

## **CHAPTER 12. SUBDIVISION REGULATIONS**

### **Section 1200 - GENERAL PROVISIONS**

1200.01 Purpose. In order to safeguard the best interest of the City and to assist the subdivider in harmonizing the subdivider's interests with those of the City at large, this Chapter is adopted. Because each new subdivision becomes a permanent unit in the basic structure of the expanding community, and to which the community will be forced to adhere, and because piecemeal planning of subdivisions will bring on undesirable disconnected patchwork of pattern and poor circulation of traffic unless its design and arrangement is correlated to any adopted and effective Comprehensive Plan of the City aiming at a unified scheme of community interests, all subdivisions of land hereafter submitted for approval shall in all respects fully comply with the regulations hereinafter set forth in this Chapter. It is the purpose of this Chapter to make certain regulations and requirements for the platting of land within the City, pursuant to the authority contained in Minnesota Statutes Annotated, which regulations the Council deems necessary for health, safety, and the general welfare.

1200.02 Jurisdiction. The regulations of this chapter shall apply within the corporate limits of the City and the unincorporated area within two (2) miles of its limits; provided that where a municipality lies less than four (4) miles from the limits of Heidelberg, these regulations shall apply only to a line equidistant from Heidelberg and said municipality; and provided further, that the governing body or bodies of unincorporated areas adjacent to the City have not adopted ordinances for the regulation of subdivision of land or platting.

1200.03 Application of Chapter. Any plan, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of this Chapter, including plats, lot splits, or minor subdivisions, shall be prepared, presented for approval, and recorded as prescribed in this Section. The regulations contained in this Section shall apply to the combination of two or more lots, the subdivision of a lot, tract, or parcel of land into two or more lots, tracts, or other division of land for the purpose of sale or building development, whether immediate or future, including the re-subdivision or re-platting of land or lots. Division of land into tracts larger than forty (40) acres in area and three hundred (300) feet in width shall be exempt from the requirements of this Chapter, where no new street is involved.

1200.04 Approvals Necessary for Acceptance of Subdivision Plats. Before any plat shall be recorded or be of any validity, it shall have been approved by the Council as having fulfilled the requirements of this Chapter.

1200.05 Definitions. For the purpose of this Chapter, certain words and terms are hereby defined as follows:

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

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

**Building Permit.** The building permit required under the Building Code of the City.

**Comprehensive Plan.** Refers to the group of maps, charts, and texts that make up the Comprehensive Guide Plan of the City.

**Concept Plan.** A sketch drawing or map which depicts a proposed subdivision by showing proposed lots, streets, use, relationship to surrounding area, generalized natural features, easements, and any requested zoning change and other information required by this chapter for review by the City.

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

**Easement.** A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, T.V. and P.M. transmission lines, storm sewer or storm drainage ways, gas lines, or roadways.

**Easement. Slope.** A grant by a property owner for the use of a strip of land for the purpose of constructing a slope or grade transition from the existing property grade to a new street grade.

**Final Plat.** A drawing or map of a subdivision, meeting all the requirements of the City and in such form as required by the county for purposes of recording.

**Intersection, Street.** The point of crossing or meeting of two or more streets.

**Lot.** A portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

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

**Parks and Playgrounds.** Public lands and open spaces in the City dedicated or reserved for recreation purposes.

**Percentage of Grade.** The rise or fall of a slope in feet and tenths of a foot for each one hundred (100) feet of horizontal distance. The center line of a street shall be used to determine the street rise of grade.

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

**Preliminary Plat.** A tentative drawing or map of a proposed subdivision meeting 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.

Street. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, place or however otherwise designated.

Street, Thoroughfares. Arterial streets which are used primarily for heavy traffic and serving as an arterial trafficway between the various districts of the community, as shown on the Comprehensive Plan.

Street, Collector. Those that carry traffic from minor streets to the major system of thoroughfares and highways, including the principal entrance streets of residential districts as shown on the Comprehensive Plan.

Street, Minor. Those which are used primarily for access to abutting properties.

Street, Marginal Access. Minor streets which are parallel and adjacent to thoroughfares and highways, and which provide access to abutting properties and protection from through traffic.

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

Street, Private. A private right-of-way affording access by pedestrians and vehicles which is under individual rather than municipal control.

Subdivision. A described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than 2.5 acres in area, for the purpose of transfer or ownership or building development, or, if a new street is involved, any division of a parcel of land. The term includes resub division, and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.

Tangent. A straight line departing from a curve which is perpendicular to the radius of that curve.

Tract. A parcel of land intended for division or development of a subdivision.

U.S.G.S. Datum. Refers to United States Geodetic Survey Datum.

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

1201.01 Plan Submitted. In order to ensure that all subdividers are informed of the procedural requirements and minimum standards of this chapter and the requirements or limitations imposed by other city ordinances, prior to the filing of a preliminary plat, all subdividers shall present a concept plan to the city. Any application fee shall be as indicated on the official city fee schedule.

Subd. 1 Contents. Subdividers shall prepare, for review with the Planning Staff, the Planning Commission and Park Board (if applicable), subdivision concept plans which shall contain the following information: tract boundaries, north point, streets on and adjacent to the tract, significant topographical and physical features, proposed general street layout, proposed general lot layout including out lots and park dedication, and any zoning changes. The concept plan must be submitted to the city in an electronic format (such as .PDF) as well as in paper format to scale.

Subd. 2 Informal Consideration. Such concept plans will be considered as submitted for informal review and discussion between the subdivider, City Staff, or members of the Council. Submission of a concept plan shall not constitute formal filing of a plat. The City Council shall also review the concept plan at a regularly scheduled meeting and provide comment. Any comments or recommendations for modifications of the Concept Plan made by City Staff or the City Council are advisory only and shall not constitute approval or a commitment to approve. No formal action will be taken by the City Council during concept plan review.

Subd. 3 Modifications. As soon as may be practical on the basis of a concept plan, Planning Staff will informally advise the subdivider of the extent to which the proposed subdivision conforms to the design standards of this chapter and will discuss possible plan modifications that are necessary to secure conformance.

Subd. 4 Review Limitation. Planning Staff may determine that concept plan review with the Planning Commission is not necessary because of, but not limited to, the following reasons: small number of lots or no public land dedication.

#### Section 1202- MINOR SUBDIVISIONS

1202.01 Minor Subdivision. A minor subdivision shall constitute: (a.) The addition of a parcel of land to an abutting parcel; (b.) The division of a lot from a larger tract of land that creates no more than two lots out of the original lot. The parcels of land must not have been part of a minor subdivision within the last five years; (c.) The division of a base lot upon which a two-family dwelling, townhouse, four-plex, or any other multi-family unit which is a part of a recorded plat where the purpose of the division is to permit individual private ownership of a single dwelling unit within the structure. The newly created property lines must not cause any of the unit lots or the structure to be in violation of this chapter; or (d.) The consolidation of two or more platted lots into one parcel.

1202.02 Contents and Data Required. The following components are required to be submitted for a request for a minor subdivision.

A. Certificate of survey. The requested minor subdivision shall be prepared by a professional land surveyor in the form of a certificate of survey. The survey shall contain a legal description for the parcels to be created. Two copies of the survey, along with an electronic version of the survey, shall be submitted to City Staff.

B. Property description and submission information. The data and supporting information detailing the proposed minor subdivision shall be the same as required for a preliminary plat as described in Section 1205 of this chapter. Exceptions may be granted by City Staff in writing.

C. Design Standards. The minor subdivision must conform to all design standards as specified in Section 1220 of this chapter. Any proposed deviation from the design standards shall require the processing of a variance request.

D. Processing. If the minor subdivision involves property which has been previously platted, or the property is greater than 10 acres in total area, the City Planner may administratively approve the application, provided that it complies with applicable provisions of this chapter. In all other instances, the procedures for review and approval of plats set forth in this chapter must be followed, including approval by the City Council.

E. Filing. The City Planner shall be authorized to stamp and sign the deed or registered land survey as meeting the requirements of the city. The survey or deed shall be filed and recorded at the Office of the County Recorder within 30 days of approval.

#### Section 1205 – PROCEDURE

1205.01 Preliminary Plat. Before dividing any tract of land into two or more lots or parcels, the following procedure shall be followed:

Subd. 1 Submittal to the City.

A. A preliminary plat shall be submitted to the City at least ten (10) days prior to the meeting at which the plat shall be considered. The engineer shall prepare the report setting out whether or not the plat meets the requirements of state law, the City Code provisions, and the City Comprehensive Guide Plan. The engineer shall present the report, together with recommendations, to the next meeting of the Commission following its filing with the engineer with the City.

B. The Council may hold such public hearings on the said plat as it shall in its discretion determine, and upon such notice as it shall provide.

C. The Council shall have authority to approve, disapprove, modify, and amend the recommendations of the engineer and it may refer the same to a Planning Commission or Committee for further study. A referral shall not be deemed a final action thereon by the Council, and the Planning Commission or Committee

shall report back thereon no later than forty-five (45) days following the Council meeting at which it was referred.

D. Upon final decision by the Council, it shall embrace its decision in a motion, which may include, but not be limited to, approval, denial, approval with conditions attached, or disapprove until conditions have been complied with.

E. Upon decision by the Council, the City Clerk shall transmit a copy of the motion, or notice of adoption without change, to the subdivider.

F. The approval of the preliminary plat shall not constitute an acceptance of the subdivision, but it shall be deemed to be an authorization to proceed with the preparation of the final plat.

G. The approval of the preliminary plat by the Council shall be effective for a period of one (1) year from the date of approval by the Council.

H. The subdivider may file a final plat limited to such portion of the preliminary plat which the subdivider proposes to record and develop at the time, provided that such portion must conform to all requirements of this Chapter. If some portion, or all, of the final plat has not been submitted to the City for approval within the time hereinabove provided, a preliminary plat must again be submitted to the Council for approval, unless the Council shall waive this requirement.

I. Reimbursement of Costs. In addition to any application fee, the applicant shall also pay an administrative fee deposit in the amount determined by City Staff and sign an agreement on a form provided by the city agreeing to reimburse the city for all of its costs, including staff and consulting time which includes engineering, planning, legal, administrative and inspection expenses and material costs incurred by the city in processing the application. The hourly rate for staff time shall be determined by the City Council and the rate for consulting time shall be at the actual rate charged to the city by the consultant. Payment of the application fee and the administrative fee deposit and execution of the reimbursement agreement shall be required prior to an application being considered filed, complete and subject to processing. If City Staff determines that the administrative fee deposit will not be sufficient to fully reimburse the city for its expenses, they may require the applicant to make a supplemental deposit in an amount deemed necessary to reimburse the city for all of its costs. If the applicant fails to submit the supplemental deposit within a reasonable time, the city may suspend processing the application until the deficiency is corrected or deny the application.

J. Reimbursement in Full Required. Upon the termination of the application, by an approval, denial, withdrawal, or any other means, all costs incurred by the city shall be immediately payable by the applicant. Any deposit in excess of the city's costs shall be refunded to the applicant. No permits shall be issued, no

construction or development shall commence, and no use of property shall be made until all fees and costs are paid in full. In the event that payment of costs is not made within a reasonable time after demand, the City Council or City Staff may take such steps as are available to the city under law to collect the unreimbursed amounts, including collection costs. The steps the city may take to recover its costs include, but are not limited to, placing the amount on the person's property as a service charge pursuant to Minnesota Statutes Section 366.011 and 366.012 and pursuant to City Code, or taking such other action as may be deemed appropriate to obtain full reimbursement for the city for all costs it incurs related to the application.

1205.02 Final Plat. After the preliminary plat has been approved, and the subdivider determines to proceed to secure approval of all or a part thereof as a final plat, the final plat shall be submitted as follows:

Subd. 1 Submittal to City.

A. The final plat shall be submitted to the City at least ten (10) days prior to the meeting at which the same shall be considered. The City engineer shall prepare a report setting out whether or not the final plat is in substantial agreement with the preliminary plat and if not, in which particulars it varies from the preliminary plat and whether or not it conforms to the requirements of state law and City Code provisions, and that the final plat meets all the conditions attached to the final approval of the preliminary plat.

B. The Council shall have the authority to hold such hearings on the final plat as it shall determine, and upon such notice as it shall provide.

C. If the Council is not satisfied with the final plat as presented, it may:

(1) disapprove the same;

(2) set forth such conditions and requirements as it shall require to be fulfilled before the same is approved; or,

(3) refer the same to a Planning Commission or Committee for such further action as it shall determine. Upon such referral, the Planning Commission or Committee shall act thereon at the next meeting and report back to the Council no later than forty-five (45) days after the said action of the Council. If it shall determine that it cannot approve it unless certain conditions are attached, it shall by motion set forth the conditions for approval and forthwith send a copy of such conditions to the subdivider. All further action on the plat shall be suspended until the subdivider responds to the conditions. If no further action is taken by the subdivider within a period of three (3) months from the date of the adoption of such conditions, the plat shall be deemed to be disapproved.

D. If the Council shall determine to accept the plat, it shall by motion so determine, and the resolution shall provide for the acceptance of all streets, alleys, easements or other public ways, parks, and other spaces dedicated to public purposes.

E. The action of the Council finally determining the matter shall be communicated by the Clerk to the subdivider. If the plat is disapproved the Clerk shall set forth the reasons given by the Council for such determination.

#### Section 1210 - PRELIMINARY PLATS: DATA REQUIRED

1210.01 Filing. The owner or subdivider shall prepare and submit a preliminary plat, together with any necessary supplementary information. Five (5) copies of a preliminary plat of any proposed subdivision shall be filed with the City. Every preliminary plat shall contain the required data set forth in this Section.

1210.02 Identification and Description Data. The following data regarding identification and description of preliminary plat shall be provided:

- A. Proposed name of subdivision, which shall not duplicate the name of any plat heretofore recorded in the county.
- B. Location by section, township, and range, or by other legal description.
- C. Names and addresses of the owner and subdivider having control of the lands included in said preliminary plat, the designer of the plat and the surveyor.
- D. Graphic scale, not less than one inch to one hundred (100) feet.
- E. North point.
- F. Date of preparation.

1210.03 Existing Condition Data. The following data regarding existing condition shall be provided:

- A. Boundary line survey, including measured distances and angles, which shall close by latitude and departure with an error of closure not exceeding one (1) foot in seven thousand five hundred (7,500) feet.
- B. Total acreage in said preliminary plat computed to one tenth (1/10) of an acre.
- C. Location and names of existing or platted streets or other public ways, parks and other public open spaces, permanent buildings and structures, easements and section and corporate lines within the tract and to a distance of one hundred (100) feet beyond the tract.
- D. If the proposed subdivision is a rearrangement or a replat of any former plat, the lot and block arrangement of the original plat along with its original names



shall be indicated by dotted or dashed lines. Also, any revised or vacated roadways of the original plat shall be so indicated.

E. Location and size of existing paved streets, railroads, sewers, water mains, gravel pits, culverts, or other underground facilities within the tract and to a distance of one hundred (100) feet beyond the tract. Also, such data as grades, invert elevations and location of catch basins, manholes and hydrants.

F. Boundary lines of adjoining platted or unplatted land within one hundred (100) feet of the tract.

G. When in the opinion of the City Council it is necessary, complete topographic map with contour intervals not greater than two (2) feet, water courses, marshes, rock out-crops and other significant features may be required; all superimposed on at least one print of preliminary plat. United States Geodetic Survey datum shall be used for all topographic mapping. High water elevation and date thereof if parts of plat are wet or have been wet. In the case of a subdivision where no new street is involved, the required topographic map may be waived if it is deemed necessary by the City engineer and the City Council.

1210.04 Design Features. The following data regarding proposed development design features of the preliminary plat shall be provided:

A. Layout of proposed streets, showing right-of-way widths and proposed names of streets. The name of any street similar to or heretofore used in the City shall not be permitted unless the proposed street is an extension of an already named street in which event the name shall be used. All street names shall be subject to the approval of the City Council.

B. Locations and widths of alleys, pedestrian ways, and utility easements.

C. Proposed center line grades of all new streets and alleys, if any, and a complete set of profiles showing both existing and proposed grade lines.

D. Location, size, and approximate gradient of sewer lines.

E. Layout, numbers and approximate dimensions of lots and the number or letter of each block.

F. Location and size of proposed parks, playgrounds, churches, or school sites or other special uses of land to be considered for dedication to public use, or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.

G. Vicinity sketch, or a legible scale, to show the relation of the plat to its surroundings, and surrounding zoning districts.

## Section 1215 – FINAL PLATS: DATA REQUIRED

1215.01 Filing. The owner or subdivider shall submit a final plat together with any necessary supplementary information. The original and four (4) copies of the final plat shall be submitted; one of the four copies shall be on a reproducible medium and will be retained by the City.

1215.02 Data Required. The final plat shall contain the following:

- A. The final plat prepared for recording purposes shall be prepared in accordance with the provisions of Minnesota Statutes and applicable City and County regulations.
- B. Name of subdivision; names shall not duplicate or too closely approximate the name of any existing subdivision.
- C. Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision, based on an accurate traver angular and linear dimensions which must be mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in seventy-five hundred (7,500) feet.
- D. The location of monuments shall be shown and described on the final plat. Locations of such monuments shall be shown in reference to existing official documents or the nearest established street lines, including true angles and distances to such reference points or monuments. Permanent markers shall be placed at each corner of every block or portion of a block, points of curvature and points of tangency on street lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod or pipe, one half (1/2) inch or larger in diameter extending at least three (3) feet below the finished grade. In situations where conditions prohibit the placing of markers in the locations prescribed above, offset markers will be permitted. The exact location of all markers shall be shown on the final plat, together with accurate interior angles, bearings, and distances. Permanent monuments shall be placed at all quarter section points within the subdivision or on its perimeter.
- E. Locations 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. Dimensions shall be shown from all angle points and points of curve to lot lines.
- F. Boundary lines and description of boundary lines of any areas other than streets and alleys which are to be dedicated or reserved for public use.
- G. Lots shall be numbered clearly. If blocks are to be numbered or lettered, these shall be shown clearly in the center of the block.
- H. Building setback lines on front and side streets with dimensions.
- I. Name and address of developer and surveyor making the plat.
- J. Scale of plat (the scale to be shown graphically and in feet per inch), date and north point.

K. Statement indicating 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."

L. Statement indicating 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.

M. Statement establishing building setback lines as follows: building setback lines are hereby established as shown on the accompanying plat and no building or portion thereof shall be built between this line and the street line.

1215.03 Certifications Required of Final Plats.

A. 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.

B. Notarized certification by a registered land surveyor, to the effect that the plat represents a survey made by the surveyor and that monuments and markers shown therein exist as located and that all dimension and geodetic details are correct.

C. Certification showing that all taxes and special assessments due on the property have been paid in full.

D. Space for Certificates of Approval to be filled in by the signatures of the Mayor, the City Clerk, and City Engineer.

The form of approval by the City Council is as follows:

Approved by the City of Heidelberg, Minnesota, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Signed: \_\_\_\_\_

Mayor

Attest: \_\_\_\_\_

City Clerk

The form of approval by the City Engineer is as follows:

Approved by the City Engineer, City of Heidelberg, Minnesota, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Signed: \_\_\_\_\_

The form of approval by County Authorities as required.

#### 1215.04 Supplementary Documents and Information.

- A. A complete set of street profiles showing grade lines as constructed.
- B. Copies of any private restrictions affecting the subdivision or any part thereof.

### Section 1220 - DESIGN STANDARDS

#### 1220.01 Blocks.

Subd. 1 Block Length. In general, intersecting streets, determining block lengths, shall be provided at such intervals as to serve cross-traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions shall normally not exceed one thousand (1,000) feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than eight hundred (800) feet, pedestrian ways and/or easements through the block may be required. The width and location of such pedestrian ways shall be subject to the approval of the City Engineer and the Planning Commission. Blocks for business or industrial use should normally not exceed six hundred (600) feet in length.

Subd. 2 Block Width. The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

#### 1220.02 Streets and Alleys.

Subd. 1 Arrangement of Thoroughfares and Collector Streets. The arrangement of thoroughfares and collector streets shall conform as nearly as possible to the City Comprehensive plan. Except for cul-de-sacs, streets normally shall connect with streets already dedicated in adjoining or adjacent subdivisions or provide for future connections to adjoining or adjacent subdivisions or provide for future connections to adjoining unsubdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed use of the area to be served.

Subd. 2 Minor Streets. Minor streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs will be permitted where topography or other conditions justify their use. Permanent cul-de-sacs shall normally not be longer than five hundred (500) feet, including a terminal turn-around which shall be provided at the closed end, with a right-of way radius of not less than fifty (50) feet.

Subd. 3 Unsubdivided Plat Portion. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a

proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

Subd. 4 Larger Than Normal Building Lots. 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 resub division, with provision for adequate utility connections for such resub division.

Subd. 5 Angle of Intersection. 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. The minimum angle of intersection of streets shall be eighty (80) degrees. Street intersection jogs with an offset of less than one hundred twenty-five (125) feet shall be avoided.

Subd. 6 Marginal Street Access. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a limited access U.S. or state highway or thoroughfare, provision may be made for a marginal access street approximately parallel and adjacent to the boundary of such right-of-way, 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, grade crossings or for lot depths.

Subd. 7 Alleys. Alleys shall be provided in commercial and industrial districts. This requirement may be waived where other definite and assured provision is made for service access, such as 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 an existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than sixteen (16) feet wide for residential alleys and not less than twenty-five (25) feet wide for commercial and industrial alleys. Dead-end alleys shall not be permitted, except that this requirement may be waived where an adequate turn-around is provided.

Subd. 8 Half Streets. Dedication of half streets will not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so it may be improved in the public interest.

Subd. 9 Right-of-Way Widths. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets and thoroughfares shall be as shown in the Comprehensive Plan, and where not shown in the Plan, the minimum right-of-way width for streets, thoroughfares, alleys, or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

|              |          |
|--------------|----------|
| Thoroughfare | 100 feet |
|--------------|----------|

|                             |         |
|-----------------------------|---------|
| Collector Street            | 80 feet |
| Minor Street                | 60 feet |
| Marginal Access Street      | 50 feet |
| Residential Alley           | 16 feet |
| Industrial-Commercial Alley | 25 feet |
| Pedestrian Way              | 10 feet |

Where existing or anticipated traffic on thoroughfares warrants greater widths of right-of-way, these shall be required.

Subd. 10 Street Grades. The grades in all streets, thoroughfares, collector streets, minor streets, and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

|                  |           |
|------------------|-----------|
| Thoroughfares    | 4 percent |
| Collector Street | 5 percent |
| Minor Street     | 8 percent |
| Alley            | 8 percent |

In addition, there shall be a minimum grade on all streets and thoroughfares of not less than five tenths (5/10) of one (1) percent.

Subd. 11 Street Alignment. The horizontal and vertical alignment standards on all streets shall be as follows:

A. Horizontal – radii of center line:

|                  |                    |
|------------------|--------------------|
| Thoroughfare     | 500 feet – minimum |
| Collector Street | 400 feet – minimum |
| Minor Street     | 150 feet – minimum |

There shall be a tangent between all reversed curves of a length not less than fifty (50) feet.

B. Vertical – all changes in street grades shall be connected by vertical parabolic curves of such lengths as follows:

Thoroughfares 30 times the algebraic difference in the percent of grade of the two adjacent slopes.

|                                     |   |
|-------------------------------------|---|
| Collector Street<br>or Minor Street | 20 times the algebraic difference in the percent of<br>grade of the two adjacent slopes |
|-------------------------------------|---|

Subd. 12 Public Streets. All proposed streets shall be offered for dedication as public streets. No private streets shall be permitted, except as set forth in other City Code provisions.

1220.03 Lots.

Subd. 1 Minimum Standards. The following minimum lot standards are applicable to all subdivisions or combinations under this Chapter.

A. Lot Area. Every lot or plot of land on which a single-family dwelling is erected shall contain an area of not less than two and one-half (2.5) acres.

B. Lot Width and Depth. Every lot or plot of land on which a single-family dwelling is erected shall have a minimum width of not less than two hundred (200) feet at the setback line and a minimum depth of not less than three hundred (300) feet.

C. Buildable Lot Standards. A Lot of Record, or other lot, tract, or parcel legally recorded with the County Recorder that meets the requirements of this Ordinance and which has frontage on an improved and maintained public road, or an approved and maintained private road or easement is considered a buildable lot. The buildable lot shall have the contiguous required lot area of which not more than ten (10) percent is comprised of:

- a. Area of a slope in excess of eighteen (18) percent;
- b. An impact zone;
- c. Floodplain;
- d. Wetlands.

D. Other Standards Required. Each new building site created after the adoption of this Ordinance must have a minimum of forty thousand (40,000) square feet of contiguous buildable lot area. Each new building site created after January 23, 1996 must have sufficient area for a minimum of two (2) onsite sewage treatment systems. Lots of record that are substandard in area must conform to all other applicable regulations to qualify for placement of a dwelling.

Subd. 2 Placements.

A. Corner Lots. Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as defined in the Zoning Chapter.

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

C. Double Frontage Lots. Double frontage lots shall be avoided except where lots back on a thoroughfare or other arterial street, 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.

D. Frontage on Public Dedicated Street. Every lot must have at least the minimum required frontage on a public dedicated street other than an alley.

#### 1220.04 Easements.

Subd. 1 Easement for Utilities. An easement for utilities, at least six (6) feet wide, shall be provided along each side of a rear lot line of lots and along any other lot line as may be deemed necessary to form a continuous right-of-way, at least twelve (12) feet in width. If necessary, for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots.

Subd. 2 Easement Connections. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the Council, by motion upon the recommendation of the Planning Commission.

Subd. 3 Additional Easements. Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall alongside lot lines.

Subd. 4 Subdivision Traversed by a Water Course. Where a subdivision is traversed by a water course, drainage way, channel, or stream, a storm water easement, drainage right-of-way or park dedication, whichever the Planning Commission may deem the most adequate, conforming substantially with the lines of such water courses shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area. The width of such easements shall be determined by the City Engineer.

1220.05 Public Sites and Open Spaces. In subdividing land or resub dividing an existing plat, due consideration shall be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds, conservation areas, or other public or semipublic recreational areas or open spaces.

Areas so dedicated or served shall conform as nearly as possible to the City Comprehensive Plan. All areas to be reserved for or dedicated to public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such area will be dedicated to or acquired by the appropriate agency.

### Section 1225 – BASIC IMPROVEMENTS

#### 1225.01 General.

##### Subd. 1 Approval.

A. Before a final plat may be approved by the Council, the owner shall execute and submit to the Council an agreement which shall be binding on the owner (or their) heirs, personal representatives and assigns, that the owner shall cause no private construction on the land, except with approval of the City Engineer, until all improvements required under this Chapter have been petitioned for, arranged for, or have been constructed.



B. No final plat shall be approved by the Council without first receiving a report from the City Engineer certifying that the described improvements, together with the agreements and required documents will meet the minimum requirements of all applicable City Code provisions.

C. A certified copy of the plat restrictions shall be filed with the County Recorder and Registrar of Deeds. This copy shall include a provision that, in all instruments of sale or conveyance given before all street improvements have been made, the grantee shall agree to and approve such improvements and the assessment of their cost.

Subd. 2 City Financing. Upon recommendation of the Engineer and with the approval of the Council, any or all the required improvements may be financed and assessed by the City pursuant to Minn. Stat. Chap. 429. Length of assessment period and rate of interest shall be as determined by the Council.

Subd. 3 Financing by Developer. If deemed advisable and to be in the best interests of the City, the Council may require the developer to finance and pay for any and all improvements. Prior to the making of such required improvements, the owner or subdivider shall deposit with the City Recorder an amount equal to the City Engineer's estimated cost of any or all such improvements which are to be financed by the developer, either in cash or an indemnity bond, with sureties to the satisfaction of the City, conditioned upon the payment of all construction costs incurred by the City in making of such improvements and all expense incurred by the City for engineering and legal fees and other expense in connection with the making of such improvements. All improvements may be required to be contracted through the City.

1225.02 Improvements. The following improvements shall be constructed as provided for in this Section. Programming of improvements shall be approved by the City Engineer.

Subd. 1 City Obligation. The City may construct, furnish, and install at City expense, the following improvements according to City specifications. Furnishing of these improvements shall be commensurate with available City funds for such work and according to programs and priorities as established by the Council. If the developer would desire any of these improvements sooner than the City would be able to furnish them, then the costs of the following improvements shall be paid by the developer.

A. Street Lighting – street lighting may be constructed by the City, preferably after curb and gutter have been installed. If additional or other type of lighting is desired by the developer, the developer shall pay the increased cost.

B. Signs -- street name signs and traffic control signs shall be installed by the City.

Subd. 2 Obligation of the Developer. The developer shall pay the proportionate amount of the following improvements on or for the subdivision or development. Financing shall be according to Subd. 1 of this Section.

A. Site Grading - necessary site grading shall be accomplished by the subdivider.

B. Street Grading - street grading for the full width of the right-of-way shall be accomplished by the subdivider. If no site grading is to be accomplished, the street grading will be included with subsequent street improvements. Street grading shall precede any underground work. Where street grading is not to be immediately followed by street paving, the developer may be required to provide permanent grade markers at the right-of-way line of all streets of a standard approved by the City Engineer.

C. Street Improvements – street improvements including base, curb and gutter, boulevard sodding, inlets and leads, and paving, and lighting according to Standard City Specifications or as approved by the City Engineer, shall be constructed. All required underground work shall have preceded any permanent street improvements. Any improvements on a County Road shall be approved by the County Engineer. Temporary construction may, at the discretion of the City Engineer, be required, for just cause, on any street, streets, or portion of street. Reconstruction or alteration in any way of existing streets affected by the plat or improvements thereupon, shall be subject to the approval of the City Engineer. All costs incurred, for either temporary access or reconstruction, shall be borne by the owner or subdivider. Half streets, if accepted, shall be improved as directed by the City Engineer.

D. Sanitary Sewer – where City sewer is, or will be, available at the boundary of the subdivision, it shall be constructed according to City Specifications. The cost of any required pumping stations, deemed necessary by the Engineer, shall be assessed against the benefiting property. Where it is neither practical nor economical for the City to extend City sewer, private sewage disposal facilities shall be constructed according to City and State specifications. Consideration shall be given to future availability of City sewer in such installations. Such information shall be recorded on the plat and in each deed so affected.

E. Sanitary Sewer Subdivider Expense – the subdivider shall install all sanitary sewers at their own expense and according to City specifications.

F. Water Main - where City water is, or will be, available at the boundary of the subdivision, it shall be constructed according to City specifications. Main sizing shall be by the City Engineer. All required hydrants and valves are to be included in the construction. Where it is neither practical nor economical for the City to extend City water, private water supplies shall be constructed according to City and State specifications.

G. Trees – boulevard trees, if desired, shall be installed by the owner or developer in accordance with Park Department standards.

Section 1226 – GROUNDS FOR DENIAL OF SUBDIVISION OR COMBINATION.

1226.01 Purpose. Any proposed subdivision deemed premature for development shall be denied by the City Council.

1226.02 Conditions establishing premature for development. Conditions establishing subdivisions premature for development. A subdivision may be deemed premature for development should any of the conditions set forth in the provisions which follow exist:

A. Lack of Adequate Drainage, including surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures, or the proposed subdivision will cause grading issues or pollution of water sources or damage from erosion and siltation on downhill or downstream land;

B. Lack of adequate water supply. A proposed subdivision shall be deemed to lack an adequate water supply if it, if developed to its maximum permissible density, does not have adequate sources of water to serve all of the lots without causing an unreasonable depreciation of existing water supplies for surrounding areas;

C. Lack of adequate streets or highways to serve the subdivision. Streets that currently serve the proposed subdivision or streets that are proposed to serve the subdivision are of such a width, grade, stability, site distance and condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare and, when with due regard to the advice of the county or state, said streets are inadequate for the intended use;

D. Lack of adequate waste disposal systems. A proposed subdivision shall be deemed to lack adequate waste disposal systems if there is inadequate sewer or septic capacity in the present system to support the subdivision if developed to its maximum permissible density after reasonable sewer capacity is reserved for schools, planned public facilities, and commercial and industrial development projected for the next five years. Expected wastewater generation rates applicable to a proposed subdivision shall be based on generally accepted generation computation formulas as assigned by the City Engineer;

E. Lack of adequate city support facilities. A proposed subdivision shall be deemed to lack adequate support facilities, such as parks and recreational facilities and police, fire, and ambulance protection and services when said support facilities are reasonably expected to be necessitated by the subdivision and cannot be reasonably provided for within the next five fiscal years;

F. Inconsistency with the comprehensive plan. A proposed subdivision shall be deemed premature if it is found to be inconsistent with the purposes, objectives, and recommendations of the duly adopted comprehensive plan, as may be amended from time to time;

G. Inconsistency with environmental protection policies. A proposed subdivision shall be deemed premature if it is found to be inconsistent with environmental protection policies set forth within the city, state and federal rules and regulations, as may be amended.

1226.03 Burden of establishing. The burden shall be upon the subdivider to show that the proposed subdivision is not premature.

## Section 1230 - REGISTERED LAND SURVEYS AND CONVEYANCE BY METES AND BOUNDS

1230.01 Registered Land Surveys. It is the intention of this Chapter that all registered land surveys under the jurisdiction of this Chapter should be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this Chapter for preliminary plats and that the Planning Commission shall first approve the arrangements, sizes, and relationship of proposed tracts in such registered land surveys, and that tracts to be used as easements or roads should be so dedicated. Unless such approvals have been obtained from the Planning Commission and Council in accordance with the standards set forth in this Chapter, 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.

1230.02 Conveyance by Metes and Bounds. No conveyance of one 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 less than five (5) acres in area and three hundred (300) feet in width unless such parcel was a separate parcel of record at the effective date of this Chapter. Building permits will be withheld for buildings on tracts which have been subdivided and conveyed by this method, and the City may refuse to take over tracts as streets or roads or to improve, repair or maintain any such tracts.

## Section 1235 – VARIANCES, COMPLIANCE AND VIOLATIONS

1235.01 Variances.

Subd. 1 Board of Appeals and Adjustments. The City Council shall serve as the Board of Appeals and Adjustments for the City, and as provided by Minn. Stat. Sec. 462.354, subd. 2 shall have the powers granted under Minn. Stat. Sec. 462.357, Subd. 6, as they may be amended from time to time.

Subd. 2 Variance from Zoning Code. Pursuant to Minn. Stat. Sec. 462.357, Subd. 6, as it may be amended from time to time, the Planning Commission, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of the zoning code as applied to a specific piece of property.

Subd. 3. Allowance of Variance. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Variances shall only be permitted:

- i. when they are in harmony with the general purposes and intent of the ordinance and
- ii. when the variances are consistent with the comprehensive plan.

Subd. 4 Practical Difficulties. "Practical difficulties," as used in connection with the granting of a variance, means that:

- i. the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- ii. the plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- iii. the variance, if granted, will not alter the essential character of the locality.
- iv. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy system.

Subd. 5 Specific Variances. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board may permit as a variance the temporary use of a one family dwelling as a two-family dwelling. The board may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

1235.02 Compliance. No building permit shall be issued by the City with respect to the land or to any lot in a subdivision, as defined in this Chapter, until the plat thereof has been recorded in the office of the Register of Deeds.

1235.03 Violations.

Subd. 1 Sale of Lots from Unrecorded Plats. It is unlawful for any person to sell, trade, or otherwise convey or offer to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with any plat, plat or replat of any subdivision under the jurisdiction of this Chapter unless said plan, plat or replat shall have first been recorded in the office of the Register of Deeds of the County.

Subd. 2 Misrepresentations as to Construction, Supervision, or Inspection of Improvements. It is unlawful for any person 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 Council, or has been supervised or inspected by the City, when such improvements have not been so constructed, supervised or inspected.

#### Section 1240 - PENALTIES

1240.01 Criminal Penalties. A person violating any provision of this Chapter shall be guilty of a misdemeanor, punishable by a fine of up to 90 days in jail, payment of a fine of the maximum fine permitted by Minnesota Statutes Section 412.231, or both. A defendant convicted of a misdemeanor under this Section of the City Ordinance, in addition to the other penalties proscribed by law, shall be made responsible for reimbursing the City its costs of prosecution. This Section is adopted in conformance with Minnesota Statutes Section 412.231, which the City hereby adopts and incorporates herein.

1240.02 Administrative Remedies. The City may, at its sole discretion, invoke any administrative remedy available to it under the Code in the event a person violates any provision of this Chapter. For the purposes of this Section a person is defined as an individual, a partnership, a corporation, or any other entity.

1240.03 Non-Exclusivity of Remedies. Violations of this Chapter of the Heidelberg City Code may be remedied by the City, at its sole discretion, administratively or through criminal prosecution. These remedy options are not mutually exclusive, and the City may pursue both remedy options simultaneously.

1240.04 Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.