subd. 1. Pre-application Meeting. Prior to the submission of any plat for consideration to the Zoning Commission, the subdivider shall meet with the Administrator to introduce himself as a potential subdivider and learn what shall be expected of him in such capacity and to determine the relationship of his proposed subdivision with overall development objectives for the effected area.
- Subd. 2. Preliminary Plat Approval. The subdivider shall engage a qualified land planner, or registered land surveyor or engineer to prepare a Preliminary Plat of the area to be subdivided, and shall submit four copies of such Plat to the City Clerk (Accompanied by the fees in Chapter VIII). The Clerk shall transmit two copies to the Planning Commission and one copy to the City Engineer for review and reaction. The Planning Commission shall hold a public hearing thereon as required by State Law; the Commission may utilize other professional assistance such as land planning and legal to aid in its review. If approved by the Planning Commission, the design is thereby accepted as a basis for preparation of the Final Plat

Subd. 3. Final Plat Approval. The subdivider shall engage a registered land surveyor to prepare a Final Plat which may constitute only that portion of the Preliminary Plat which the subdivider proposes to record and develop at the time. Procedures for submittal to the City Clerk and review by Planning Commission, Engineer and/or others shall be the same as required for Preliminary Plat approval. Following Planning Commission approval, the Final Plat shall be transmitted to the City Council for final action. If approved by Council, the subdivider shall file the Final Plat with the City Clerk and shall record it with the Wabasha County Register of Deeds.

#### 300.09 INFORMATION REQUIRED PRELIMINARY AND FINAL PLATS.

Subd. 1. Identification and description, including name of subdivision, name of subdivider and designer, graphic scale at one inch equals 100 feet, north-point, and date of preparation.

Subd. 2. Existing conditions in tract and in surrounding area to a distance of 100 feet including boundary line of subdivision and adjoining land ownerships, total acreage, street and railroad rights-of-way, easements, buildings, utilities and topography showing water courses, marsh areas and contours at vertical intervals of no more than two feet.

Subd. 3. Subdivision design features including layout and width of proposed streets, layout and size of utility easements, street names, lot and block dimensions, parks and other public areas, and proposed use of all parcels.

Subd. 4. Plan of the Entire Area. Where a tract of land is proposed for subdivision that is a part of a larger logical subdivision unit, the Planning Commission may cause to be prepared a "Plan of the Entire Area", such plan to be used by the Commission to aid in judging the proposed plat.

#### 300.11 INFORMATION REQUIRED ON FINAL PLAT.

Subd. 1. Identification and description data as required for the Preliminary Plat, except that the graphic scale shall be one inch equals 100 feet.

Subd. 2. Boundaries of the property; lines of all proposed and adjoining streets with their width and names, and any other areas intended for public use.

Subd. 3. An identification system for all lots and blocks.

Subd. 4. Data required by the Wabasha County Surveyor, i.e., accurate angular and linear dimensions for all lines, angles and curvatures used to describe boundaries, streets, lots, easements and other important features.



Subd. 5. Plans for water supply, sewage disposal and drainage.

Subd. 6. Surveyor's certification as to accuracy of survey and plat.

Subd. 7. Notarized certification by Owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas.

Subd. 8. Certification showing that all taxes currently due on the property to be subdivided have been paid in full.

Subd. 9. Certification by the Planning Commission and by the City Council of their approval of the Final Plat.

### 300.13 FLOOD PLAIN.

No plat shall be approved for any subdivision which covers an area subject to periodic flooding or which is otherwise poorly drained unless the subdivider agrees to make improvements which will, in the opinion of the City Engineer, make the area completely safe for occupancy, and provide adequate street and lot drainage.

### 300.15 GENERAL STREET DESIGN

Subd. 1. The design of all streets shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm water and to the proposed uses of the area to be served.

Subd. 2. Where new streets extend existing adjoining streets, their projections shall be at the same or greater width, but in no case less than the minimum required width.

Subd. 3. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new subdivision adjoins unsubdivided land susceptible to being subdivided, then the new streets shall be carried to the boundaries of such unsubdivided land.

### 300.17 STREET WIDTH AND GRADES.

The following standards of street design for both public and private streets shall be observed by the subdivider. If the average lot width of the lots served by the public street is in excess of 150 feet the subdivider may request that the street width and grade conform to the rural standards for local streets. Rural streets do not require curb and gutter. The Planning Commission shall take into account future density of the area when

determining whether rural standards are appropriate. The Planning Commission may consider the rural standards for streets where the average lot width is less than 150 feet if a finding is made that the area served by the road has rural qualities and will not support further development.

Street Category	Right-of-Way Minimum Width	Surfaced Minimum Width	Maximum Grade*	Minimum Grade
Arterial	70 feet	44 feet	6%	0.4%
Collector	66 feet	40 feet	8%	0.4%
Local	60 feet	36 feet	10%	0.4%
Local (Rural)	50 feet	22 feet	10%	0.4%
* To assure a safe and reasonable sight distance at intersections a lesser maximum grade may be required.				
For local streets less than 1,000 feet of length in single-family developments, cul-de-sacs, and frontage streets, the minimum right-of-way width may be 50 feet and the surfaced minimum width 28 feet				

Subd. 1. Cul-de-sacs. Turn arounds shall have a minimum outside roadway diameter of 100 feet, and a minimum street property line diameter of 120 feet. Maximum distance between street intersections and turn arounds or between turn arounds shall be 400 feet measured along the street center line from the intersection of origin or from the center point of the turn around.

Subd. 2. Street Jogs. Street jogs with center line off-sets of less than 120 feet shall be avoided.

Subd. 3. Street Intersections. Insofar as practical, streets shall intersect at right angles and no intersection shall be at an angle of less than 60 degrees. No intersection shall contain more than four corners.

Subd. 4. Local Service Drives. Where a proposed plat is adjacent to a major thoroughfare, the City Council may require the developer to provide local service drives along the right-of-way of such facilities or Council may require that lots should back on thoroughfares, in which case, vehicular and pedestrian access between the lots and thoroughfares shall be prohibited.

Subd. 5. Access to Arterial and Collector Roadways. Where a proposed plat is adjacent to an arterial or collector roadway spacing between access points to such thoroughfares of less than 660 feet (1/8 mile) for collectors and 1,320 feet (1/4

mile) for arterials shall be avoided except where impractical or impossible due to existing property divisions or topography.

- Subd. 6. Corners. Curb lines at street intersections shall be rounded at a radius of not less than 15 feet.
- Subd. 7. Alleys. Alleys shall be prohibited in new residential areas unless permission is granted by the City Council for their provision.
- Subd. 8. Pedestrian Walkways. The Planning Commission and/or City Council may require the provision of pedestrian walkways in proximity to public service areas such as parks, schools, shopping facilities or in other appropriate locations of a similar nature.

### 300.18 PRIVATE STREETS

Subd. 1. Requirements. The Planning Commission may recommend approval of private streets in new subdivisions provided that the standards and requirements of this section are met. The standards and requirements of this Section shall apply to all private streets created or constructed after the date of adoption of this Section. Access may be via private streets provided that:

- 1. The City will not maintain such private streets unless they are brought into compliance with applicable public street standards of the City in effect at the time and without cost to the City.
- 2. The final recorded plat and all deeds of subdivision, or similar instruments, for any single-family subdivision containing private street(s) shall clearly designate the streets which are to be private and shall contain the following note:

*The following street(s) \_\_\_\_\_, in this subdivision are privately owned and maintained by the lot owner(s), may not meet City standards, and will not be maintained by the City.*

- 3. The standards and requirements of this Section shall also apply to existing private streets when any of the following occurs:
  - a. An extension or addition is added to an existing private street;
  - b. One or more lots are added to an existing private street or one or more lots along an existing private road are to be divided;
  - c. The City Council determines that an existing private street is unsafe or will not permit reasonable access to firefighting and emergency vehicles year around to all portions of the private street.

Subd. 2. Streets Excluded.

1. Streets intended for use as an arterial or collector shall not be used, maintained, or constructed as private streets.
2. Streets intended for use as a local street may be used, maintained, or constructed as a private street.
3. The Planning Commission and/or the City Council may deny the creation of a private street if it makes a finding or fact that it would:
  - a. Negatively affect traffic circulation on public streets; or
  - b. Impair access to property either on-site or off-site of the subdivision; or
  - c. Impair access to or from public facilities including schools, parks, and libraries; or
  - d. Delay the response time of emergency vehicles.

Subd. 3. Easements. Grantors of any subdivision lot(s) to which ~~such~~ the statement contained in Section 300.18 applies must include the statement on each deed of conveyance thereof. The final plat shall provide adequate easements across private streets for ingress, egress, drainage, maintenance of utilities, and access by public agencies, including the City's Police and Fire Departments to allow them to carry out their duties.

Subd. 4. Private Street Standards.

1. The applicant shall provide engineering plans, profiles, details, design sections, and construction standards consistent with the requirements for public streets of the same classification.
2. The methods of pavement design, construction practices, and materials used shall conform to engineering standards and specifications as required by the City Council. Such improvements shall be subject to inspection and approval by, and shall be made in sequence as determined by the City Engineer.
3. Lots shall be considered conforming if the lot width required by the zoning ordinance is met along the private street.

Subd. 5. Maintenance.

1. A bona fide property owners' association must be established and given the responsibility of ownership and perpetual maintenance of private streets, and, where appropriate, sidewalks and/or trails.
2. All documents are to be submitted to the City with applications for subdivision approval.

### 300.19 PUBLIC EASEMENTS.

Subd. 1. Utilities. Easements of at least 10 feet wide centered on rear lot lines shall be provided for utilities. Easements for storm or sanitary sewers shall be at least 20 feet wide. They shall have continuity of alignment from block to block. Temporary construction easements may be required where installation depths are greater than 10 feet. Utilities easements shall be kept free of any vegetation which would interfere with the free movement of utilities service vehicles.

Subd. 2. Water Courses. When a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easements or drainage right-of-way conforming substantially with the lines of such water courses, and with such further width or construction as may be determined to be necessary by the City Engineer.

### 300.21 BLOCKS.

Subd. 1. Length. Block lengths shall not exceed 800 feet and shall not be less than 400 feet.

Subd. 2. Pedestrian Ways. In blocks longer than 600 feet, a pedestrian crossway with a minimum right-of-way of 20 feet may be required near the center of the block.

### 300.23 LOTS.

Subd. 1. Layout. Where possible, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Lots with frontage on two parallel local streets shall be prohibited.

Subd. 2. Size and Dimension. Minimum lot area and lateral dimensions shall be as set forth in the Wabasha Zoning Ordinance.

Subd. 3. Natural Features. In the subdivision of land, due regard shall be for all natural features which if preserved will add attractiveness and stability to the proposed development and which may alter normal lot platting.

Subd. 4. Lots along Thoroughfares/Railroads. There shall be not direct vehicular access from residential lots to arterial streets. Residential lots shall be separated from railroad rights-of-way by a 25 foot buffer strip, which may be in the form of added depth or width of lots backing on or siding on the railroad right-of-way.

### 300.25 REQUIRED IMPROVEMENTS.

Improvements shall be made in all subdivisions according to the following requirements:

Subd. 1. Monuments. As per Minnesota State Statutes, Chapter 505

Subd. 2. Streets.

- A. Grading. Streets shall be graded to the full width of the right-of-way. All street grading and gravel base construction shall be in accordance with specifications established by the City. Grading shall be completed prior to installation of applicable underground utilities, either private or public in nature. Gravel base construction shall be undertaken after completion of the installation of underground utilities.
- B. Surfacing. Following City approval of street grading and after utility installation, streets shall be surfaced in accordance with the latest recommended plans and specifications prepared by the City, approved by the City Council, and on file in the City Clerk's office.

Subd. 3. Utilities. All utilities, whether private or public, shall be installed underground so as to enhance the visual appearance of the area. Where utilities are to be installed in street or alley rights-of-way, such installation shall take place prior to street surfacing. Water and Sewer laterals shall be laid to the property line ending at the corporation cock.

- A. Sanitary Sewer and Water Supply. Must receive proper Utilities Commission approval prior to preliminary plat approval.

Subd. 4. Drainage Facilities. Storm sewer and/or other surface drainage facilities shall be installed as determined to be necessary by the City Engineer for the proper drainage of surface waters.

Subd. 5. Sidewalks/Boulevard Trees. Sidewalks, when provided, shall be of concrete, four inches in thickness with pitch and surface as approved by the City Engineer.

Subd. 6. Specifications/Inspections. Unless otherwise stated, all of the required improvements shall conform to engineering standards and specifications as required by the City Council. Such improvements shall be subject to inspection and approval by, and shall be made in sequence as determined by the City Engineer.

Subd. 7. Financing. Before a Final Plat is approved by the City Council, the subdivider shall submit an agreement and performance bond or cash escrow agreement equal to one and one-quarter (1 1/4) times the Consulting Engineer's estimated cost of the required improvements, to assure the following:

- A. The subdivider shall pay for the cost of all improvements required in the subdivision.
- B. Guaranteed completion of the required improvements within a two-year period.
- C. Payment by the subdivider for all costs incurred by the municipality for review and inspection. This would include preparation and review of plans and specifications by the Consulting Engineer, Planner and Attorney, as well as other costs of a similar nature.

The City may elect to install any of the required improvements under the terms of a cash escrow agreement.

If the required improvements are not complete within the two year period, all amounts held under the escrow agreement or performance bond shall be turned over and delivered to the City and applied to the cost of the required improvements. Any balance remaining after such improvements have been made shall be returned to the owner or subdivider.

### 300.27 ADMINISTRATION AND ENFORCEMENT.

- Subd. 1. Responsible Official. It shall be the duty of the City Council to see that the provisions of this Section are properly enforced.
- Subd. 2. Building Permit. No building permit shall be issued by an governing officials for the construction of any building, structures or improvement on any land henceforth subdivided until all requirements of this Section have been fully complied with.
- Subd. 3. Variances. The City Council shall have the power to vary from the requirements of this Section when supporting evidence indicates that:
  - A. Because of the particular physical surroundings, shape or topographic conditions of the land involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
  - B. The conditions upon which the petition for a variance is based are unique to the tract of land for which the variance is sought and one not application generally to other property within the same zoning classification;
  - C. The purpose of the variance is not based exclusively upon a desire to increase the value of income potential of the parcel of land;
  - D. The alleged difficulty or hardship is caused by the provisions of this Section and has not been created by any persons presently or formerly having an interest in the parcel of land;

- E. The granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the vicinity in which the tract of land is located;
- F. The proposed variance will not substantially increase congestion of the public streets, or increase the danger of fire, or endanger the public safety, substantially diminish or impair property values within the vicinity.

The City Council, following review by the Planning Commission, shall have the power to vary from the requirements of this Section in the event a Planned Residential Development as defined herein is proposed which generally would create a more desirable living environment than would be possible through the strict application of lot and block requirements.

- Subd. 4. Application for Variance and Notice of Hearing. An application for a variance shall be filed in writing with the Zoning Administrator. The application shall contain such information as the City Council may by rule require. Notice of the time and place of such public hearing shall be given by mailing notice thereof to all parties owning real property within 350 feet of the subject property, said mailing shall be made at least 5 days prior to the date of the hearing. The Council shall thereafter reach its decision within 90 days from the filing of the application.
- Subd. 5. Violation. Any person violating any provision of this Section shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00 or imprisonment for not more than 90 days, or both.
- Subd. 6. Judicial Review. Any person aggrieved by the provisions of this Section may have such Section, rule, regulation, decision, or order, reviewed by an appropriate remedy in the District Court, subject to the provisions of Minnesota Statutes 462.361.