

CHAPTER 152: SUBDIVISIONS

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CHAPTER 152: SUBDIVISIONS

§ 152.00 TITLE.

This chapter shall be referred to and cited as The Breezy Point Subdivision Ordinance, except herein where it shall be cited as the "chapter".

§ 152.01 INTENT AND PURPOSE.

(A) This chapter is adopted for the purpose of:

(1) Protecting the public health, safety, comfort, convenience and general welfare;

(2) Effectuating the goals of the Comprehensive Plan and the Breezy Point Zoning Ordinance;

(3) Promoting order in development by providing for subdivision of lands and buildings in accordance with the zoning districts of the city;

(4) Providing for the administration of the provisions of the ordinance and defining the authority and duties of the Zoning Administrator, the Planning Commission, Board of Adjustment and City Council under this chapter; and

(5) Providing standards and criteria for subdivision in the shore lands to preserve and enhance the quality of surface waters, conserve the economic and natural environment values of shore lands and provide for the wise use of waters and related land resources of the city.

(B) Unless the council has approved a land subdivision in accordance with the standards set forth in this chapter, the city shall not issue permits for structures on such non-approved tracts. The council may refuse to accept and/or to improve, repair, or maintain tracts for streets, roadways, and/or easements unless so approved under this chapter.

§ 152.02 RULES AND DEFINITIONS.

(A) *Rules.* For the purpose of this chapter, the following rules shall apply to the

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interpretation of the language used herein:

(1) The word **PERSON** includes a firm, association, organization, partnership, trust, company, corporation or other legal entity as well as an individual;

(2) The masculine gender includes the feminine gender and the neuter;

(3) The singular includes the plural and the plural, singular;

(4) The present tense includes the past and future tenses and the future, the present;

(5) The word **MAY** is permissive; the word **SHALL** is mandatory.

(6) All distances in feet shall be to the nearest one-one-hundredth of a foot, horizontally or vertically; and

(7) In the event of a conflict between provisions of this chapter, other ordinances of the City of Breezy Point hereinafter referred to as city, and/or other ordinances, rules or regulations of any governmental body or governmental agency, that apply to the City of Breezy Point, the most restrictive provision shall apply.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

ADMINISTRATOR/CLERK. The duly appointed person responsible for the administration of the city affairs.

ARTERIAL ROAD. County roads that provide movement of traffic through the city.

ATTORNEY or **CITY ATTORNEY.** The attorney duly appointed by the Council to represent the City of Breezy Point.

BLOCK. An area of land bounded by streets, exterior boundary lines and/or bodies of water.

BLUFF.

(A) A topographic feature such as a hill, cliff or embankment having all the following characteristics:

(1) Part or all of the feature is located in shore land area; (See **SHORE LAND**);

(2) A slope rises at least 25 feet above the ordinary high water level of the water body;

(3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and

(4) The slope must drain toward the water body.

(B) An area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the bluff.

BLUFF IMPACT ZONE. Land between the toe of bluff and the top of bluff.

BUILDING LINE. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

BUTT LOTS, Any lot or lots, located at the end of block between corner lots.

CITY COUNCIL. The duly elected governing body of the city.

CITY SEWER or **WATER SYSTEM.** A system of municipally maintained utilities approved by the state and serving more than one building or property.

COLLECTOR ROAD. Roads that collect local roads and provide for the movement of people and commodities to arterial roads. Also referred to as **THOROUGHFARES.**

COMMISSIONER. The Commissioner of the Department of Natural Resources.

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COMMON INTEREST COMMUNITY or "**CIC**". Contiguous or noncontiguous real estate within Minnesota that is subject to an instrument that obligates persons owning a separate described parcel of the real estate or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for:

- (A) Real estate taxes levied against;
- (B) Insurance premiums payable with respect to;
- (C) Maintenance of; or

(D) Construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies.

CIC PLAT. A common interest community plat described in M.S. § 515B. as it may be amended from time to time.

COMMON ELEMENTS. All portions of the common interest community other than the City of Breezy Point Subdivision Ordinance units.

COMPREHENSIVE PLAN. A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development of the city.

COOPERATIVE. A CIC in that the real estate is owned by an association, each of whose members are entitled by virtue of the member's ownership interest in the association to a proprietary lease.

CONDOMINIUM OWNERSHIP. A form of ownership within a multi-owner building, or complex wherein the boundaries are defined by a condominium plat or CIC plat, in accordance with M.S. Chapters 515A and 515B, as they may be amended from time to time, or subsequent revisions.

CROSS EASEMENT. A easement that provides for joint use between two parties such as for use in a shared driveway or access road.

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CONTROLLED ACCESS LOT. A riparian lot meeting the minimum ordinance standards for a lot suitable for building, owned by more than one owner in undivided interest, provided with facilities and used for access, and not containing a dwelling.

CUL-DE-SAC. The circular turn around at the end of a street with only one outlet.

DECLARATION. Any instrument, however denominated, including any amendment to the instrument that creates a common interest community.

DOUBLE FRONTAGE LOT or Through Lot. A lot that has frontage on two parallel or approximately parallel streets; also called double-front lot.

ENGINEER or **CITY ENGINEER.** The Engineer duly appointed by the Council to perform technical services for the City of Breezy Point.

FINAL CONDOMINIUM or **FINAL CIC PLAT.** A drawing prepared by a registered land surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of M.S. § 515A.2-110 and M.S. Chapter 515B, as they may be amended from time to time, and subsequent revisions.

FINAL PLAT. A drawing prepared by a registered land surveyor depicting the subdivision of land and related information conforming to the requirements of M.S. Chapter 505, as it may be amended from time to time, and subsequent revisions.

FLAG LOT. A lot with two distinct parts:

(A) The flag, that is the only building site and is located behind another lot;
and

(B) The pole, that connects the flag to the street, provides the only street frontage for the lot and at any point is less than the minimum lot width for the zoning district.

FLOODPLAIN. The areas adjoining a watercourse, intermittently or permanently flowing, that have been or will be covered by the runoff waters of a storm with a 1% chance of occurrence any year (100-year storm).

FLOODWAY. The channel of the watercourse and those portions of the

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adjoining floodplain, that are reasonably required to carry and discharge the regional flood (100-year chance of occurrence).

GREEN SPACE. Privately owned property permanently dedicated by covenant to vegetative ground coverage with allowance for use as recreational facilities, tree coverage, water course, water supply, sewage disposal and access. Public property dedicated to park, vegetation buffer, tree coverage or similar uses.

LAKE CLASSIFICATION. The formal classification by the DNR of each body of public waters within the city.

LANDSCAPING. The placement of trees, shrubs, grass, walls and earth mounds or the utilization of existing natural vegetative cover equal thereto.

LOCAL ROADS. Roads that have a primary function of providing access to property.

LOT. A parcel of land designated by plat, metes and bounds, registered land survey, Auditor's plat or other acceptable means and separated from other parcels or portions by the description for purposes of sale, lease, mortgage, building or separation.

LOT AREA. The horizontal area of a lot bounded by the lot lines and the ordinary high water line if bounded by water.

LOT CORNER. A lot situated at the junction of and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of one street with the internal angle less than 135 degrees.

LOT SPLIT The division of property that doesn't provide for additional lots being created but rather adjusts lot lines to consolidate land into a larger parcel.

LOT TIER DEPTH. The lot depth of a normal lot conforming to the shore land requirements.

(A) General Development Lake, first tier 200 feet, second and additional tiers 267 feet.

(B) Recreational Development Lake, all tiers 267 feet.

(C) Natural Environment Lake, all tiers 400 feet.

LOT TIERS. Successive strips of land parallel with the ordinary high water line, each one tier depth wide and extending across the parcel.

LOT WIDTH. The shortest distance between lot lines measured at the mid point of the building line.

METES AND BOUNDS. Descriptions of property and descriptions for lots other than lots in recorded subdivision plats.

ORDINARY HIGH WATER LEVEL. The boundary of public waters and wetlands consisting of an elevation delineating the highest water level, that has been maintained for sufficient period of time to leave evidence on the landscape, commonly, that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses where the DNR has determined the ordinary high water level (OHWI), that level is adopted. For watercourses where the DNR has not made such a determination, the ordinary high water level is the elevation of the top of the bank of the channel, for reservoir and flowages the ordinary high water level is the operating elevation of the normal summer pool.

PARENT PARCEL, a parcel of record prior to any subdivision or lot split.

PLANNED COMMUNITY. A CIC that is not a condominium or a cooperative. A condominium or cooperative may be a part of a planned community.

PLANNED UNIT DEVELOPMENT (PUD). A land use characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent or lease and also usually involving clustering of these units or sites to provide areas of common green space, density increases and mix of structure types and land uses. These developments may be organized and operated as condominiums, timeshare condominiums, cooperatives, full free ownership, commercial enterprises or any combination of these, or cluster subdivisions of dwelling units, residential, condominiums, townhouses, apartment buildings, campgrounds, recreational vehicles parks, resorts, hotels, motels and conversions of structures and land uses to these uses. Does not include a duplex where specifically allowed in a zoning district on a single

parcel of land.

PLANNING COMMISSION. The body, duly appointed by the City Council to determine the development of the city and to make recommendations to the City Council on Comprehensive Plans, zoning district boundaries, subdivision of land and capital improvements. The Commission shall decide conditional use permits and variances.

PLAT. See **FINAL CONDOMINIUM PLAT** and/or **FINAL PLAT.**

PRELIMINARY PLAT or **PRELIMINARY CONDOMINIUM PLAT.** A plan prepared in accordance with this chapter depicting the proposed subdivision of property by final plat or final condominium plat.

PRIVATE ROAD ACCESS AGREEMENT. A formal agreement between parties that provides for unlimited access across private property in order to gain access to individual properties.

PRIVATE ROAD or **DRIVEWAY.** Path, route, by-way or place in private ownership and use for vehicular travel by the owner and those having express or implied permission from the owner.

PROTECTIVE COVENANTS. Restrictions placed on the property by the owner and duly filed with the County Recorder. These may also be used in Planned Unit Developments to establish homeowners associations, restrict shoreline development and provide for common facilities.

PUBLIC WATERS. Any waters as defined in M.S. § 103G.005, Subd. 15, as it may be amended from time to time. However, no lake, pond or flowage of less than ten acres in size in municipalities need be regulated for the purposes of the Shore Land Management Rule. A body of water created by a private user where there was no previous shoreline may, at the discretion of the local government, be exempted from the shore land management. The official determination of the size and physical limits of drainage areas of rivers and streams shall be made by the Commissioner.

RESIDENTIAL PLANNED UNIT DEVELOPMENT. A use where the nature of residency is not transient and the major or primary focus of the development is not service oriented. For example, residential apartments, manufactured home parks,

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townhouses, cooperatives and full fee ownership residences would be considered as Residential Planned Unit Developments. Includes timeshare condominiums not part of resort.

RIGHT-OF-WAY. A parcel of property dedicated to the public, connecting to other public rights-of-way that afford primary access by pedestrians and vehicles to abutting properties.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

SETBACK. The minimum horizontal distance between a structure, sewage treatment system, well or other facility and an ordinary high water level, sewage treatment system, top of bluff, road, highway, wetland, property line or other facility. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

SETBACK; INTERIOR LOT. In a Planned Unit Development, the closest horizontal distance between the lot line and the foundation or wall of a structure when the lot line is not the exterior boundary of the development. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

SETBACK; SIDE, EXTERIOR. The closest horizontal distance between the exterior boundary side lot line and the foundation or wall of a structure. This setback takes precedence over setback, interior lot, where any conflict exists. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

SETBACK; WATERFRONT. The closest horizontal distance between the ordinary high water mark and the foundation or wall or edge of a structure. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over four feet wide may protrude into the setback.

SEWAGE TREATMENT SYSTEM. A septic tank and soil absorption system or

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other individual or cluster type sewage treatment system as described and regulated in Minn. Rules, Chapter 7080 of the State Rules and Regulations.

SEWER SYSTEM. Pipe lines or conduits, pumping stations and force mains and all other constructions, devices, appliances or appurtenances used for conducting sewage or industrial waste or other waste to a point of ultimate disposal.

SHORE LAND. Land located with the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond or flowage and 300 feet from a river or stream, or landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. *The limits of shore lands may be reduced whenever the waters involved are bounded by topographic divides, that extend landward from the water for lesser distances as approved by the Commissioner of Natural Resources.*

SHORELINE PROPERTY. A lot directly abutting a public water, generally located in the first lot tier adjoining the public water.

SIGNIFICANT HISTORICAL SITE. Any archeological site, standing structures or other property that meets the criteria for eligibility to the National Register of Historical Places, or is listed in the State Register of Historical Sites or is determined to be an un-platted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A **HISTORICAL SITE** meets this criterion if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archeologist or the Director of Minnesota Historical Society. All un-platted cemeteries are automatically considered to be significant historical sites.

STEEP SLOPE. Land where agricultural activity or development is either not recommended or is described as poorly suited due to slope steepness due to the site's soil characteristics as mapped and described in available County Soils Surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12% as measured over horizontal distances of 50 feet or more, but which are not bluffs.

STREET. A right-of-way, that affords primary vehicular access to abutting

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property and shall include avenues, road or highway, boulevard, drive and the like. These shall further be classified as follows:

ARTERIAL ROAD. County highway and/or county state aid highway, County Highway #4, County Highway #11 and County Highway #39.

COLLECTOR ROADS. Thoroughfares Buschmann Road, Dove Street (Highway #4 to Ranchette), Ranchette South, Ranchette North, Thrane Road, Ski Chalet Drive.

LOCAL ROADS. All dedicated roads not listed above, including:

(A) Minimum maintenance; and

(B) All local roads not classified as minimum maintenance.

SUBDIVIDER. The owner, agent, person, corporation, partnership or legal entity proposing to subdivide property under his or her control.

SUBDIVISION. The division of an area, parcel or tract of real estate into two or more parcels, tracts, and lots.

SUBDIVISION BY PLAT. The subdivision into two or more parcels of any size by the authority of M.S. Chapter 505, as it may be amended from time to time, and subsequent amendments with documents prepared by a registered land surveyor and duly approved by the Planning Commission and Council.

SUBDIVISION BY THE CONDOMINIUM PLAT OR COMMON INTEREST COMMUNITY "CIC" PLAT. The subdivision of a building or the subdivision of real estate into two or more spaces or parcels of any size by the authority of M.S. Chapters 515A and 515B, as they may be amended from time to time, and subsequent amendments with documents prepared by a registered land surveyor and duly approved by the Planning Commission and Council.

SUBDIVISION BY METES AND BOUNDS. Any division of real estate resulting in two or more parcels, that are not platted, but divided by description prepared and signed by a registered land surveyor.

THROUGH LOT. A lot that has frontage on two parallel or approximately parallel streets; also called double-front lot.

TOE OF BLUFF.

(A) The lower point of a 50-foot segment with an average slope exceeding 18%; or

(B) The ordinary high water level if closer to the bluff than division (a) above.

TOP OF THE BLUFF. The highest point of any 50-foot segment of real property provided that the average slope leading up to the point exceeding 18% as determined by a certified land surveyor.

TOWNHOUSE DWELLING. A type of multi-family housing consisting of dwelling units attached by common party walls. Ownership may be defined by plat or condominium plat.

UNIT. A portion of the CIC, the boundaries of that are described in the CIC's declaration, and which is intended for separate ownership or separate occupancy pursuant to a proprietary lease.

WALKWAY. A parcel of property dedicated to the public for non-vehicular access purposes.

WETLAND. Land that is subject to periodic or continued inundation by water, such as floodplains, marshes, swamps and peatlands classified as provided in Circular #39, United States Fish and Wildlife Service and amendments thereto.

ZONING ADMINISTRATOR. The duly appointed person responsible for the enforcement and administration of this chapter.

ZONING DISTRICT. An area of the City of Breezy Point defined on the zoning map, having uniform zoning provisions.

§ 152.03 APPLICATION OF THIS CHAPTER.

(A) The provisions of this chapter shall be held to be the minimum requirements for

maintaining the public health, safety, morals and welfare.

(B) Where the provisions of this chapter are either more restrictive or less restrictive than applicable provisions of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive shall prevail, except where authorized by the more restrictive agency.

(C) The provisions of this chapter shall be applicable to any subdivision of property within the city after the effective date of this chapter.

(D) The following shall not be deemed a subdivision within the meaning of this chapter. When resulting parcels, tracts, lots or interest are:

(1) Twenty acres or larger in size and 500 feet in width for residential or Urban Reserve lots;

(2) Five acres or larger in size and 300 feet in width for commercial or industrial zoned lots;

(3) The result of a court order or an adjustment of a lot line by relocation of a common boundary; or

(4) Cemetery lots.

(Ord. 15-01, 3rd Series, passed 10-05-2015)

PRELIMINARY PLAT

§ 152.10 ENVIRONMENTAL DOCUMENTS AND CONCURRENT PERMITS.

(A) It shall be the subdivider's responsibility to secure necessary concurrent permits such as MPCA state waste disposal permits, Health Department permits, Corps of Engineers permits, DNR Public Water permits, Thirty Lakes Watershed permits and DNR Water Appropriation permits. Approval by the city does not imply approval by other agencies.

(B) The subdivider of any project exceeding the mandatory the Environmental Assessment Worksheet (EAW) limits under Minnesota Rules Chapter 4410 or as ordered by the City Council shall submit to the city the data portions of the EAW or Worksheet as required under MN Rule 4410.1400 and any other information requested by the city.

(C) The administration of an EAW or EIS shall be in accordance with the rules and regulations of the Minnesota Environmental Quality Board and the Zoning Ordinance. The Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document. The Planning Commission shall review each document and make recommendations to the City Council whose decisions shall be final. The subdivider shall pay for preparation of the EAW and/or EIS and shall be responsible for all city costs associated with the review. The subdivider shall escrow sufficient funds with the city to accommodate the review as determined by the City Administrator. The escrow shall be funded before review.

§ 152.11 PRE-APPLICATION MEETING.

A pre-application meeting may be held including the subdivider and City Planner, and may include the City Engineer and City Administrator if requested by the City Planner. Discussion at this meeting shall be limited to procedure, potential issues, ordinance requirements and timing.

§ 152.12 PRELIMINARY PLAT OR PRELIMINARY CONDOMINIUM OR "CIC" PLAT REQUIREMENTS

A preliminary plat, related documents or plans or preliminary condominium or "CIC" plat shall contain the following data along with the other reasonable information as it may be requested by the Planning Commission in order to make a proper evaluation of the proposal.

(A) Existing conditions.

(1) Boundary lines with lengths and bearings drawn to exact scale of not less than one inch equals 100 feet with measurements using one-one-hundredth of a foot taken from a boundary survey by a registered land surveyor with the legal description of the property, total acreage, name of the fee owner including his address and phone number, developer and surveyor and his license number. North arrow and scale;

(2) Topography, consisting of:

(a) Two-foot contour intervals with additional field determined spot elevations added to define drainage ways, 100-year floodplains, wetlands, slopes over 12%, bluffs, and the ordinary high water mark.

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(b) Near shore aquatic conditions, including depths, types of bottom, sediments and aquatic vegetation.

(3) Tree cover limits, specimen trees of a minimum of 15 inches measured at chest height locations;

(4) Location of adjoining streets, wetlands, structures and property lines within 200 feet of subject parcel, including acreage of any property owned by the developer not included in preliminary plat or plan;

(5) Significant historical sites;

(6) Date of boundary survey, topography and proposed plat; and

(7) Zoning district and Comprehensive Plan designations of the subject and each adjoining parcel.

(8) Existing Liens, Covenants, or encumbrances.

(9) Existing underground utilities within 100 feet of subject property.

(10) Existing Lots and Blocks if any.

(B) Proposed design.

(1) Layout of proposed streets, walkways, blocks, lots, bluff impact zones, buildings if known, drawn to same scale as existing data.

(2) Dimensions scaled to one-one-hundredth of a foot for all lot lines, street widths, easement widths and lakeshore lengths;

(3) Areas of proposed lots;

(4) Structure setback lines from streets, lot lines and ordinary high water mark;

(5) Proposed green space with area shown;

(6) Proposed public dedication areas other than streets or walkways with area

shown;

(7) Proposed city sewer or water system including hydrants and valves connections and extensions with grades shown;

(8) Potential locations, depth to water table, and percolation testing on two on-site septic disposal locations for each lot to determine suitability for sewage treatment systems.

(9) Information regarding adequacy of domestic water supply, and/or well locations. Proposed storm drainage system, drainage ways, direction of proposed drainage flow, and erosion control, both during and after construction activities;

(10) Proposed street standards and profiles;

(11) Potential principal structure and accessory structure locations and elevations;

(12) Extent of anticipated vegetation and topographic alterations;

(13) Name of subdivision, proposed street names;

(14) Stages of development proposed;

(15) Timeline; and

(16) Landscaping.

(C) Evidence of authority. Evidence of authority to subdivide the parcel consisting of fee ownership or written concurrence of fee owners.

(D) Declarations and Covenants. A copy of the proposed Covenants and Declarations shall be submitted concurrently with the plat if a privately maintained cluster sewer or water system or other common space or element is proposed for subdivision.

§ 152.13 PRELIMINARY PLAT OR PRELIMINARY CONDOMINIUM OR "CIC" PLAT APPROVAL PROCESS.

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The Preliminary Plat is not considered officially submitted unless all required information, fees and escrows are received.

(A) The preliminary plat, preliminary condominium or CIC plat approval constitutes formal approval of the concept and design of the subdivision.

(B) The Planning Commission review shall include a public hearing and may include a field review at its discretion.

(C) All reports of city staff, DNR and road authorities shall be reviewed and included in the hearing record. Related re-zoning requests, conditional use requests and exemptions to standards may be heard concurrently with a subdivision request, at the discretion of the Planning Commission.

(1) The subdivider shall submit seven (7) 22 by 34 inch and eleven (11) 11 by 17 inch paper copies of the preliminary plat, preliminary condominium or CIC plat and concurrent documents to the Zoning Administrator no less than 25 days prior to the regular Planning Commission meeting, pay the required fees and escrow and request a public hearing.

(2) The Zoning Administrator shall notify all property owners within 350 feet of the proposed subdivision and the subdivider of the public hearing by regular mail. The Zoning Administrator shall cause notice of the public hearing to be advertised once in the official newspaper, the notice to be published at least ten days before the public hearing and including a legal description of the property sufficient to identify the property at issue. The Zoning Administrator shall distribute the information received to the City Attorney if warranted, Planning Commission, Park and Recreation Committee, and the City Engineer. One copy of the preliminary plat or preliminary condominium plat shall be mailed by regular mail, postmarked at least fifteen (15) days prior to the public hearing to the following:

(a) The County Engineer if the plat is located adjacent to a county highway or parkland.

(b) The DNR if the plat is located in shore land areas.

(c) The Watershed District if the plat is located within a watershed district.

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Each of the above shall be requested to review the proposal and comment, in writing, within ten (10) days prior to the Planning Commission.

(3) The Zoning Administrator shall review the proposed plat, preliminary condominium or CIC plat as to content standards, necessary exceptions from the zoning ordinance and this chapter, necessary re-zonings or necessary conditional use permits and advise the subdivider and the Planning Commission of his or her findings.

(4) All related exceptions to standards, conditional use permit requests and/or re-zoning requests shall either have been decided or be pending approval simultaneously with the preliminary plat.

(5) The subdivider shall apply for all related approvals at least 25 days prior to the regular Planning Commission meeting as applicable, if he or she desires to have a concurrent public hearing for a conditional use or re-zoning.

(6) The Planning Commission shall hold the public hearing and may continue the hearing as necessary to allow all factual input necessary to allow a decision. Lack of submission of comments by outside agencies shall be construed to mean the agency has no objection.

(7) The Planning Commission shall determine the acceptability of the preliminary plat, preliminary condominium or CIC plat within 60 days of submission, and the findings shall be sent to the subdivider and forwarded to the City Council for consideration.

(8) The Planning Commission shall consider the following in its decision and make written findings concerning the proposed preliminary plat, preliminary condominium or CIC plat subdivision:

(a) Whether the property is properly zoned;

(b) Whether the proposal conforms to the requirements of the Zoning Ordinance;

(c) Whether the proposal conforms to the requirements and design standards of this chapter; and

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(d) Whether the concerns of affected agencies have been addressed.

(e) Whether the proposed development is consistent with the Comprehensive Land Use Plan and related components.

(f) Whether the physical characteristics of the site, including but not limited to topography, erosion and flooding potential, and soil limitations, are suitable for the type of development or use contemplated.

(g) Whether the proposed development will not create a negative fiscal or environmental impact upon the city.

(h) Whether the city will face undue financial hardship due to the development in question.

(i) Whether the subdivision will inhibit the orderly growth of the surrounding areas or the city as a whole.

(9) The Planning Commission may consider additional standards and requirements necessary to protect the best interest of the surrounding area and the city as a whole, including but not limited to the following:

(a) Whether streets and driveways within the preliminary plat, preliminary condominium or CIC plat are designed to provide good access and efficient use of the property;

(b) Whether the design of the preliminary plat, preliminary condominium or CIC plat (e.g., road location, lot placement, buffers and/or green space) is compatible and not injurious to the use and enjoyment of other property in the surrounding area; and

(c) Whether vehicular approaches to the property are designed so as not to create traffic congestion or interference on surrounding public highways.

(10) Subdivision by plat, condominium or "CIC" preliminary plat shall be recommended for approval by the Planning Commission and approved by the City Council. The final plat shall also require a recommendation by the Planning Commission and an approval by the City Council.

(11) Failure of the subdivider to file a final plat within one year of approval of the preliminary plat shall result in the preliminary plat approval being void, unless extended for one year by resolution of the City Council prior to the expiration of the one year time frame.

(12) A preliminary plat that contains multiple phases and has a final plat platted for a portion of the property shall have up to two (2) years from the date of the plat approval to Final Plat each subsequent phased portion of the approved Preliminary Plat. Prior to the expiration of the deadline, the City Council, at its option, may extend the approval for up to an additional two (2) years. The extension request shall be in writing specifically designating the expiration date. Only one (1) extension may be granted per phase of the development. Upon expiration of the deadline or extension thereof the subdivider will be required to renew the Preliminary Plat process.

(13) Subsequent approval by appropriate officials having jurisdiction will be required of the proposals pertaining to water supplies, storm drainage, sewage disposal, grading, gradients, roadway widths, and the surfacing of streets prior to the approval of the Final Plat. No plans will be approved for a subdivision that include any area subject to periodic flooding or that contain extremely poor drainage capabilities which would make adequate drainage of the streets and lots difficult, unless the subdivider agrees to make improvements that will, in the opinion of the City Engineer, make the area completely safe for occupancy and provide adequate street and lot drainage.

DESIGN STANDARDS

§ 152.20 DESIGN LAYOUT STANDARDS; MINIMUM.

The following design standards shall be considered minimum acceptable requirements in the review of the proposed subdivision by the Zoning Administrator, City Attorney if warranted, City Engineer, Planning Commission and Council, except as waived by conditions specified in approval.

(A) The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration. Land subject to flooding, land below the ordinary high water mark, wetlands, areas with high water table, bluffs or land containing other significant constraint(s) upon future intended usage, shall not be considered in the minimum size of a lot. The suitability analysis for each lot shall also

consider soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, environmentally sensitive aquatic conditions, important fish and wildlife habitat as identified by the DNR, presence of significant historic sites or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

(B) Lot layouts shall be compatible with the existing layout of adjoining properties.

(C) Each lot shall have a minimum frontage required for the district on a designated public or private right-of-way. No lot shall directly abut onto a principal arterial or a county level major collector, but rather a frontage road or double frontage lot with extra depth for buffering purposes shall be provided.

(D) Flag lots should be considered a remedial action, to be approved only when there is no other option for providing access to a parcel, or as a means of preserving natural resources. Flag lots in these instances shall be considered an exception to the minimum frontage as approved by the Planning Commission. Flag lots can have a serious impact on land development including increased density of driveways, drainage, traffic, aesthetics, emergency access and overall privacy and character of a neighborhood.

§ 152.21 SHARED DRIVEWAYS AND PRIVATE ROADS

(A) To minimize the extent of excavation and costs of improvements the Planning Commission may consider the use of shared driveways where circumstances warrant their use. A cross easement shall be required for all shared driveways. Said easement must include a maintenance agreement.

(B) Private roadways are not encouraged but will be considered by the Planning Commission under certain conditions. In no circumstances will a private roadway be approved without filing and recording a private road access agreement or cross easements and covenants for continued access and maintenance of the roadway.

§ 152.22 STREETS

(A) Proposed streets and cul-de-sacs shall conform to the Comprehensive Plan and minimum standards for residential roadway construction of the city, county and state.

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(B) Streets shall be related to the topography so as to produce usable lots and reasonable gradients not in excess of 6% for collector roads and 8% for minor road.

(C) Public access shall be given to adjacent properties unless the topography clearly indicates future connection is not feasible and another possible route exists.

(D) Access points to county highways shall be approved by the respective authorities, shall be kept to a minimum through the use of frontage roads and shall be located in accordance with intersection design standards.

(E) Minor streets shall be designed to discourage through traffic. Collector streets shall be designed to be direct, with a connection to a county highway where possible.

(F) Half Streets that don't provide for the fully required public right-of-way will not be permitted.

(G) Streets will be designed as collector or local in accordance with the Comprehensive Plan of the city.

(H) Dead-end streets shall be minimized. Cul-de-sac (turnaround) shall not exceed 1,200 feet in length as measured from the radius point of the cul-de-sac.

(I) Access shall be given to all adjacent properties when required by the Planning Commission. All streets intended to be extended to adjoining property shall be provided with a temporary cul-de-sac with the sides on a temporary easement, that will revert to the adjoining lot owner when released by the city.

(J) All rights-of-way dedicated to the public, and design elements shall have the following minimum dimensions, in addition to the foregoing provisions:

- (1) Principal arterial: 200 feet to 324 feet as determined by MnDOT;
- (2) Arterial roads: 100 feet to 120 feet as determined by Crow Wing County;
- (3) Collector roads: 80 feet;
 - (a) Pavement Width: 24-28 feet plus 4 foot paved shoulders

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(b) 2 Lanes with center skip stripe

(c) Drainage swale edge, no curb, shoulder stripe

(d) Maximum Grade: 6 percent

(e) No on-street parking

(f) Minimum of 8 foot pedestrian way, attached or detached based on safety concerns. A larger standard may be required.

(4) Local roads: 66 feet; and

(a) Pavement Width: 24-28 feet, based on projected volume

(b) 2 Lanes with no striping

(c) Drainage swale edge, no curb

(d) Maximum Grade: 8 percent

(e) On-street parking on both sides

(5) Cul-de-sac (turnaround): 75 feet radius

(a) Paved radius of 50 feet minimum.

(b) Shoulder width of 3 feet.

(6) Service drive; 66 feet if detached from other right-of-way and 66 feet if parallel with and adjacent to another right-of-way. Additional right-of-way may be required to promote public safety if special conditions require, such as corners, sight lines on corners, or excessive fill sections.

(K) Intersections.

(1) Street centerline shall intersect at not less than 90 degrees;

(2) Street jogs shall be no less than 200 feet from centerline to centerline;

(3) Streets shall have names continuous with existing patterns; and

(4) Gradients at intersections and for 50 feet approaching on each side of an intersection shall not exceed 2%.

(L) Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones, when any other reasonable and feasible placement alternatives exist.

(M) Street names shall conform to the pattern of the Crow Wing County addressing requirements, continue an existing name on the same alignment and generally promote order and direction in the community.

(N) Alleys shall not be platted and dedicated to the public however private alleyways may be incorporated into a plat with the use of private easements or a private road access agreement to benefit all properties of the plat.

§ 152.23 EASEMENTS AND CONVEYANCES

In accordance with the provisions of M.S. § 462.358, Subd. 2b, as it may be amended from time to time, the subdivider shall dedicate, to the public, lands for highway rights-of-way, street rights-of-way, utility easements, drainage easements, wetland easements and similar lands required for perpetual access and public improvements.

(A) Drainage and Utility Easements shall be provided on each lot. The easement shall be at least ten (10) feet wide along the front lot lines and five (5) feet wide along all abutting side lot lines. A ten (10) foot easement shall be provided on all non-abutting side lot lines. If no back to back lots exist a ten (10) foot easement shall be required.

(B) A perimeter easement around the entire plat shall be established at a minimum of ten (10) feet.

(C) Drainage easements of existing drainage ways shall be provided along each side of the centerline to the extent of need but in no instances shall it be less than twenty (20) feet. Storm water ponding areas, including ditch bottoms, shall be

provided by the subdivider to handle the runoff of storm water computed for a 100-year, twenty-four (24) hour storm event.

(D) Easements shall be provided for public utilities or drainage and shall be the following minimum widths. Additional easement width shall be required if circumstances dictate the need for them.

- (1) Water main: ten (10) feet;
- (2) Sanitary sewer: fifteen (15) feet;
- (3) Storm sewer: ten (10) feet;
- (4) Electrical, telephone or cable television: ten (10) feet; and
- (5) Drainage way: twenty (20) feet.
- (6) Storm water pond, entire delineation

(E) All easements or conveyances of land to the city shall be accomplished through a deed or dedication on a plat at no cost to the city.

(F) Tracts to be used for public roads and utilities shall be deeded to the city free and clear of taxes, assessments, and liens of whatever nature if not dedicated. (Ord. 14-03, 3rd Series, passed 6-02-2014)

§ 152.24 BLOCKS

(A) A block shall not exceed 1,320 feet in length;

(B) A public walkway shall be required across a block longer than 800 feet and in other locations; and

(C) Blocks shall normally allow two tiers of lots except when adjoining a lake, highway, boundary line or other limited access feature.

§ 152.25 LOTS

(A) The minimum lot area shall be consistent with the corresponding zoning district

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requirements.

(B) Butt Lots shall not be permitted.

(C) Width. Lots must have sufficient frontage on public streets to provide minimum lot width. Lots shall be measured at the minimum front yard setback and at the setback from the OHWL of an abutting lake or stream.

(D) Access to lots abutting an arterial or major collector street shall be designed to access from a secondary street or roadway.

(E) Double Frontage or Through Lots are allowed only when abutting an arterial or collector street when increased in depth a minimum of 20% of the required standard lot size.

(F) Outlots. Outlots shall be platted in a size that's adequate to provide for future phases of construction. Outlots may also be platted to provide for the deeding of property to the city that may be of irregular size or shape such as for trails, parkland, utility uses, drainage ponds or other irregular uses. Outlots are not permitted for remnants of lots below the minimum lot size. Such remnants shall be added to adjacent lots.

(G) Side lot lines should be within 15 degrees of right angles to a street or lakeshore unless topography would suggest a better approach to development and establishment of lot lines;

(H) Lots requiring holding tanks for sewage shall not be allowed.

(I) Controlled access lots. (See Minn. Rules, § 6120.3300, Subd. 2) Lots intended for use as controlled access to public waters for use by owner of non-riparian lots within the subdivision must meet or exceed the following standards:

(1) The lots must meet the width and size for a residential lot in the appropriate zoning district and be suitable for use for controlled access;

(2) Six watercraft may be moored or stored over water on a standard sized lot. The lot width must be increased by 25% for each additional watercraft;

(3) The lot must be jointly owned by all owners of the lots within the subdivision who are provided riparian access through the controlled access lot;

(4) Covenants must be filed that specify which lot owners have an ownership interest in the lot, what activities are allowed, the number of vehicles that may be parked on the lot and the number of watercraft allowed to be moored or stored;

(5) Screening of parking, storage buildings and other facilities from the view of public waters may be required by the city.

(J) All lots or parcels within a subdivision shall use the local streets provided within the subdivision for driveway access onto the lots.

(K) Individual Lot Site Plans. Each individual residential lot shall have a site plan submitted that identifies general location for the principal structure and, unless lots are to be sewerred, two septic system discharge areas. The plan must show the intended drainage ways for the lot, in keeping with the total drainage requirements for the plat. The site plan should also identify the types of structures that could be accommodated given limitations of topography and drainage. Said types shall include full basements, walkouts, lookouts, splits, slab on grade or single story.

§ 152.26 DRAINAGE AND/OR GRADING STANDARDS.

The subdivider shall be responsible to provide adequate drainage facilities for his or her development and upstream properties. Storm water management facilities used for residential plats in excess of one acre and all commercial developments must be designed by an engineer licensed in the State of Minnesota.

(A) All natural drainage ways draining properties upstream from the subject property shall be preserved, and no structures shall be less than one foot above the water level in the drainage way created by a storm of a 100-year return period or a one percent (1%) chance of occurrence. No filling in drainage ways inundated by a 100-year storm event along drainage ways shall be allowed except by conditional use permit.

(B) Direct runoff of storm water to adjacent water bodies, including wetlands shall be eliminated through the use of berms, swales, or other permanent means.

(C) Properties shall be developed in such a manner that they retain the increase in

storm water runoff under a 100-year rain event; the volume and rate of runoff shall be maintained at pre-developed levels.

(D) Natural or man-made storage areas may be utilized, if designated by drainage and utility easements by the subdivider or included in green space. No storage area shall be considered part of the minimum lot area requirement. All storage areas shall be vegetated and designed to lower naturally after a storm. When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, rain gardens, waterways and ponds may be used. Preference will generally be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.

(E) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site. Erosion control measures shall be provided to comply with MPCA stormwater construction standards and regulations.

FINAL PLAT

§ 152.30 FINAL PLAT OR FINAL CONDOMINIUM OR "CIC" PLAT APPROVAL PROCESS.

(A) Upon approval of the preliminary plat by the City Council, the subdivider shall cause the final plat, final condominium or CIC plat, and concurrent documents to be prepared and submitted to the Planning Commission for recommendation to the City Council.

(1) The subdivider shall submit four (4) 22 by 34 inch and eleven (11) 11 by 17 inch paper copies of the final plat, final condominium or CIC plat and concurrent documents to the Zoning Administrator no less than 15 days prior to the regular Planning Commission meeting.

(2) The Zoning Administrator shall distribute the information received to the City Attorney, Planning Commission, Park and Recreation Committee, and City Engineer, who shall review the submission for conformity to this chapter and comment thereupon

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to the Planning Commission. The Zoning Administrator shall compare the final plat, final condominium or CIC plat to the preliminary plat, preliminary condominium or CIC plat and comment thereupon. The Engineer shall determine whether the improvements required have been completed or have been included in a development contract and that the required security has been posted with the City.

(3) The Planning Commission shall review the reports of the Attorney, Engineer and Zoning Administrator and make recommendation to the City Council. The Planning Commission shall consider the following:

(a) Whether the applicant has complied with all conditions and requirements upon which the preliminary plat was expressly conditioned, either through performance or execution of appropriate agreements assuring performance;

(b) Whether the final plat, final condominium or CIC plat agrees with the preliminary plat, preliminary condominium or CIC plat;

(c) Whether the City Engineer agrees that all required improvements are guaranteed by contract.

(d) Whether an independent professional land surveyor agrees that the final plat, final condominium or CIC plat meets the statutory requirements; and

(e) Whether financial security for the subdivision project has been posted by the subdivider in the appropriate amount.

(4) The City Council shall review the proposal at its next regular meeting and determine the acceptability of the final plat or final condominium or CIC plat within 60 days of its complete submission to the city.

(5) Following approval by the City Council, the subdivider shall submit three Mylar prints of the final plat or final condominium plat to the Zoning Administrator for signature by the Mayor and Administrator/Clerk. One signed copy will be returned to the city. The city will also require a PDF and an appropriate file for GIS of the final plat. If the plat is within shore lands, the Zoning Administrator shall send one signed copy of the approved final plat, final condominium or CIC plat to the DNR, postmarked within ten days of its approval.

(6) Upon signature, the subdivider shall record all pertinent documents with the County Recorder and shall provide such evidence of recording to the city within 60 days of recording. Failure to record a final plat or CIC plat within one year shall void approval of the plat and shall require approval of a new preliminary plat, unless the time is extended by resolution of the City Council. Said extension shall be for no more than one year. With a CIC plat the final plat must be recorded prior to issuance of the Certificate of Occupancy for the units.

§ 152.31 FINAL PLAT OR FINAL CONDOMINIUM OR "CIC" PLAT REQUIREMENTS.

A final plat or final condominium or CIC plat shall contain all elements required by this chapter, state law, and the State Plat Manual, including but not limited to the following:

(A) Conformance with approved preliminary plat or preliminary condominium plat or an agreed upon portion thereof.

(B) Design standards in conformance with this ordinance and the Breezy Point Zoning Ordinance.

(C) Preparation by a registered land surveyor. Signatures of Mayor, Clerk-Treasurer, County Auditor, County Treasurer and all parties with legal interest in the fee ownership of the land.

(D) Dedication to the public of those easements, rights-of-way, walkways and lands to become public.

(E) Drainage and utility easements within the plat and over natural drainage ways and significant wetlands.

(F) Reservation of private streets in outlots (Planned Unit Development).

(G) Covenants and Declarations shall be recorded concurrently with the plat and shall be required to create an association of homeowners if a privately maintained cluster sewer or water system or other common space or element is proposed for subdivision.

(H) Concurrent documents:

(1) Title opinion, less than 60 days old, acceptable to the City Attorney and showing conformance with those parties represented by signature on the plat as holding interest in the property being divided. For CIC plats, verification that those parties authorized to sign the plat have authority to do so;

(2) Evidence of plat check, in accordance with the State Plat Manual, by the County Surveyor or an independent registered land surveyor;

(3) Financial security, acceptable to the City Attorney in the amount of 125% of the cost estimated by the City Engineer for the required public improvements; and

(4) Development agreement acceptable to the City Attorney.

METES AND BOUNDS DIVISIONS

§ 152.40 METES AND BOUNDS SUBDIVISION APPROVAL.

(A) The city strongly encourages the platting of all divisions of land within the city that require approval by the City. It is recognized that there are some instances where the platting of property is difficult due to preexisting conditions. Metes and bounds divisions shall be reserved for only these circumstances. All subdivisions that create 5 or more lots or parcels that are 2.5 acres or less in size shall be platted.

(B) The subdivider shall submit documents prepared by a registered surveyor containing the essential information of a proposed plat or plan and including dimensions computed to one-one-hundredth of a foot and bearings computed to equivalent accuracy to the Planning Commission for approval. The documents shall contain the following data:

(1) Existing conditions.

(a) Exterior boundary drawn to a scale of not less than one inch equals 100 feet with measurements using one-one-hundredth of a foot and northerly direction shown thereon;

(b) Indication of floodplains, wetlands, slopes over 12%, bluffs, tree cover and ordinary high water mark;

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(c) Adjoining properties within 200 feet, including street locations, structure locations and property lines; and

(d) Significant historical sites.

(2) Proposed design.

(a) Proposed roads and walkways;

(b) Proposed lots with building setbacks and bluff impact zones. Flag lots should be considered a remedial action, to be approved only when there is no other option for providing access to a parcel, or as a means of preserving natural resources. Flag lots can have a serious impact on land development including increased density of driveways, drainage, traffic, aesthetics, emergency access and overall privacy or character of a neighborhood;

(c) Impervious coverage calculations for the remainder of the parent parcel if developed; and

(d) Proposed city sewer and water system connections or sewage treatment systems and well locations.

(C) The review of the Planning Commission need not include a public hearing.

(1) The subdivider shall submit four copies of his or her proposal to the Zoning Administrator no less than 25 days prior to the regular Planning Commission meeting.

(2) The Zoning Administrator shall review the proposed subdivision for conformance with the Zoning Ordinance including a field review at his or her discretion.

(3) The Planning Commission shall consider the approval of the subdivision based on the subdivision complying with the ordinance, the feasibility of the resulting lots for their intended purpose and the provision for access to adjacent properties. Conditions may be attached to an approval requiring appropriate improvements.

(4) The proposed legal description for subdivision of land by metes and bounds shall be prepared and certified by a registered land surveyor.

(5) Only one metes and bounds subdivision shall be allowed per parent parcel of record if the resulting parcels are 10 acres or less. An additional parcel for right-of-way or commonly owned driveway access may also be allowed, or required.

(6) A Certificate of Survey shall be provided showing the resulting land descriptions signed by a registered land surveyor.

(7) A Title Opinion, less than 60 days old, acceptable to the City Attorney and showing conformance with those parties as holding interest in the property being divided and must be provided prior to final approval.

ADMINISTRATIVE DIVISIONS

§ 152.50 LOT LINE ADJUSTMENTS AND CONSOLIDATIONS

(A) Lot line adjustments of existing lots shall be considered for approval when requested in conjunction with consolidating of adjacent lots to create larger parcels that meet or exceed existing lot standards.

(B) The applicant shall submit documents containing the essential information of a proposed plan including dimensions computed to one-one-hundredth of a foot and bearings computed to equivalent accuracy to the Zoning Administrator for approval. If existing platted parcels are to be consolidated only the legal descriptions are required.

(C) Review by the Zoning Administrator need not include a public hearing.

(1) The Zoning Administrator shall review the proposed lot adjustment for conformance with the Zoning Ordinance including a field review at his or her discretion.

(2) The Zoning Administrator shall decide the approval of the lot line adjustment within a reasonable time based on the resulting lots complying with the ordinance, and the feasibility of the resulting lot for their intended purpose. Such adjustments may be allowed to improve a non-conforming lot making it conforming, less non-conforming, or to enhance a conforming lot.

(D) A Certificate of Survey shall be provided showing the resulting land descriptions and signed by a registered land surveyor if the properties were not previously platted.

PARK DEDICATION

§ 152.60 PARK DEDICATION TO THE PUBLIC; STANDARDS.

(A) In accordance with the provisions of M.S. § 462.358, Subd. 2b, as it may be amended from time to time, the subdivider shall dedicate, to the public, parks, recreational facilities, playgrounds, trails, or green space to meet parkland dedication requirements subject to the following provisions.

(B) Those properties that have been platted previously and provided parkland dedication are exempt from dedication requirements except if the number of lots is increased. Park dedication requirements shall apply on the net increase in lots.

(C) In addition, every new plat, CIC plat or subdivision of land to be developed for residential or commercial purposes, including metes and bounds subdivisions where a vacant lot is established, shall be required to dedicate or reserve a reasonable portion of land for parks, playgrounds, trails or green space of sufficient size to meet the needs of the residents of the subdivision subject to meeting findings in section (F). The maximum amount of land the Planning Commission may require shall be equal to 10% of the gross area of the subdivision.

(D) When considering parkland dedication, the city shall determine the geographic location and configuration of said land dedication. The land shall not consist of wetland, steep slopes or other natural or man-made features that make the property unsuitable for parkland dedication unless the city determines otherwise. If it is determined that parkland in a subdivision is not warranted the city shall require a payment, in lieu of land dedication, of a sum equal to 10% of the fair market value of the land to be subdivided or a combination of land and payment equal to 10% of the fair market value of the land to be subdivided, all determined at the time of final plat approval by the City Council, or approval by the Planning Commission with Metes and Bounds divisions. Cash received by the city in lieu of land dedication shall be placed in a special fund in accordance with M.S. § 462.358, Subd. 2b, as it may be amended from time to time.

(E) All dedications shall be included in the dedication portion of the plat, included in the development agreement, or received by the city in warranty deed without further restrictions or reservations. If parkland is not dedicated in the plat a deed shall be recorded and conveyed at no cost to the city within 10 days of the filing of the final plat

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with the county recorder.

(F) Findings for Parkland Dedication. It shall be deemed to be in the public interest to require land dedication, cash contribution, or any combination thereof when the Council, or Planning Commission with Metes and Bounds division, after review and recommendation, makes one or more of the of the following findings of fact:

(1) All or part of the proposed subdivision has been designated as park, playground, and public open space on adopted City Plans.

(2) Such contribution is necessary in order to protect adjacent land uses from potential conflicting land use that could exist on the land subdivided.

(3) The increased number of residents to reside or be employed within the subdivision will increase the recreational demands upon the city.

(4) The land proposed to be subdivided contains or borders on existing unique topographic features including but not limited to ponds, lakes, streams, timber stands, water holding areas, hills, steep slopes, drainage areas, or bluffs that should be preserved to prevent foreseeable safety, pollution, or erosion hazards or to provide unique recreational and aesthetic qualities and enjoyment to the city.

(5) Such contribution is necessary to comply with or fulfill the goals, policies, and programs of the city.

(G) Contributions for Subdivisions with Outlots. With subdivisions that have been platted with Outlots for future development the subdivider shall contribute land, cash, or any combination thereof as provided as acceptable to the city, whichever is applicable, one of the following shall apply:

(1) For land contributions, the entire subdivision, including land within the outlots, will be included in the determination of total land dedication percentage to be given at the time of platting.

(2) With subdivisions where a cash dedication or combination cash and land dedication is made only the developed portion of the plat shall be used in determining parkland dedication requirements. Contributions for the undeveloped portion of the property will be collected at the time of subsequent development.

REQUIRED IMPROVEMENTS

§ 152.70 GENERAL IMPROVEMENT PROVISIONS.

(A) Subject to the City Council approving a final plat, the subdivider shall provide for the construction of the required improvements at his or her expense according to the plans approved by the city and shall enter into a development agreement and give bond, waiver of assessment and/or other financial assurance satisfactory to the Council in an amount equal to 125% of the estimated cost of the anticipated public improvements. The bond shall be released by the City Council after approval following the recommendation of the City Engineer indicating the improvements are satisfactorily complete and after the warranty period has expired.

(B) The required improvements shall conform to the standards herein and shall include city street signs and lighting in conformance with city standards.

(C) All costs of City Administration, City Engineer, City Attorney, Bond Counsel, financial experts and other professional costs borne by the city in creating and/or executing the development agreement, estimates of cost, inspections, financial arrangements, assessments and pursuing legal remedies in event of default by the subdivider, shall be borne by the subdivider. The development agreement shall provide that the subdivider deposit a cash escrow with the city to cover said costs.

(D) Upon completion of all work, the subdivider shall have his or her engineer provide the city with a full set of paper and digital as-built plans in electronic formats as approved by the city for city records. These plans shall include the elevations of sewers and culverts, locations and ties to all sanitary sewer and watermain services as well as gate valve boxes and manholes for those improvements constructed. Upon completion of the work and acceptance by the city, the subdivider and/or his or her contractor shall be required to furnish the city:

(1) A continuing performance bond guaranteeing the work for public improvements in favor of the city for a period of one-year after acceptance by the city. In the event a financial security was given in lieu of a bond the security shall be held until the warranty period has expired.

(2) Certificate of Insurance naming the city as additional insured that maintains coverage through the warranty period.

(E) Upon recommendations by the City Engineer that completed work be accepted, the Council will be requested to accept the completed public improvements. Acceptance will be by formal resolution of the Council.

§ 152.71 SURVEY STANDARDS.

Survey standards shall be those required by Minnesota Statutes, including the placement of all monuments including block corners, lot corners, curve points and lake survey line points on lot lines. All United States, state, county and other official benchmarks, monuments or triangulation stations in or adjacent to the proposed subdivision shall be preserved in position unless relocation is approved by the controlling agency.

§ 152.72 IMPROVEMENT STANDARDS.

All streets within the subdivision shall be constructed by the subdivider or otherwise provided for in a development agreement between the subdivider and the City with all expenses borne by the subdivider.

(A) Residential minor and collector city streets shall be constructed according to the *Minimum Standards for Residential Roadway Construction* dated June 7, 1991 as revised by the City Council.

(B) Commercial city streets shall be constructed to a 10 ton design with paved 12 foot travel lanes and 4 foot paved shoulders. The addition of on-street parking spaces and curb and gutter will be considered by the Planning Commission and recommended to the City Council if felt warranted.

§ 152.73 SANITARY PROVISION STANDARDS.

No land shall be subdivided for building purposes unless two adequate sites are available on the newly created lot for a conforming on-site sewage treatment system, or the subdivider constructs a cluster system serving the lots to be owned and maintained by a property owners association or the lot is provided with sanitary service by a municipal sewer system at the expense of the subdivider.

(A) A municipal sewer system shall be extended if the existing system is adjacent to the parcel being subdivided within 1,000 feet of the parcel boundary. The sewer shall also be extended to the exterior boundary of the subdivision at locations designated by

the City Engineer.

(B) Municipal sewage facilities shall be designed by a registered engineer, approved by the City Engineer, and approved by the Minnesota Pollution Control Agency.

§ 152.74 WATER SUPPLY STANDARDS.

The subdivider shall be responsible to provide the proposed subdivision with adequate spacing between building sites, on-site sewage disposal sites and potential well locations to allow for well installations in conformance with the Minnesota Department of Health requirements or the subdivider shall provide the lot with a cluster water supply system to be owned and operated by a property owners association or the subdivider shall provide municipal water service to the lot.

(A) A municipal water system, if available, shall be extended to the lots at the expense of the subdivider if the existing municipal system is adjacent to the parcel being subdivided within 1,000 feet of the parcel boundary. The water main shall also be extended to the exterior boundary at locations designated by the City Engineer. Minimum water main size shall be six inches with hydrants located no greater than 350 feet from each lot in residential areas, or 300 feet from each building site in commercial areas. The City presently does not operate a municipal water utility.

(B) On-site wells or cluster water systems shall conform to the Minnesota Department of Health Water Well Construction Code, as amended, and the use and design of cluster systems shall require approval of the City Engineer.

DEVELOPER RESPONSIBILITIES

§ 152.80 PAYMENT FOR INSTALLATION OF IMPROVEMENTS

(A) Unless expressly provided otherwise, all improvements required by the city, are to be furnished and installed at the sole expense of the subdivider and at no expense to the city. However, in the case of an improvement that would, by general policy of the city, be assessed only in part to the improved property and the remaining cost paid by the city, the council may make a provision for payment of a portion of the costs by the subdivider and the remaining portion of the cost by the city. If any improvement installed within the subdivision will be of benefit to lands beyond the boundaries of the subdivision, the council may make provisions for causing a portion of the cost of the

improvement representing the benefit to such other lands, to be assessed against those other lands or paid by the city at the Council's Discretion. The extension of roadways beyond the subdivision boundaries does not create a benefit for the subdivider in this regard.

§ 152.81 REQUIRED AGREEMENT FOR INSTALLATION OF IMPROVEMENTS

(A) Prior to installation of any required improvements and prior to approval of the final plat, the subdivider shall enter into a written development agreement with the city in a form approved by the city attorney. The development agreement will outline the financial guarantee required, as well as the terms of development. Developers have three (3) options for installation of city utilities (listed below). With options in subsections (a) and (b) of this section, the time for initiation and completion of work shall be determined by the city upon recommendation of the city engineer. The city reserves the authority to correlate the work with any other city work being done or contracted. With options in subsections (a), (b), and (c) of this section, the city will charge the developer for all costs incurred by the city for staff and consultant expenses to defray administrative costs.

(1) Developer Petitioned and Assessment: The developer petitions the city to install the utilities. The developer and all abutting property owners must sign a petition for the improvements and waive all appeal rights under Minnesota Statutes Chapter 429. The developer escrows with the city the estimated engineering costs for a feasibility study. A public hearing may be required if additional city improvements are necessary or other properties are affected. The city will assess all concerned properties to recoup project costs together with engineering, inspection, legal, and administrative costs. The city may limit the amount of funds for such projects. The city has the ultimate discretion on whether to accept the petition for this option.

(2) Developer Petitioned and Paid: The developer petitions the city to install the improvements and agrees to pay all costs upon completion of project activities. The developer shall provide an escrow or a letter of credit equal to one hundred twenty five percent (125%) of project costs. The city shall be entitled to draw upon that escrow or letter of credit as the project proceeds. Once the project is completed and paid for, and the improvements are accepted and warranted for one additional year, the letter of credit shall be canceled or the balance in escrow shall be returned. The city has the ultimate discretion on whether to accept the petition for this option.

(3) Developer Installed: The developer shall provide the city with a feasibility study for the project. If said study is approved, the developer shall provide surety in the form of a cash escrow or a letter of credit that equals one hundred twenty five percent (125%) of the project cost in a form to be preapproved by the city attorney. Developer shall provide complete construction plans for said project, that shall be approved by the city engineer as to form, city specifications, and engineer's estimate of project cost. Developer shall utilize the city engineer for construction staking, inspection and for record drawings. Developer shall have its own contractor do the work. Upon completion and acceptance, the developer shall provide a one year warranty bond and establish a cash escrow in the amount to be determined by the city to cover ongoing administrative costs; whereupon the city shall release the remaining project surety.

§ 152.82 FINANCIAL GUARANTEE AND ESCROW

(A) Developer Security. The developer shall, at the option of the city and approval by the city attorney, to deposit cash in escrow or file an irrevocable letter of credit to ensure payment of the total cost of the required improvements. The total cost of the required improvements shall be estimated by the developer and approved by the city engineer. Said estimate shall include, but is not limited to the following costs: the cost of construction or installation; engineering; preparation of feasibility report; preparation of plans and specifications; right of way acquisition; capitalized interest, and as-built plans. The city shall be entitled to reimbursement from the financial guarantee for the cost of the required improvements, for any expense incurred by the city to cause completion of the work, in the event of subdivider default of the development agreement, and for any damages or legal costs, including reasonable attorney fees, sustained by the city on account of any breach thereof.

(B) Engineering Oversight and Administrative Escrow. Developer shall deposit an engineering and administrative escrow with the city that equals twenty percent (20%) of the project costs. The funds shall be used to reimburse the city for inspection, legal, and administrative costs related to the project. Any cash deposit pledged by the subdivider to the City as security for oversight services shall be drawn upon for said expenses. If funds deposited or remaining on deposit are not sufficient to provide for payment, the city will require additional sums to be deposited with the city or elect, at the option of the city, to bill the developer for said expenses. The developer shall be required to submit such sums to the city within 20 days of billing. The city reserves the right to stop the project if the developer fails to maintain a sufficient escrow.

(C) Completion. Upon completion of the work and termination of any subdivider liability under the development agreement, the financial guarantee or any cash balance and interest earnings retained by the city shall be refunded to the subdivider.

The city council will not accept dedication of the required improvements or release the financial guarantees until the city engineer have submitted a statement that all required improvements have been satisfactorily completed and all payments have been made.

§ 152.83 CONSTRUCTION PLANS AND AS-BUILTS.

(A) Construction plans for the required improvements, conforming in all respects to the standards and ordinances of the city shall be prepared at the subdivider's expense by a professional engineer registered in the State of Minnesota and the plans must contain the engineer's certification. Said plans, together with the quantity of construction materials and project estimate, shall be submitted to the city engineer for approval.

(B) Upon the City Engineer's issuance of a Certificate of Compliance, the subdivider shall furnish the City with as-built drawings prepared by a Registered Engineer showing the improvements as built or in place.

ADMINISTRATION

§ 152.90 AMENDMENTS.

(A) Amendments may be made to this chapter by the City Council after review and recommendations by the Planning Commission.

(B) The Planning Commission shall hold a public hearing on proposed amendments prior to issuing a recommendation, with notice of the hearing published in the official newspaper of the city at least ten days prior to the hearing.

§ 152.91 PUD

In recognition of changing trends, techniques, and materials in the process of urban development, the City Council and the Planning Commission may permit development in terms of Planned Unit Development (PUD) as provided for in the zoning ordinance.

§ 152.92 VARIANCES TO SUBDIVISION STANDARDS

Variations from the subdivision standards contained in this Chapter may be granted when the subdivider establishes that an unusual hardship exists in complying with the existing standards. Variance applications shall be submitted to the Planning Commission on a form provided by the City. The Planning Commission shall make findings and recommendations based on the following factors:

- (A) The existence of exceptional topography within the proposed subdivision.
- (B) Project design constraints resulting from existing physical conditions.
- (C) Proposed variance is not detrimental to public welfare.
- (D) Proposed variance is consistent with the intent and purposes of this Chapter.
- (E) Proposed variance will not alter the essential character of the locality.
- (F) Proposed variance is consistent with the Comprehensive Plan.
- (G) The plight of the subdivider is due circumstances unique to the property and not created by the subdivider.
- (H) Purported hardship is not solely economic in nature.
- (I) Proposed variance does not seek to permit a use that is not otherwise allowed on the subject property.

The Planning Commission's findings and recommendation shall be forwarded to the City Council for its consideration at its next regularly scheduled meeting. The Council shall make the final determination as to whether to approve the variance. If the variance is denied, the Council shall set forth its findings and conclusions for the denial. The subdivider shall be responsible for all of the City's professional costs in reviewing the proposed variance, including legal, engineering and planning.

§ 152.93 RECORDING OF DIVISIONS

- (A) No document subdividing land shall be filed with the County unless bears

the signature of the Zoning Administrator and is stamped with the city seal, to indicate that the conveyance is in compliance with all zoning and subdivision regulations of the City of Breezy Point. This provision shall not apply to previously platted lots already on record with the office of the County Recorder if the entire lot is the subject of transfer. This provision shall also not apply to divisions that are:

(1) Twenty acres or larger in size and 500 feet in width for Residential or Urban Reserve zoned lots;

(2) Five acres or larger in size and 300 feet in width for commercial or industrial zoned lots;

(3) The result of a court order or adjustment of a lot line by relocation of a common boundary; or

(4) Create cemetery lots.

(B) The County Recorder or Registrar of Deeds may accept each certificate for filing and recording upon compliance with these provisions.

§ 152.94 ADMINISTRATIVE FEES.

Fees shall be those as established by resolution of the City Council and shall cover all costs of the city including but not limited to advertising, legal services, engineering services and notifications.

(Ord. 12-02, 3rd Series, passed 07-02-2012)