

CHAPTER 12. MONTGOMERY SUBDIVISION REGULATIONS (PLATTING)

Section 1200 – SCOPE, APPLICATION, RULES, & DEFINITIONS

1200.01 Purpose. This Section is enacted for the purpose of safeguarding the best interests of the public, the homeowner, the subdivider, and the investor; encouraging well planned subdivisions by the establishment of adequate standards for design and construction and in order that new subdivisions will be integrated in the general plans of the community, thereby contributing toward an attractive, orderly, stable, and wholesome community environment with adequate municipal services and safe streets.

1200.015 Short Title. This Chapter shall be known, cited and referred to as the Montgomery Subdivision Regulations, except as referred to herein, where it shall be known as “this Section”, or if appropriate, “this Chapter.”

1200.02 Jurisdiction. The regulations governing plats and the subdivision of land shall apply within the corporate limits of the City and the unincorporated area within 2 miles of its limits; provided that where a municipality lies less than 4 miles from the limits of Montgomery, these regulations shall apply only to a line equidistant from Montgomery 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.

1200.025 Scope. The rules and regulations governing plats and subdivision of land contained herein shall apply within the City. Except in the case of resubdivision, this Chapter shall not apply to any lot or lots forming a part of a subdivision recorded in the Office of the Le Sueur County Recorder prior to the effective date of this Chapter, nor is it intended by this Chapter to repeal, annul or in any way impair or interfere with existing provisions of other laws or ordinances except those specifically repealed by, or in conflict with this Chapter, or with restrictive covenants running with the land. Where this Chapter imposes a greater restriction upon the land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this Chapter shall control.

1200.03 Application of Chapter. Any plat, hereafter made, for each subdivision or each part thereof lying within the jurisdiction of this Chapter, shall be prepared, presented for approval, and recorded as prescribed in this Section. The regulations contained in this Section shall apply to 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. The provisions of this Chapter shall not apply to:

1. A cemetery or burial plot while used for that purpose;

2. Any division of land resulting from court order, or the adjustment of a lot line by the relocation of a common boundary;
3. Divisions where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses;
4. Divisions where all the resulting parcels, tracts, lots or interests will be 5 acres or larger in size for commercial and industrial uses.

1200.035 Amendments. The provisions of this Chapter may be amended by the Montgomery City Council following a recommendation by the Planning & Zoning Commission and in accordance with the law, including the rules and regulations of any applicable state or federal agency. An amendment to this Chapter may be initiated by public request, City Staff, the Planning & Zoning Commission, or by the City Council.

1200.037 Platting Required. Any subdivision creating parcels, tracts or lots shall be platted. No building permit shall be issued for the construction or improvement of any building or dwelling upon an unplatted parcel. An exception may be made and a permit issued for construction or an improvement, if the City Administrator or his/her designee, in his/her sole discretion determine that no right-of-ways or easements are needed by the City; that there is no benefit to the City in requiring a plat; and the proposed project conforms to the Comprehensive Plan. As used in this subdivision, the terms “building” and “dwelling” shall have the same definition as contained in the Montgomery Zoning Code.

1200.038 Public Improvement. Unless otherwise approved by City Council, for properties subdivided after August 26, 2021, no public improvements shall be installed and service shall not be provided until approval of the Final Plat is granted and same has been duly recorded.

1200.04 Approvals Necessary for Acceptance of Subdivision Plats. Before any plat shall be recorded or be of any validity, it shall have been reviewed and commented upon by the Planning & Zoning Commission and approved by the City Council.

1200.045 Rules of Construction.

Subd. 1 Words. Words used in the present tense include the past and future tense; the singular number includes the plural and the plural includes the singular; the word “shall” is mandatory, and the words “should” and “may” are permissive.

Subd. 2 Conflicting Provisions. In the event of conflicting provisions in the text of these regulations, the more restrictive shall apply.

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

Subd. 1 Administrator. As used in this Chapter, the term “Administrator” shall refer to the Montgomery City Administrator, or the City Administrator’s delegee.

Subd. 2 Alley. Any dedicated public way affording a secondary means of vehicular access to abutting property, and not intended for general traffic circulation.

Subd. 3 Block. An area of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, boundaries of a subdivision or boundaries of the municipality.

Subd. 4 Building. Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind.

Subd. 5 Building Permit. The document required under the Building Code of the City concerning the construction or placement or an improvement on property.

Subd. 6 Building Setback Line. A line on a lot, generally parallel to a lot line or road right-of-way line, located a sufficient distance therefrom to provide the minimum yards required by this Chapter. The building setback lines delimit the area in which buildings are permitted subject to all applicable provisions of this Chapter.

Subd. 7 Boulevard. The portion of the street right-of-way between the curb line and the property line.

Subd. 8 Certificate of Survey. A document prepared by a Registered Land Surveyor which precisely describes area, dimensions and location of a parcel or parcels of land.

Subd. 9 City Attorney. The attorney employed by the City unless otherwise stated.

Subd. 10 City Engineer. The engineer employed by the City unless otherwise stated.

Subd. 11 Common Interest Community (CIC). A method of allocating the ownership of land and structures in a development as regulated by Minnesota Statutes Chapter 515, Minnesota Condominium Act, as may be amended from time to time.

Subd. 12 City or Community. The City of Montgomery, Le Sueur County, Minnesota.

Subd. 13 City Council. The Montgomery, Minnesota, City Council.

Subd. 13.5 Code. The Montgomery, Minnesota, City Code.

Subd. 14 Comprehensive Plan. “Comprehensive Plan” means a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, including proposed densities for development, a community facilities plan, a transportation plan, and recommendations for plan execution. A comprehensive plan represents the planning agency’s recommendations for the future development of the community.

Subd. 15 Concept Plan or Sketch Plan. A plan of a proposed subdivision presented to the City Planning & Zoning Commission at the pre-application meeting, containing the information required in this Chapter of the Code, including, but not limited to, lot layouts, proposed streets, park areas, and water and sewer systems.

Subd. 16 Contour Map. A map on which irregularities of land surface are shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines.

Subd. 17 Copy. A print or reproduction made from a tracing.

Subd. 18 County/County Recorder. Le Sueur County, Minnesota.

Subd. 19 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, utilities, easements, lots, etc.

Subd. 20 Development. The act of building structures and installing site improvements.

Subd. 21 Drain or Drainage. Any method for removing or diverting water from water-bodies, including excavation of an open ditch, installation of subsurface drainage tile, filling, diking, or pumping.

Subd. 22 Drainage Course. A water course or indenture for the drainage of surface water.

Subd. 23 Easement. A right of use over the property of another.

Subd. 24 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.

Subd. 25 Escrow. A deposit of cash with the City of Montgomery in lieu of an amount required and still in force on a performance or maintenance bond.

Subd. 26 Final Plat. A drawing or map of a subdivision, prepared by the subdivider at subdivider's expense, meeting all the requirements of the City, and in such form as required by the County for purposes of recording.

Subd. 27 Governing Body. City Council of Montgomery, Minnesota.

Subd. 28 Intersection, Street. The point of crossing or meeting of two or more streets.

Subd. 29 Key Map. A map drawn to comparatively small scale which definitely shows the area proposed to be platted and the areas surrounding it to a given distance.

Subd. 30 Land Use Plan. "Land Use Plan" means a compilation of policy statements, goals, standards, and maps, and action programs for guiding the future development of private and public property. The term includes a plan designating types of uses for the entire municipality as well as a specialized plan showing specific areas or specific types of land uses, such as residential, commercial, industrial, public or semipublic uses or any combination of such uses. A land use plan may also include the proposed densities for development.

Subd. 31 Lots.

A. Lot. A separate parcel, tract or area of land undivided by any public street or private road, which has been established by plat, metes and bounds, subdivision, or as otherwise permitted by law, and which is occupied by or intended to be developed for and occupied by a principal building or group of buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, including such open spaces and yards as are designed and arranged or required by this Chapter for the building, use or development.

B. Lot, Butt. A lot located on the end of a block excluding the two corner lots.

C. Lot, Corner. A lot situated at the junction of, and abutting on two or more intersecting streets.

D. Lot, Double Frontage. A lot which has a front line abutting on one street and a back or rear line abutting on another street.

E. Lot, Through. Any lot other than a corner lot which abuts more than one street.

F. Lot Area. The area of a lot in a horizontal plane bounded by the lot lines.

G. Lot Coverage. The area of the lot occupied by the principal buildings and accessory buildings.

H. Lot Depth. The mean horizontal distance between the front lot line and the rear lot line.

I. Lot Line. The property line bordering a lot except that where any portion of a lot extends into the public right-of-way shall be the lot line for purposes of this Chapter.

J. Lot Lines, Front. That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the County Recorder.

K. Lot Lines, Rear. That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

L. Lot Lines, Side. Any boundary of a lot which is not a front lot line or a rear lot line.

M. Lot Width. The maximum horizontal distance at the building setback between the side lot lines of the lot.

Subd. 32 Metes and Bounds Description. A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

Subd. 33 Minimum Subdivision Design Standards. The guides, principles and specifications for the preparation of subdivision plats indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.

Subd. 34 Official Map. The map established by the City Council in accordance with State Statutes, showing streets, highways, and parks and drainage, both existing and proposed.

Subd. 35 Outlot. A lot remnant or parcel of land that is part of a larger unified development that is intended to remain as open space or as another use not containing buildings or structures. No building permits will be issued by the City for an outlot.

Subd. 36 Owner. Any individual, firm, association, partnership, corporation, trust or any other legal entity in whom is vested legal title to specifically described real

property. For the purposes of this Chapter, real property contract for deed vendors and vendees are owners.

Subd. 37 Parks and Playgrounds. Public lands and open spaces in the City dedicated or reserved for recreation purposes.

Subd. 38 Pedestrian Way. A public right-of-way across or within a block intended to be used by pedestrians.

Subd. 39 Percentage of Grade. The rise or fall of a slope in feet and tenths of a foot for each 100 feet of horizontal distance. The center line of a street shall be used to determine the street rise of grade.

Subd. 40 Person. Any individual, firm, partnership, corporation, company, association, joint stock association or body politic including any trustee, receiver, assignee or other similar representative thereof.

Subd. 41 Planned Unit Development. A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

Subd. 42 Planning & Zoning Commission. The Planning & Zoning Commission of Montgomery, Minnesota, appointed by the City Council.

Subd. 43 Plat. The drawing or map of a subdivision prepared for filing of record at the County Recorder's office pursuant to Minnesota Statutes Chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to Minnesota Statutes Sections 462.358 and Chapter 505, as they may be amended from time to time.

Subd. 44 Preliminary Plat. The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning & Zoning Commission and City Council for their consideration.

Subd. 45 Preliminary Approval. Official action taken by a municipality on an application to create a subdivision which establishes the rights and obligations set forth in Minnesota Statutes Section 462.358, as amended from time to time, and the applicable subdivision regulation. In accordance with Minnesota Statutes Section 462.358, and unless otherwise specified in the applicable subdivision regulation, preliminary approval may be granted only following the review and approval of a preliminary plat or other map or drawing establishing without limitation the number, layout, and location of lots, tracts, blocks, and parcels to be created, location of streets, roads, utilities and facilities, park and drainage facilities, and lands to be dedicated for public use.

Subd. 46 Protective Covenants. A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

Subd. 47 Public Improvement. Any drainage ditch, roadway, parkway, street, sanitary sewer, storm sewer, water system, sidewalk, pedestrian way, tree, lawn, off-street parking area, street lights, lot improvement or other facility for which the City may ultimately assume ownership, responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is or may be established.

Subd. 48 Replacement Tree. A tree planted as part of the tree replacement plan, which must be at least 3 caliper inches measured 12 inches from the ground and which otherwise meets the requirements of this Section, except bur oak, swamp white oak, pagoda dogwood, ironwood, and similar trees accepted by the City which may be 1 ¼ caliper inches. A coniferous tree 7 feet high will meet the 3 minimum caliper inches required.

Subd. 49 Right-of-Way. The publicly owned land along a street or highway corridor, a portion of which is covered by the street or highway pavement.

Subd. 50 Steep Slope. An 18% or greater deviation of a surface from the horizontal.

Subd. 51 Streets.

A. Street. A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road or boulevard.

B. Collector Street. A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to an arterial street.

C. Cul-de-sac. A minor street with only one outlet and having an appropriate turn-around for the safe and convenient reversal of traffic movement.

D. Local Street. A street intended to serve primarily as an access to abutting properties.

E. Arterial Street. A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

F. Major or Thoroughfare Street. A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

G. Service Street. A marginal access street which is generally parallel and adjacent to a major street and which provides secondary access to abutting property.

H. Half Street. A street designed to provide access to only one side of the right-of-way.

I. Private Street. A street serving as vehicular access to one or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

J. Street Pavement. The wearing or exposed surface of the roadway used by vehicular traffic.

K. Street Width. The width of the right-of-way, measured at right angles to the centerline of the street. The distance between the right-of-way lines of a street.

Subd. 52 Subdivider. Any person commencing proceedings under this Chapter to effect a subdivision of land hereunder for himself or for another. For the purposes of this Chapter, the terms “subdivider” and “developer” will be used interchangeably and shall mean the same thing.

Subd. 53 Subdivision. The 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 5 acres in area for commercial or industrial uses or 20 acres in area or less than 500 feet in width for residential uses, for the purpose of transfer of ownership or a building development; or if a new street is involved, any division of a parcel of land. The term included resubdivision and, where appropriate to the context, relates either to the process of subdividing or to the land subdivided.

Subd. 54 Subdivision Regulation. “Subdivision Regulation” means a City ordinance adopted pursuant to Minnesota Statutes Section 462.358 regulating the subdivision of land, as may be amended from time to time.

Subd. 55 Surveyor. A person duly registered as a land surveyor by the State of Minnesota.

Subd. 56 Tangent. A straight line departing from a curve which is perpendicular to the radius of that curve.

Subd. 57 Tracing. A plat or map drawn on transparent paper or cloth which can be reproduced by using regular reproduction procedure.

Subd. 58 Tract. A parcel of land intended for division or development of a subdivision.

Subd. 59 Tree Removal. Any excavating, grading, clearing, filling or other earth change or any cutting, which may result in removal or killing of more than ten percent of the significant tree caliper inches on any land within any period of five years.

Subd. 60 Tree Significant. Any deciduous or coniferous tree measuring 8 caliper inches in diameter or which is not dead or actively infested with oak wilt or Dutch elm disease. Bur oak, swamp white oak, pagoda dogwood, ironwood, and similar trees accepted by the City may be considered as significant trees when they are of 4 caliper inches in diameter or greater.

Subd. 61 U.S.G.S. Datum. Refers to United States Geodetic Survey Datum.

Subd. 62 Variance. A modification or variation of the provisions of this Chapter where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of this Chapter would impose practical difficulties to the property owner in the use of their land.

Subd. 63 Vertical Curve. The surface curvature on a street center line located between lines of different percentage of grade.

Subd. 64 Wetland. Any wetland as defined in Minnesota Statutes Section 103G.005, Subd. 19, as may be amended from time to time. Land which is annually subject to periodic or continuing inundation by water and commonly referred to as a bog, swamp or marsh.

Subd. 65 Zoning Code. The City of Montgomery, Minnesota, Zoning Code as set out in Chapter 11 of this Code, controlling the use of land in the City.

Section 1205 – SUBDIVISION PROCEDURE

1205.01 Introduction. Whenever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

1205.02 Sketch Plan.

Subd. 1 Planning & Zoning Commission Sketch Plan Review. Prior to submitting a Preliminary Plat to the City Administrator, a subdivider must first submit a Sketch Plan to the Planning & Zoning Commission for review and comment. The purpose of the Sketch Plan review is to afford the subdivider and the Planning & Zoning Commission an opportunity to review, discuss, and advise the subdivider of the extent to which the proposed subdivision conforms to this and other portions of the Montgomery Code, including the Comprehensive Plan.

Subd. 2 Sketch Plan Not a Preliminary Plat. The Sketch Plan will be considered as the basis for discussion between the subdivider and Planning & Zoning Commission. Submission of such Sketch Plan shall not constitute formal filing of a Preliminary Plat.

Subd. 3 Copies Provided by Subdivider. At least two weeks prior to the regularly scheduled meeting of the Planning & Zoning Commission the subdivider of the land shall prepare and submit to the City Administrator ten copies of a Sketch Plan of the proposed subdivision or resubdivision.

Subd. 4 Subdivider's Mandatory Attendance Requirement. The subdivider, or a duly authorized representative, shall attend the Planning & Zoning Commission meeting at which his proposal is scheduled for consideration to discuss the requirements which pertain to his proposed subdivision or resubdivision.

Subd. 5 Planning & Zoning Commission Recommendations and Comments. The Planning & Zoning Commission shall make specific recommendations and comments about the Sketch Plan to be incorporated by the applicant into the Preliminary Plat. Any advice, comments, or recommendations for modifications made at this point by staff or Planning & Zoning Commission are advisory only and shall not constitute approval or commitment to approve. Review of the concept plan will include an initial determination whether environmental review documents must be completed pursuant to state law or rules. If such documents are required, the subdivider shall take the proper steps to ensure that the documents are prepared.

1205.03 Preliminary Plat. The Preliminary Plat shall be prepared by a land surveyor duly registered by the State of Minnesota, and said plat shall conform to the requirements of the County Recorder, Minnesota Statutes Chapter 505, and this Section.

Subd. 1 Filing of Preliminary Plat. Within six months of the Planning & Zoning Commission's consideration of a Sketch Plan, the subdivider shall file with the Administrator an Application for Consideration and ten copies of the Preliminary Plat prepared in accordance with the regulations set forth in this Section. Failure to act within the above time limit shall result in the developer being required to start the subdivision process over from the beginning-with the submission of a Sketch Plan to the Planning & Zoning Commission. At the time of submission of the Preliminary Plat, the required fees shall be paid by the subdivider. The Preliminary Plat shall be filed with the Administrator at least four weeks prior to the next regularly scheduled Planning & Zoning Commission meeting. If the property must be rezoned for the intended use, an application for rezoning, pursuant to the procedure in the Zoning Code, must be filed with the Preliminary Plat application.

Subd. 1.5 All Requirements to be Met for Preliminary Plat to be Filed. The City Administrator shall reject the subdivider's Preliminary Plat and not file the Preliminary Plat if any of the following deficiencies exist:

- A. The subdivider does not pay all fees due under this Chapter at the time of filing; or,
- B. The subdivider does not provide all documents to be filed at the time the Preliminary Plat is submitted for filing; or,
- C. Any other requirement made a prerequisite for filing the Preliminary Plat is not met.

The City's time for considering a subdivider's Preliminary Plat shall not start until the City Administrator accepts the filing of the subdivider's application for consideration, receives all required documents, and receives all required fees. The City Administrator's rejection of the filing of the application for consideration of Preliminary Plat, due to deficiency, shall not start the time running for the City's consideration of the application for consideration of Preliminary Plat.

Subd. 2 Up-to-date Certification of Title Required. An up-to-date certification of title or registered property report establishing title, ownership, and control of the property to be platted shall be filed by the subdivider with the City Attorney contemporaneously with the filing of the Application for approval of Preliminary Plat with the Administrator. This certification of title or registered property report establishing title must be in a form acceptable to the City Attorney. The City Attorney, prior to the City Council's consideration of the proposed Preliminary

Plat, shall file a report concerning ownership and control of the property to be platted and the form of the Preliminary Plat, and make any additional recommendations the City Attorney deems reasonable.

Subd. 3 Planning & Zoning Review. It shall be the responsibility of the City Administrator to distribute copies of the proposed Preliminary Plat and supporting documents to all appropriate department heads and agencies as per this Section. All written comments required under this Section shall be delivered to the Planning & Zoning Commission in advance of the scheduled public hearing on the proposed Preliminary Plat. All written reviews and comments accumulated by the Planning & Zoning Commission in advance of the public hearing on the proposed Preliminary Plat shall be forwarded, along with the Planning & Zoning Commission's findings and recommendation to the City Council, for its use in making the decision on the Preliminary Plat application.

A. Copies of Proposed Preliminary Plat to City Staff and Department Heads. The City Administrator shall refer copies of the proposed Preliminary Plat to the Planning & Zoning Commission, the City Engineer, appropriate City administrative staff, and the City Attorney.

B. State and Federal Agencies. The City shall submit a copy of the proposed Preliminary Plat to the Commissioner of Transportation if the proposed subdivision includes land abutting an established or proposed state trunk highway, the Le Sueur County Engineer if the proposed subdivision includes land abutting a county or county state-aid highway, and to the State Commissioner of Natural Resources if the proposed subdivision adjoins a public body of water, and to other applicable agencies, if required by law. The documents which must be submitted to these entities as well as the timing of the submission of the documents and the timing of the agencies' time to comment in writing on the proposed Preliminary Plat are governed by Minnesota Statutes Section 505.03, as may be amended from time to time, which is hereby incorporated by reference.

C. Township. If the proposed Preliminary Plat is located outside the city limits, the City shall submit to the Town Board of the Township within which the proposed plat will be located, for review and written comment, a copy of the proposed Preliminary Plat. The timeline for Township response shall be the same as that set for state agencies under Minnesota Statutes Section 503.03, as may be amended from time to time.

D. City Engineer. The City Engineer shall undertake a comprehensive review of the proposed Preliminary Plat, construction plan, and cost estimate to determine if the proposed plat, in all respects, meets the requirements of state law and the City Code. In advance of the Planning & Zoning Commission meeting, the City Engineer shall prepare a written

report on the Preliminary Plat, construction plan, and cost estimate, specifically addressing whether the proposed Preliminary Plat meets all legal requirements of the City Code and state law. This written report shall be sent to the Planning & Zoning Commission, the applicant, and the City Attorney, and shall be made available for review by all interested citizens.

E. Administrative Staff. City administrative staff shall undertake a comprehensive review of the proposed Preliminary Plat in order to determine how the proposed development will affect traffic, utilities, drainage, community facilities, public safety, surrounding development, natural features, historic sites, open space, and shall also consider the proposed development in terms of its conformity with the City's comprehensive land use plan. In advance of the Planning & Zoning Commission meeting, City staff shall prepare a written report, which shall be sent to the Planning & Zoning Commission and the applicant, and be made available for review by all interested citizens.

F. Park and Recreation Board. The Park and Recreation Board shall undertake a comprehensive review of the proposed Preliminary Plat in order to determine how the proposed development has addressed the following: the location, size, and type of park improvements, as well as sidewalk and trail system concerns. In advance of the Planning & Zoning Commission meeting, the Park and Recreation Board shall prepare a written report, which shall be sent to the Planning & Zoning Commission and the applicant, and be made available for review by all interested citizens.

G. City Attorney. The City Attorney shall undertake a comprehensive review of the proposed Preliminary Plat and the certification of title submitted simultaneously with the proposed Preliminary Plat to determine whether all owners signed the application for Preliminary Plat. The City Attorney's report shall also address whether consents to plat will be needed from any easement holder encumbering the property described in the proposed Preliminary Plat. In advance of the Planning & Zoning Commission meeting, the City Attorney shall provide the Planning & Zoning Commission with written comment concerning the proposed Preliminary Plat.

H. Public Hearing on Proposed Preliminary Plat. Within sixty days after the Preliminary Plat has been filed with the City Administrator and after reports and certifications have been received as requested, the Planning & Zoning Commission shall hold a public hearing on the Preliminary Plat after notice of the time and place thereof has been published once in the official newspaper at least ten days before the day of the hearing. Notices shall also be sent to all property owners of record within 350 feet of the

exterior boundary of the proposed plat. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the City and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this requirement has been made. The subdivider, or a duly authorized representative, shall attend the Planning & Zoning Commission meeting at which his proposal is scheduled for consideration to discuss the requirements pertaining to his or her proposed subdivision or resubdivision.

I. The Planning & Zoning Commission Findings and Recommendations.

The Planning & Zoning Commission shall study the practicability of the Preliminary Plat taking into consideration the requirements of the City and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided, and the requirements of the Comprehensive Plan, the Official Map and the Zoning Code. Within thirty days of the conclusion of the public hearing, the Planning & Zoning Commission shall make its report to the City Council. The Planning & Zoning Commission may forward to the City Council a favorable, conditional, or unfavorable report and said reports shall contain a statement of findings and recommendations. The findings necessary for the Planning & Zoning Commission to recommend the proposed Preliminary Plat shall be as follows:

1. The proposed subdivision is consistent with and conforms to the requirements of both the Zoning Code and this Chapter;
2. The proposed subdivision is consistent with all applicable City, county, and regional plans including but not limited to the City's generalized land use plan;
3. The physical characteristics of the site, including but not limited to topography, soils, vegetation, susceptibility to erosion and siltation, susceptibility to flooding and storm water drainage are suitable for the type and density of development and uses contemplated;
4. The proposed subdivision makes adequate provision for water supply, storm drainage, sewage disposal, transportation, erosion control and all other public and private services, facilities and improvements otherwise required herein;

5. The proposed subdivision will not cause adverse environmental damage or degradation;
6. The proposed subdivision will not conflict with easements of record or with easements established by judgment of a court;
7. The proposed subdivision will not have an undue and adverse impact on the reasonable development of neighboring land; and,
8. The proposed subdivision incorporates appropriate design and site planning elements for reasonable energy conservation measures.

Subd. 4 Proposed Preliminary Plat, City Council Decision. The application for consideration of Preliminary Plat must be approved or disapproved by the City Council within one hundred twenty days following the filing with the City Administrator of the application for consideration and all required supporting documents, unless an extension of the review period has been agreed to by the applicant. If the City fails to preliminarily approve or disapprove an application within the review period, the application shall be deemed approved, and upon demand the City shall execute a certificate to that effect. If the City Council disapproves the Preliminary Plat, the grounds for any such disapproval shall be set forth in the resolution of disapproval and a copy of the resolution shall be mailed to the owners and subdividers.

Subd. 5 Impact of Approval of Preliminary Plat. The approval of a Preliminary Plat is an acceptance of the general layout as submitted, and indicates to the subdivider that he may proceed toward preparation of a Final Plat in accordance with the terms of approval and provisions of the subdivision regulations.

Subd. 6 Timing of Subdivider's Submission of Improvement Plans to City Engineer. The subdivider must submit acceptable engineering plans for all required improvements to the plat at the time of the filing of the Preliminary Plat with the City Administrator, and shall coordinate all redrafting of said plans with the City Engineer.

Subd. 7 Special Assessments. If the subdivider requests or the City Council requires that any existing special assessments which have been levied against the premises described in the subdivision be divided and allocated to the respective lots in the subdivision plat, the City Administrator shall estimate the clerical cost of preparing the revised assessment roll, filing the same with the County Auditor, and making such division and allocation, and upon approval by the City Council of such estimated cost the same shall be paid to the Treasurer in addition to the other fees mentioned to cover the cost of preparing and filing such revised assessments.

Subd. 8 Concurrent Submission of Preliminary and Final Plat to City Council. At the discretion of the City, the Preliminary and Final Plat may be submitted at the same time to the City Council for consideration. The consideration will be determined based on the issues and complexity associated with the subdivision. The concurrent submission of Preliminary and Final Plats to the City Council will occur exclusively when a minor subdivision is sought as provided for elsewhere in this Code.

1205.035 Preliminary Plat, Developer's Agreement. Prior to approval of the Preliminary Plat, the subdivider shall agree in the manner set forth in this Section to install or pay for the installation of improvements in conformity with construction plans approved by the City Council.

Subd. 1 Payment for Improvements. The required improvements, which are listed and described in this Section, are to be furnished and installed at the sole expense of the subdivider, unless otherwise agreed to in writing by the City Council.

Subd. 2 Construction Plans. Construction plans for the required improvements shall be prepared at the subdivider's expense by a professional engineer, with the engineer's seal affixed to the plans. Such plans, together with the quantities of construction materials, shall be submitted to the City Engineer for his estimate of the total cost of the improvements. Upon approval, the plans shall be the basis of the cost portion of developer's agreement required by this Section. The copies of the plans approved by the City Engineer, plus two prints shall be submitted and placed on file with the City. Plans for the installation of gas and electric facilities shall be submitted to the City Administrator simultaneously with the filing of the Preliminary Plat. The appropriate agencies shall have approved of the plans prior to the approval of the Final Plat. Financial arrangements for these facilities shall be in accord with the policies of the City Council.

Subd. 3 Agreement for Installation of Improvements. The subdivider shall not be considered to have complied with all of the financial conditions and requirements of this Chapter until the subdivider executes a developer's agreement, as approved by the City Council, which contains satisfactory assurance the subdivider will provide the following required improvements in the new subdivision at the subdivider's expense:

A. Monuments at all lot corners, block corners, angle points, points of curves and streets and at intermediate points as required by the City Engineer.

B. All streets shall be graded and surfaced in accordance with applicable standard specifications of the City, and subject to inspection and approval by the City Engineer.

C. Concrete curbs, gutters, drainage, and drainage structures in accordance with standards of the City, and subject to the inspection and approval of the City Engineer.

D. Drain tiles placed behind the curb for all lots to provide adequate sump pump access to homes.

E. Street identification and traffic signs at all street intersections within or abutting the subdivision of a type approved by the City and placed in accordance with the standards of the City. The City may elect to order and place the street signs and charge the purchase and installation costs to developer.

F. Water mains and service connections, sufficient to serve all lots in the subdivision must be stubbed to the property line.

G. Each lot must be connected to public sanitary sewer subject to the approval of the City Engineer.

H. Sanitary sewer and water mains must be installed including extension of both to the boundaries of the property being platted.

I. Provisions shall be made for the proper drainage of all streets through the installation of adequately designed culverts, storm sewers, retention ponds and the like, and the installation thereof shall be considered part of the essential street construction requirements.

J. Provisions shall be made for the installation of sidewalks or trails at locations designated by the City.

K. Decorative street lighting with underground wiring in accordance with the City specifications.

L. Plans for final grading and planting of appropriate ground cover on vacant lots may be required of the subdivider as a condition of City acceptance of the public improvements identified in this Section.

M. Franchised and public utilities including telephone, cable TV, electric, and gas services lines are to be placed underground. Conduits, pipes, or cable shall be placed within easements or in right-of-ways adjacent to streets in such a manner as not to conflict with other underground services. All utilities within the right-of-ways shall comply with the City's right-of-way ordinance as amended.

N. Developer shall pay a civil defense siren fee as set by City Council for newly developed land outside of the original plat of the City.

O. Planting, gateways, entrance areas shall be improved with weed-free sod or the area shall be controlled with hay bales or riprap to avoid erosion as approved by the City Engineer. Planting trees, including the type and spacing of the trees on public property, will be subject to the regulations of the City Council. No planting, gateways, entrances, and similar improvements may be made on public property except with permission and approval of the Council.

P. Mailbox placement and mailbox construction must conform to United States Postal Service standards. Mailboxes must be grouped into as few locations as possible.

Q. The subdivider shall pay the cost of the first seal coating application of all public streets in the subdivision at a rate established in the City's official fee schedule.

R. The subdivider shall pay all other costs associated and applicable to the subdivision as established in the City's official fee schedule.

The subdivider must have executed a Developer's Agreement for City approval prior to the City Council meeting determining whether the Preliminary Plat will be approved or disapproved. If there is not a Developer's Agreement executed by the developer, with recommendations for approval of the Developer's Agreement from both the City Administrator and the City Attorney, then the City Council must deny subdivider's application for a Preliminary Plat. The City deems the completion of a Developer's Agreement simultaneously with the consideration of approval of the Preliminary Plat to be a prerequisite for City approval of any Preliminary Plat. Minor subdivisions shall be an exception to this requirement.

Subd. 4 Financial Guarantee. Financial Security as approved by the City Administrator, in a sum of 125 percent of the engineer's estimate or actual bid if available, for the cost of all improvements to be furnished and installed by the subdivider which have not been completed prior to approval of the plat, shall be deposited with the City to be held in escrow. In lieu of making the escrow deposit, the subdivider may furnish a bank letter of credit or performance bond with corporate surety. The bond or letter of credit must be approved as to form by the City Administrator. If the improvements are to be completed by the City pursuant to a public improvement project, the financial security shall also include the first year's assessments. The City may reimburse itself out of the financial security for any cost and expenses incurred by the City for completion of the work in case of default of the subdivider and for any damages sustained on account of any breach thereof. The City may release a portion of the financial security as public utility and street improvements are approved by the City Engineer. Upon completion of the work and termination of any liability, the balance of the remaining financial security must be refunded to the subdivider.

Subd. 5 Completed Improvements. Improvements within a subdivision which have been completed prior to the application for approval of the Final Plat shall be accepted as equivalent improvements in compliance with the requirements of this Section only if the City Engineer shall certify that he is satisfied that the existing improvements conform to the applicable standards.

Subd. 6 Inspection of Improvements. All required improvements must be inspected by the City Engineer during construction at the expense of the subdivider to assure that all specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required. The developer's agreement shall contain a provision for supervision of details of construction by the City Engineer and shall grant to the City Engineer the authority to correlate the work to be done under such contract by any subcontractor authorized to proceed with any other work being done or contracted by the City in the vicinity.

Subd. 7 Modification of the Design of Improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the City Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the City Engineer may, in concert with the City Administrator, determine whether the modification will be implemented without first taking the issue before the City Council. Any authorization issued under this Section shall be in writing and a copy of such authorization shall be promptly transmitted by the City Administrator to the Planning & Zoning Commission and City Council.

Subd. 8 Proper Installation of Improvements. If the City Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the City Council, City Administrator, Building Inspector and Planning & Zoning Commission. The City Administrator then shall notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the rights of the City under the bond. No plat shall be approved by the Planning & Zoning Commission as long as the subdivider is in default on a previously approved plat.

Subd. 9 As-Built Drawings. Upon completion of the project, as-built drawings of all improvements shall be filed with the City Administrator. Such as-built drawings shall show the date of construction and shall be drawn in such a manner and on such materials to meet the standards of the City. As-built drawings must be completed and filed with the City Administrator within one hundred twenty days of the completion of such improvements. If as-built drawings are not filed within the time period specified, the City Council may authorize the City Engineer to conduct surveys and complete drawings, with all of the costs pursuant

thereto to be paid by the subdivider, and the City Council may elect to withhold building permits for construction within the subdivision.

1205.036 Application, Fees, Charges, and Application Requirements.

Subd. 1 Filing with the City Administrator. All applications for plats and subdivisions and all lot divisions presented for City Council approval shall be filed with the City Administrator on forms prescribed by the City Administrator, and shall be accompanied by a fee in the amount set forth in this Code, or by written resolution of the City Council. The fee shall not be refunded for any reason, including without limitation, rejection of the plat, subdivision, or lot division by the City Council, or abandonment or withdrawal of the proposed plat, subdivision, or lot division by the applicant. The City shall have no duty to process or act on any plat, subdivision, or lot division unless and until the applicable fee has been paid to the City. Also, no application shall be complete until all information and documents required by this Chapter have been filed with the City Administrator.

Subd. 2 Additional Fees. Each person, by filing or submitting an application for approval by the City of a proposed plat, subdivision, or lot division shall have agreed to pay all administrative expenses and attorney's fees, with interest and costs incurred by the City in connection with or as a result of reviewing and acting on such application. If more than one person signs an application, all signers shall be jointly and severally liable for such expenses and fees, with interest and costs as provided. The expenses and fees to be paid to the City pursuant to this Section shall be payable upon demand made by the City, and if not paid within five days after the demand is made, shall bear interest from the date of demand until paid at a rate equal to the lesser of the highest interest rate allowed by law or two percentage points in excess of the reference rate. The applicants shall also pay all costs, including attorney's fees, incurred by the City in collecting the expenses, fees, and interest, with interest on such costs of collection from the dates incurred until paid, at the same interest rate as is payable on the expenses and fees. For the purposes of this Section, reference rate shall mean the rate publicly announced from time to time by the City's bank depository, or any successor, as its reference rate, and if the bank, or its successor, ceases publicly announcing its reference rate, reference rate shall mean the interest rate charged from time to time by such bank or its successor on 90-day unsecured business loans to its most creditworthy customers.

1205.04 Final Plat. The Final Plat shall be prepared by a land surveyor duly registered by the State of Minnesota, and said plat shall conform to all requirements of Minnesota Statutes Chapter 505, as it may be amended from time to time, the requirements of this Chapter, and the requirements of the County Recorder.

Subd. 1 Time Limit to File Application for Final Plat. Within six months after the approval of the Preliminary Plat, the subdivider shall file with the

Administrator an Application for the approval of the Final Plat and ten copies of the proposed Final Plat. The Preliminary Plat is rendered null and void if the subdivider fails to timely file the proposed Final Plat with the City Administrator, and the subdivider shall be required to start the platting process over from the very beginning, with a Sketch Plan, in this event.

Subd. 2 City Engineer to Review and Comment on Proposed Final Plat and Construction Plan. The proposed Final Plat and required construction plan shall be submitted to the City Engineer for the City Engineer's written review and comment. A copy of the City Engineer's written comments shall be submitted to the applicant, the City Administrator, the City Attorney, and the City Council for review at least five business days prior to the City Council deciding whether the proposed Final Plat should be approved.

Subd. 3 City Administrative Staff Shall Review and Comment in Writing on the Proposed Final Plat. A copy of City administrative staff's comments shall be submitted to the applicant, the City Engineer, the City Attorney, and the City Council for review at least five business days prior to the City Council's deciding whether the proposed Final Plat should be approved.

Subd. 4 The Final Plat Shall Incorporate Changes Required by the City and Other Agencies. The Final Plat shall have incorporated all changes required at the Preliminary Plat phase by the City, the County Engineer, the State Department of Transportation, the State Department of Natural Resources, the Minnesota Pollution Control Agency, the Le Sueur County Soil & Water Conservation District, the Army Corps of Engineers, or any other agency having a legal right under state or federal law to require changes be made in a plat.

Subd. 5 Mandatory Attendance at Council Meeting. The subdivider, or a duly authorized representative, shall attend the City Council meeting at which the subdivider's proposed Final Plat is scheduled for consideration so as to be able to discuss all matters pertinent to the Council's review and decision concerning the subdivider's proposed Final Plat.

Subd. 6 Final Plat Approval/Disapproval. The City Council shall decide whether to approve or disapprove the Final Plat within 60 days of developer's filing the Final Plat with the City Administrator. The City Council, upon making appropriate findings, shall approve or disapprove the Final Plat submitted. Upon completion of the requirements above and the notation to that effect upon the Final Plat, the Final Plat may be approved or disapproved by the City Council. The findings necessary for City Council approval of the proposed Final Plat shall be as follows:

- A. The proposed subdivision is consistent with the Zoning Code and conforms with all its requirements and this Chapter;

B. The proposed subdivision is consistent with all applicable City, county, and regional plans including but not limited to the City's comprehensive use plan;

C. The physical characteristics of the site, including but not limited to topography, soils, vegetation, susceptibility to erosion and siltation, susceptibility to flooding and storm water drainage are suitable for the type and density of development and uses contemplated;

D. The proposed subdivision makes adequate provision for water supply, storm drainage, sewage disposal, transportation, erosion control and all other public and private services, facilities and improvements otherwise required herein;

E. The proposed subdivision will not cause adverse environmental damage or degradation;

F. The proposed subdivision will not conflict with easements of record or with easements established by judgment of a court;

G. The proposed subdivision will not have an undue and adverse impact on the reasonable development of neighboring land; and

H. The proposed subdivision incorporates appropriate design and site planning elements for reasonable energy conservation measures.

Subd. 7 Signing and Recording of Approved Final Plat. Upon approval of the Final Plat by the City Council, subdivider shall have the appropriate original Final Plat documents executed by all owners of the platted property, including subdivider, and shall also have the registered land surveyor and all mortgage holders execute the Final Plat documents. Subdivider, or subdivider's delegee, shall then promptly deliver the appropriate original plat documents to the City Attorney, for final review. Once subdivider has delivered the necessary Final Plat documents to the City Attorney's office, the City shall have ten business days, excluding the date the documents were delivered to the City Attorney's office, to review and sign the original plat documents. After the City Attorney has determined the Final Plat documents contain the information identical to that which was approved as the Final Plat by the City Council, the City Attorney, the chair of the Planning & Zoning Commission, and the appropriate official of the City Council shall execute the original Final Plat documents provided by subdivider. It is the sole responsibility of the subdivider to provide the City with a sufficient number and type of original Final Plat documents for the City's signature. It is the sole responsibility of the subdivider to pick up the plat documents signed by the City from the City Attorney's or the City Administrator's office and to obtain any additional needed executed signatures on the document. It is the sole responsibility of the subdivider to ensure that the

original Final Plat satisfies the recording requirements of the County Recorder. Any approved Final Plat not filed and recorded in the County Recorder's office by the subdivider within ninety days of the date the plat was approved shall become null and void as a result of subdivider's failure to timely record the Final Plat, unless the City Council grants an extension for the recording of the Final Plat documents, said extension to not exceed ninety additional days. If the Final Plat is rendered null and void due to subdivider's failure to timely record the Final Plat at the County Recorder's office, the subdivider will be required to start the platting process over from the very beginning, with a Sketch Plan.

Subd. 8 Prohibition on Unauthorized Changes to Final Plat. No changes, erasures, modifications or revisions shall be made in any Final Plat after approval has been given by the City Council and endorsed in writing on the plat, unless the modification is approved in writing by the City Administrator or the City Council. In the event any modified Final Plat is recorded without complying with this requirement, the same shall be null and void, and the City Council shall institute proceedings to have the plat stricken from the records of the county.

1205.041 Minor Subdivisions Within City Limits. Alternatives to the City's standard platting procedures and requirements may be permitted under certain conditions as defined herein. Unless otherwise provided in this Chapter, minor subdivisions shall conform to all requirements of standard subdivisions. The date and supportive information detailing the proposed subdivision shall be the same as required in this Chapter for a Preliminary Plat. Exceptions may be granted in writing by the City Council. The minor subdivision process shall apply under the following conditions:

Subd. 1 When the Minor Subdivision Process Applies. The minor subdivision process shall apply under the following conditions:

- A. The division of a lot from a larger tract of land that creates no more than two lots out of the original lot; and
- B. The parcels of land to be divided must not have been part of a minor subdivision within the last five years; and
- C. Both new lots must conform to the minimum lot size, setback, and lot coverage standards set out in the Montgomery Zoning Code; and
- D. The proposed subdivision shall be in an area where municipal streets and utilities are already in place and capable of serving the property to be subdivided; and
- E. There is no need in the proposed subdivision for the planning and construction of future streets; and

F. The proposed subdivision does not interfere with the proper development of adjacent properties; and

G. The use of the resulting parcels shall conform with all zoning requirements.

Subd. 2 Other Instances Where the Minor Subdivision Process Applies.

A. The minor subdivision process may also apply in the instance where a request to divide a portion of a lot is made for the purpose of adding a portion of the divided lot to an existing, abutting lot so as no additional lots are created.

B. The combination of two (2) or more lots or parcels that cause a change in any property lines of the combined parcels or lots within the I-1, I-2, B-1, B-2, or B-3 Districts.

Subd. 3 Required Design Standards. The minor subdivision shall conform to all design standards required in this Chapter. Any proposed deviation from said design standards shall require the approval of a variance request before the minor subdivision can be approved.

Subd. 4 Processing the Minor Subdivision Application. An individual seeking a minor subdivision from the City must apply for said plat in the same manner as for any other plat/subdivision within the City, and on forms provided for that purpose by the City. The application will not be deemed as having been submitted to the City until all documents required by the City Administrator, including the filing fee, have been submitted to the City Administrator.

Subd. 5 Rules and Requirements Governing the Minor Subdivision Process. The following rules and requirements must be followed in the minor subdivision process:

A. If the minor subdivision involves property which has been previously platted, or the resulting parcels are each greater than ten acres in total area, the City Administrator may administratively approve the application, provided it complies with all applicable provisions of this Chapter. In all other instances, the procedures for review and approval of minor subdivision application set forth in this Chapter must be followed, including the requirement the application be approved by the City Council. City Council shall be notified of all minor subdivisions approved by the City Administrator under this Section.

B. In addition to the required minor subdivision application, the applicant must submit simultaneously with the application a certificate of survey prepared by a registered land surveyor. Said survey shall contain a legal description for the parcels to be created and ten copies of the certificate of

survey, along with an electronic version of the survey shall be submitted to the City Administrator simultaneously with the submission of the minor subdivision application. Any application submitted less than two weeks prior to the next Planning & Zoning meeting shall result in the matter being put before the Planning & Zoning Commission at the meeting following the next scheduled meeting.

C. Upon review, the Planning & Zoning Commission or the City Council may require applicant to go through the full platting process if the Planning & Zoning Commission or the City Council determines additional information is deemed necessary before the application can be properly reviewed.

D. Upon execution of the City Council's resolution approving the minor subdivision, the City Administrator and Mayor shall be authorized to sign the deed or registered land survey as meeting the requirements of the City. The certificate or survey or registered land survey shall be filed and recorded by the subdivider at the office of the County Recorder within thirty days of minor subdivision approval. Failure to timely record the minor subdivision documents shall render the minor subdivision null and void, unless an extension on the recording time is obtained by the subdivider in writing from the City Council.

E. The City Council reserves the right to require for the provision of utility, drainage, and street easements on the certificate of survey as part of the minor subdivision approval process.

1205.042 Conforming Lot Combination Through Plat.

Subd. 1 Purpose. The purpose of this Section is to provide a process for the legal combination of two or more conforming platted lots so that the existing lot line(s) separating the lots are removed and a new combined platted lot created. The combination of lots shall apply only to lots that meet all of the following requirements:

- a. they are side by side; and,
- b. they have a shared lot line; and,
- c. they are located within the same platted addition.

Subd. 2 Application. Property owners who wish to combine their conforming lots must complete all of the following:

- a. complete and sign the Land Use Application; and,
- b. complete and sign the Lot Combination through Plat Application; and,
- c. provide a registered land survey which must include:

1. a legal description and pictorial for the conforming lots to be combined (showing the existing lot lines to be eliminated in broken lines); and,
 2. a plat name for the combined lot area; and,
 3. show a designated 10' drainage and utility easement; and,
 4. provide how drainage will be managed, including, if necessary, a grading plan for the combined lot area; and,
 5. show the location of all existing buildings, including the setbacks of the building(s) from the property lines of the proposed combined lot; and,
- d. provide evidence of ownership of all lots to be combined in a form acceptable to the City Attorney; and,
 - e. provide evidence the existing drainage and utility easement(s) are not currently in use; and,
 - f. pay all required fees.

Subd. 3 Procedure. Staff shall review the application to ensure all information required has been submitted and all fees have been paid. The application will be reviewed by the City Attorney to ensure property ownership of the lots to be combined. The survey will be reviewed by the City Engineer to ensure the combined lots meet drainage requirements.

Subd. 4 Fees. The applicant shall pay the application fee and infrastructure fee as established by the City Council as well as all costs associated with review of the application by the City Attorney and City Engineer as precondition for approval.

Subd. 5 Approval. The lot combination will be approved by the City Administrator upon applicant's compliance with all requirements of this Section of the City Code.

Subd. 6 Compliance. Upon approval of the lot combination application, the applicant shall remove the abandoned water service line(s) as required in Chapter 3 of the City Code. The applicant shall also be subject to the assessment provisions of Chapter 7 of the City Code.

1205.043 Unincorporated Area: Minor Subdivisions Outside the City's Corporate Limits. The City of Montgomery, by resolution, pursuant to Minnesota Statute, has extended its Subdivision Code to one (1) mile beyond the City of Montgomery's municipal limits (the Unincorporated Area). This Section shall set out when, in the Unincorporated Area, Administrative property splits shall be allowed, and when formal platting in this geographic area shall be required. The minor subdivision process shall apply under the following conditions, and be pursuant to the following regulations:

Subd. 1 The Administrative Split Process shall apply in the Unincorporated Area under the following conditions:

- A. The split is resultant from the split of a single parcel into two parcels, neither of which is less than five acres; or
- B. Where the parcel split off an existing parcel is added to an adjacent parcel, so that no new parcels are being created, and no existing parcels are lost; and
- C. All new parcels meet county zoning requirements; and
- D. No parcel split under this Section shall be further subdivided for a period of five (5) years, unless the property split is fully platted.

Subd. 2 Documents Required. The applicant is required to provide the following information and documents to the City for consideration of subdivision under this Section. If any items required under this Section are missing, the City shall reject the application and return all documents and payment to the applicant with a letter stating what information is missing. The payment of the application fee and projected fees associated with review of documents by the City Attorney shall be submitted contemporaneously with the application. The following are required:

- A. A Montgomery Land Use application for an administrative split in the City's Unincorporated Area; and
- B. Documentation of ownership satisfactory to the City Attorney; and
- C. A certificate of survey completed by a registered land surveyor, and containing all of the following information:
 - a. North arrow; and
 - b. Lot sizes in square feet, prior to and after the proposed split; and
 - c. Existing buildings and setbacks from proposed lot lines; and
 - d. Tree cover; and
 - e. Legal descriptions for the parcels to be created; and
 - f. Streets and easements, if applicable; and
 - g. A graphic scale; and
 - h. Date of preparation; and
 - i. Legal description for the parcels to be created; and
 - j. Notation of ordinary high water mark, if applicable; and
 - k. Designation of any wetland area, as required by the City Administrator or City Council.

Subd. 3 Agencies to Which the City Forwards Copies of the Unincorporated Area Minor Subdivision Application for Review and Comment:

- A. Le Sueur County Environmental Services aka Le Sueur County Planning & Zoning; and
- B. The Le Sueur County highway engineer if the parcel abuts a county road; and
- C. To any other public entity, as required by law.

Unless otherwise required by Minnesota law, this shall be a 30-day review and comment period. If a longer period for review and comment is required by State

statute or County ordinance, then those time periods for review and comment, as well as the requirements for how review and notice is submitted, shall control.

Subd. 4 Approval. The City Administrator, after consultation with the City Attorney, may administratively approve the administrative split application, provided it complies with all applicable provisions of this Section. In all other instances, the City's formal platting procedures set forth in this Chapter must be followed, including the requirement the preliminary and final plats be approved by the City Council. The City Council shall be notified of all administrative splits approved by the City Administrator under this Section.

Subd. 5 When Formal Platting May be Required. Either the City Administrator or the City Attorney, after consulting with one another, may determine the administrative split request is inappropriate and require the developer to complete the formal platting process required elsewhere in this Chapter. The requirement of a formal plat, in lieu of an administrative split, shall be at the discretion of either the City Administrator or the City Attorney.

1205.05 Effect of Subdivision Approval. For one year following preliminary approval and for two years following final approval, unless the subdivider and the municipality agree otherwise, no amendment to a comprehensive plan or official control shall apply to or affect the use, development, density, lot size, lot layout, or dedication or platting required or permitted by the approved application. Thereafter, pursuant to its regulations, the City may extend the period by agreement with the subdivider and, subject to all applicable performance conditions and requirements, it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, the City may by resolution or agreement grant the rights referred to herein for such periods of time longer than two years which it determines to be reasonable and appropriate.

1205.06 Acceptance of Public Lands in Final Plat. Title to public lands dedicated to the City in the Final Plat shall transfer to the City in conformance with Minnesota Statutes Section 505.01, Subd. 1, as may be amended from time to time. The transfer of title to the City in the recorded Final Plat does not in any way free the developer from developer's construction obligations contained in the developer's agreement.

1205.07 Premature Subdivisions. The City Council shall deny any Preliminary Plat of a proposed subdivision deemed premature for development. A subdivision may be deemed premature should any one or more of the conditions set forth below:

Subd. 1 Lack of Adequate Drainage. A condition of inadequate drainage shall be deemed to exist if:

- A. Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures; or,
- B. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land; or,
- C. The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.

Factors to be considered in making these determinations may include, but are not limited to:

- 1. Average rainfall for the area.
- 2. The relation of the land to floodplains.
- 3. The nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems.
- 4. The slope of the land and its effect on effluents.
- 5. The presence of streams as related to effluent disposal.

Subd. 2 Lack of Adequate Water Supply. A proposed subdivision shall be deemed to lack an adequate water supply if the proposed subdivision, when developed to its maximum permissible density, would not have adequate sources of water to serve the proposed subdivision without causing an unreasonable depreciation of existing water supplies for surrounding areas.

Subd. 3 Lack of Adequate Streets or Highway to Serve the Subdivision. A proposed subdivision shall be deemed to lack adequate streets or highways to serve the subdivision when:

- A. Streets which currently serve the proposed subdivision and/or streets that are proposed to serve the subdivision are of such a width, grade, stability, site distance and surface conditions 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 roads are inadequate for the proposed use.
- B. The traffic volume generated by the proposed subdivision, as calculated by the City Engineer and subject to generally accepted generation computation formulas and design standards, would create

unreasonable highway congestion at the time of the application or proposed for completion within the next two years.

Subd. 4 Lack of Adequate Waste Disposal Systems. A proposed subdivision shall be deemed to lack adequate waste disposal systems if there is inadequate sewer 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, industrial, and residential 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.

Subd. 5 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.

Subd. 6 Inconsistency with the Comprehensive Plan. A proposed subdivision shall be deemed premature if it is found to be inconsistent with the purposes, objective, and recommendations of the duly adopted Comprehensive Plan of the City, as may be amended from time to time.

Subd. 7 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.

Subd. 8 Inconsistency with Easements of Record. A proposed subdivision shall be deemed premature if it is found to be in conflict with easements of record, including those easements of record established by judgment of the court.

Subd. 9 Inadequacy or Lack of Parks, Open Spaces, and Trails not to be Sole Basis for Finding of Premature Subdivision. The City Council shall not find a subdivision premature and deny the subdivision application solely on a finding that the proposed subdivision contains an inadequate supply of parks, open spaces, trails, or recreational facilities.

Subd. 10 Burden of Proof. The burden of proof to show the proposed subdivision is not premature shall be upon the applicant.

Section 1210 – GENERAL REQUIREMENTS FOR SUBDIVISIONS

1210.01 Conformity to Comprehensive Plan. All subdivisions shall conform to the Comprehensive Plan.

1210.02 Conformity to Zoning Ordinance. All subdivisions shall conform to the Zoning Ordinance and its map.

1210.03 Character of the Land. The land to be subdivided shall be of such character that it can be used safely for the building proposed without danger to health or peril from fire, flood or other menaces.

1210.04 Registered Land Surveys. All registered land surveys shall be filed and are subject to the same procedures as required by this Chapter for Preliminary Plats. Until approval is granted by the City Council, building permits shall be withheld, dedications shall not be accepted, and no public money shall be spent towards installing utilities and improvements.

1210.05 Established Monuments. All international, federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the subdivider to ensure that these markers are maintained in good condition during and following construction and development. All section, quarter (1/4) section and sixteenth (1/16) section corner shall be duly described and tied.

1210.06 Preservation of Natural Features. The Planning & Zoning Commission shall establish the natural features which add value to all developments and to the community, such as trees, or groves, water courses and falls, beaches, historic spots, vistas and similar irreplaceable assets. No tree with a diameter of 8 inches or more as measured 3 feet above the base of the trunk shall be removed unless such tree is within the right-of-way of a street as shown on the Final Plat. Removal of trees shall be subject to the approval of the Planning Commission. The subdivider shall be required to institute measures as determined and directed by the Engineer to ensure the prevention of wind and water erosion during and upon the completion of construction.

Section 1215 – SUBDIVISION DESIGN STANDARDS

The following improvements shall be installed in accord with the adopted engineering standards and specifications which can be obtained from the Administrator and the City Engineer.

1215.01 Street Plan. Streets shall be of sufficient width, suitably located and adequately constructed to conform with the Comprehensive Plan; to accommodate the prospective traffic; afford access for fire fighting, snow removal and other road maintenance equipment; and shall be considered in their relationship to topographic conditions, to drainage and in their relationship to the proposed land uses to be served by such streets. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to comprise a convenient system.

Subd. 1 Street Arrangement. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewer, water and drainage.

Subd. 2 Blocks.

A. The acreage within bounding streets shall be such as to accommodate the size of lots required in that area by the Zoning Ordinance and to provide for convenient access, circulation control and safety of street traffic.

B. Blocks shall not be less than 500 feet nor more than 1,320 feet in length. No block width shall be less than twice the normal lot depth, unless it abuts a railroad right-of-way, a limited access highway, a major or arterial street, a river or a park.

C. In blocks exceeding 900 feet in length, the Planning & Zoning Commission may require a 20 foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a 5 foot wide paved path be included and screened.

D. Blocks intended for commercial, institutional and industrial use must be designated as such and the plan must show adequate off-street areas to provide for parking, loading docks and such other facilities that may be required to accommodate motor vehicles.

1215.02 Streets and Alleys.

Subd. 1 Street Access. No land situated in the City which has been subdivided or laid out into separate tracts shall be sold for use for dwellings unless such tracts of land shall abut upon a private street or public highway. This limitation shall not apply to planned unit developments approved by the City Council pursuant to the Zoning Code.

Subd. 2 Classification of Streets. Classification of streets shall be determined with reference to the Comprehensive Plan and official street maps including arterial, collector and local streets.

A. Cul-de-sacs/Dead End Streets. Cul-de-sacs may only be used in areas where topography prohibits the use of through streets, to preserve natural features, when residential lots abut public parks but may require public access to the park or when residential lots' rear yards abut a major roadway. Cul-de-sacs or dead end streets designed to have one end permanently closed or in the form of cul-de-sac, (turn-around) shall be provided at the closed end with a turn-around having a minimum right-of-way radius of not less than 60 feet, or with a Y or T permitting comparable ease of turning. Cul-de-sacs shall not exceed 600 feet in length. Where dead end streets are constructed and have the possibility of extending to adjacent property a temporary cul-de-sac may be provided. Cul-de-sac design shall meet the approved design specification which may be an elongated roundabout with an island. The island of the cul-de-sac can be either landscaped or paved. A landscaped cul-de-sac island will require a maintenance agreement be approved by the City.

B. Curved Streets. The location of all curved streets must be so arranged as to fit the natural topography as closely as possible and to make possible desirable land subdivisions and safe vehicular traffic.

C. Half Street. Half streets are prohibited.

D. Local Streets. Local streets must be designed so their use by through traffic will be discouraged.

E. Private Streets. Private streets unless part of an approved Planned Unit Development shall be prohibited, in which case the streets shall conform to the approved design criteria of the City.

Subd. 3 Classification of Alleys. Alleys within subdivisions shall not be less than 16 feet wide for residential alleys and not less than 20 feet wide for commercial and industrial alleys and must be improved to the same standards provided for streets generally. Dead end alleys and alleys with sharp changes in direction are prohibited.

Subd. 4 Design Standards, Streets.

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

1. Arterial streets – 25 feet.
2. Collector and local streets – 15 feet.
3. Alleys – 4 feet.

Collector and arterial streets as well as reconstruction projects, curbs and gutters shall be installed as per Minnesota Department of Transportation Construction Specifications as they may be amended from time to time.

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

C. Reserve Strips. Reserve strips controlling access to streets shall be prohibited.

D. Street Alignment. Connecting street centerlines deflecting from each other at any point more than ten degrees shall be connected by a curve with a radius of at least 100 feet for collector and local streets, and at least a 300 foot radius for arterial streets. A tangent that is at least 100 feet long shall be introduced between curves on arterial streets.

E. Street Grades. Whenever feasible, street grades shall not exceed the following, with due allowance for reasonable vertical curves:

<u>Street Type</u>	<u>Percent Grade</u>
Arterial	4 percent
Collector	6 percent
Local	7 percent
Marginal access	7 percent

All streets shall be graded in accordance with the specifications of the City Engineer. Such grading shall be for the full right-of-way width of the dedicated street.

F. Street Intersections. Street intersections shall be as nearly at right angles as is practicable. No street should intersect any other street at less than eighty degrees. Wherever possible, local and collector streets should be designed so as to not intersect with arterial roadways at intersections closer than 500 feet. In general, provisions shall be made at intervals not exceeding one-half mile for through streets (streets running through the subdivision in a fairly direct manner).

G. Street Jogs. Street jogs with centerline offsets of less than 125 feet are prohibited.

H. Surfacing. All streets shall be surfaced for the full roadway or curb to curb width as described in this Chapter. Such surfacing shall consist of a gravel base over a suitable subgrade and an approved bituminous or concrete surface in accordance with the specifications of the City Engineer. Any ditches required for suitable drainage shall be constructed in the unpaved portion of the street and shall be sodded. Unsuitable soil lying within 1 foot of the subgrade shall be removed and replaced with suitable material. The drop from the centerline of the street to the outer edge of the street shall be a minimum of a three percent slope.

I. Tangents. A tangent at least 500 feet long must be introduced between reverse curves on collector streets and a tangent of at least 50 feet in length must be introduced between reverse curves and vertical curves on all other streets.

Subd. 5 Minimum Street/Access Standards.

Street Class	R/W Width (feet)*	Curb Width (feet)*	Grade (Max %)	Sidewalk Width (feet)**	Trail Width ROW/pavd. (feet)*
Arterial	100/150	44-68	4	6	20/10
Collector	80/120	36-40	6	5	15/8
Local	60	28-32	7	5	15/8
Cul-de-sac (Dead end)	60' radius	45' radius	7	5	15/8
Alley	25	14-20	7	N/A	N/A

* The City Council may require larger or smaller than minimum widths upon recommendation of the Planning & Zoning Commission, City Staff or the City Engineer. A street which intersects or crosses a railroad shall have a right-of-way of sufficient width to permit construction of a grade-separated crossing.

** A sidewalk is required on at least one side of all public streets, unless determined by the City upon recommendation of the Planning & Zoning Commission, City Staff or the City Engineer.

Subd. 6 Street Spacing Requirements. When designing streets and intersections within a subdivision, the following spacing requirements shall apply to intersection streets. The City's Comprehensive Land Use Plan's Future Functional Classification Map defines the functional classification of all streets for the purposes of the minimum spacing table below:

Minimum Street Spacing Requirements Table

Functional Classification of Existing or Proposed Street	Functional Classification of Existing or Proposed Street			
	Local	Collector	Minor Arterial	Principal Arterial
Local	No Restriction	660'	1,320'	Not Permitted
Collector	660'	660'	1,320'	Not Permitted
Minor Arterial	1,320'	1,320'	1,320'	Not Permitted
Principal Arterial	Not Permitted	Not Permitted	Not Permitted	1 mile (grade separated access only)

Subd. 7 Street Names. Street names shall be assigned or approved by the City. All street names shall be approved by the City Council and shall conform to an established numbering and naming system based on the City's existing street names and quadrants of the City (i.e.: NW/SW/NE/SE). Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names except that streets that join or are in alignment with streets of an abutting or neighboring subdivision shall bear the same name. No street shall change direction by more than ninety degrees without a change in the street name.

1215.03 Utilities. Public utilities must be provided to all subdivisions. Private systems will not be allowed in any case. Where sewer and water systems are installed, the mains shall be of adequate size to accommodate future growth and utilization. Stubs shall be provided to each lot from the utility main to the lot line for future connection. Wherever practical, similar utilities must be placed in the same general location on streets of the same direction.

Subd. 1 Sanitary Sewers. Sanitary sewer lines must be extended to the edges of the subdivision to facilitate future subdivisions.

Subd. 2 Water. Water distribution facilities including pipe fittings, hydrants, valves, etc., must be installed to serve all properties within the subdivision. Water mains must be a minimum of 8 inches in diameter in residential areas and 12 inches in diameter in commercial and industrial areas, unless approved by the City Engineer. Where mains larger than 8 inches are required to serve future growth, the City may elect to participate in the cost of such water mains. Looping of all water mains is required and must conform to the City's comprehensive water plan.

Subd. 3 Storm Water. Storm water and/or other surface drainage facilities shall be installed as determined to be necessary by the City Engineer for the proper drainage of surface waters.

Subd. 4 Electric/Telephone/Cable/Fiber Optics/Natural Gas. All new electric distribution lines (excluding main line feeders and high voltage transmission

lines), telephone service lines, cable television lines, fiber optic lines, natural gas lines and services constructed within the confines of and providing service to customers in a newly platted residential area must be buried underground. Such lines, conduits or cables must be placed within easements or dedicated public ways in a manner that will not conflict with other underground services. Transformer boxes must be located so as not to be hazardous to the public and must be out of sight triangles at intersections of roadways. Natural gas lines shall be installed by the appropriate gas company and be completed prior to street surfacing. The City Council may waive the requirements of underground services as set forth in this Section if, after study and recommendations by the Planning & Zoning Commission, it is established that such underground utilities would not be compatible with the planned development or unusual topography, soil or other physical conditions that would make underground installation unreasonable or impractical.

Subd. 5 Street Lighting. Street lighting shall be in conformance with street lighting plans. Such light standards and fixtures shall be installed after approval by the appropriate power company and the authorization of the City Engineer.

Subd. 6 Easements. All public easements must meet the requirements of this Section.

A. Easements of at least 10 feet wide, centered on rear and other lot lines as required, shall be provided for utilities where necessary.

B. The easements shall have continuity of alignment from block to block; and at deflection points, easements for pole-line anchors shall be provided where necessary. Easements may be required along property lines from utility easements on rear lot lines to right-of-ways.

C. Easements shall be provided along each side of the center line of any water course or drainage channel whether or not shown in the Comprehensive Plan, to a sufficient width to provide proper maintenance and protection and to provide for water run-off and installation and maintenance of storm sewer.

D. Where a subdivision is traversed by a water course, drainageway, channel or stream, there shall be provided a storm water easement or drainage right-of-way as required by the City Engineer, and in no case less than 20 feet in width.

E. Easements shall be dedicated for the required use.

F. Easements established over wetlands and utility/pipelines may be excluded from the calculation of minimum lot area, as defined by this Chapter.

G. The City may, at its discretion, choose to require outlots rather than easements for wetlands, drainage ways, and other natural features.

H. In addition to other open space, dedication of easements to provide connection to public trails will be required where shown on a comprehensive plan and/or recommended by the Park and Recreation Board. Pedestrian easements with right-of-way widths of not less than 10 feet shall be required where deemed necessary to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities.

I. If easements are obstructed the City reserves the right to remove any or all obstructions at the cost of the affected property owner, any or all costs may be assessed back to the affected property owners. The City is not responsible for any removal costs and/or destruction of any items obstructing the easement right-of-ways.

Subd. 7 Erosion and Sediment Control. Grade and drainage requirements for each plat shall be subject to approval of the City Engineer. The following controls shall be practiced to manage erosion and sediment control:

A. Where topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the developed area. Top soil shall be restored or provided to a minimum depth of 6 inches and shall be of a quality at least equal to the soil quality prior to development.

B. The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

C. Erosion and sediment control measures shall be coordinated with the different stages of construction and approved by City Staff. Appropriate control measures shall be installed prior to development when necessary to control erosion. Silt fences, sod, or other acceptable control shall be installed right behind the curb, or if a sidewalk is in place, right behind the sidewalk. If a sidewalk is located in the front of the lot the developer or builder will be responsible for sodding the boulevard between the sidewalk and the curb before a final certificate of occupancy will be issued.

D. Critical erosion areas exposed during construction shall be protected from temporary vegetation, mulching, or other acceptable means.

E. Sediment basins, debris basins, desilting basins, or silt traps shall be installed and maintained to remove sediment from runoff waters from land subject to earth disturbance activities.

F. Diversions shall be installed to divert surface water runoff from slopes of 10% or greater.

G. Provisions shall be made to effectively accommodate increased runoff caused by changed soil and surface conditions during and after development.

H. Cut and fill slopes shall be no steeper than 3 feet horizontal to 1 foot vertical unless stabilized by a retaining wall, riprap, or other acceptable means.

I. Driveway grades shall not be steeper than 10% measured along the centerline of the driveway.

J. During grading operations, necessary measures for dust control as required by the City shall be implemented.

K. Detailed requirements for each plat shall be set forth in a development agreement.

L. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

Subd. 8 Environmental Assessment Worksheet. An Environmental Assessment Worksheet (EAW) shall be submitted if the City Council, State Environmental Quality Board or other groups or agencies determine that one is required by law. The State, City, or County may require preparation of a discretionary environmental assessment worksheet when there is concern that the development may negatively impact the environment. The discretionary environmental assessment worksheet will be used to determine if a complete Environmental Assessment or Impact Statement is needed.

Subd. 9 Protected Areas. Subdivisions shall be designed so that at least 90% of the minimum lot area is free of wetland soil types, water bodies, watercourses, drainage ways, or floodway area, or steep slopes (over 18%). No construction or grading shall be allowed on slopes steeper than 18% in grade over a horizontal distance of 50 feet.

Subd. 10 Minimum Design Features. The design features set forth in this Chapter are minimum requirements. The City may impose additional or more stringent requirements concerning lot size, streets, and overall design as deemed appropriate due to the property being subdivided.

1215.04 Lots.

Subd. 1 Lot Arrangement. The lot arrangement shall be such that in constructing a building in compliance with the Zoning Code, there will be no foreseeable difficulties for reasons of topography or other natural conditions. Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.

Subd. 2 Side Lot Lines Shall be at Right Angles. All side lines of a lot shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.

Subd. 3 Permanent Monuments. Permanent monuments meeting specifications approved by the City Engineer as to size, type and installation, shall be set at such block corners, angle points, points of curves in streets and other points as the City Engineer may require, including the corners and points of the subdivision, and their location shall be shown on the plat.

Subd. 4 Lot Dimensions. The lot dimensions shall not be less than the minimum required to secure the minimum lot area specified in the Zoning Code. Corner lots shall have extra width to permit appropriate building setbacks from both streets. Butt lots shall be platted at least 5 feet wider than the width of the interior lots; their use shall be avoided when possible. Through lots, when permitted, shall have additional depth of 10 feet for screen planting along the rear lot line. Remnants of lots below the minimum required size, left over after subdividing of a longer tract, must be added to adjacent lot, or a plan shown as to future use rather than allowed to remain as unusable parcels. All lots must have a minimum width of 10 feet at the rear lot line. This requirement shall not apply to property used for a public purpose.

Subd. 5 Lot Abutting Water. Lots abutting upon a water course, drainageway, channel, stream or water body shall have additional depth or width as required to assure that house sites are not subject to flooding.

Subd. 6 Natural Features to be Preserved. In the subdividing of any land, regard shall be shown for all natural features, such as trees, water courses and bodies, which if preserved will add attractiveness to the proposed development.

Subd. 7 Limited Highway Access. Where a proposed plat is adjacent to a limited access highway, major highway or thoroughfare, there shall be no direct vehicular access from individual lots to such roads. A temporary entrance may be granted for single tracts until neighboring land is subdivided and the required access can be feasibly provided.

Subd. 8 Lots in Excess of 1 Acre. Where lots or outlots are platted in excess of 1 acre, 200 feet in width at the building setback, a preliminary re-subdivision plan

shall be submitted showing a potential and feasible way in which the lot or lots may be re-subdivided in the future, including the building placements.

Subd. 9 Foundations and Garage Floors. The top of the foundation and the garage floor of all structures shall be at minimum 18 inches and at maximum 36 inches above the grade of the crown of the street upon which the property fronts. Exceptions to this standard may be approved by the City Administrator, or designee, in special circumstances such as increased setback, site topography, flooding potential, and the like; provided that property site and area drainage is maintained and the elevation of the structure is in keeping with the character of the area.

1215.05. Sidewalks. Sidewalks shall be provided along all “collector”, “major” and “arterial” streets and in such other areas as are necessary to adequately provide for the safety and welfare of pedestrians. Sidewalk requirement standards are also referenced in Section 1215.02, Subd. 5, Minimum Street/Access Standards.

Subd. 1 Sidewalk Slope. All sidewalks shall slope 1/4 inch per foot away from the property line and the profile grade shall not exceed 6 percent.

Subd. 2 Sidewalk Location. Sidewalks shall be placed in the public right-of-way, 1 foot from the property line.

Subd. 3 Sidewalk Composition. Required sidewalks shall be concrete of at least 4 inches in thickness and be placed on a gravel base of at least 4 inches.

Subd. 4 City Engineer Approval Required. All sidewalks shall be approved by the City Engineer.

1215.06 Parks, Open-Space and Natural Features.

Subd. 1 Intent and Purpose. The process of dividing land into separate parcels for parks and open space is one of the most important factors in the growth of any community. Once the land has been dedicated to parks and open space, the basic character of this permanent addition to the community has become firmly established. It is, therefore, in the interest of the general public, the developer, and the residents of the community, that parks and open space areas be conceived, designed, and developed in accordance with the highest possible standards of excellence.

All parks and open space areas hereafter dedicated shall comply, in all respects, with the regulations set forth herein. It is the purpose of these regulations to:

A. Provide for a variety of activities within the park system, including various cultural and social activities, and active and passive recreation; and

B. Establish and promote high quality design standards in the development of the park system; and

C. Encourage cooperative planning, development, and use of park and recreation facilities by the school district and the City so that the City facilities can be useful to the School District and the School District facilities will be available to City residents; and

D. To ensure that all areas of the City have equal access to parks and open space areas by providing for equal distribution of parks and open spaces throughout all sections of the City relative to user population densities.

Subd. 2 General Requirements.

A. Where a proposed park, playground, or open-space area is to be located in whole or in part in a subdivision, it is required that such area or areas be shown on plats in accordance with the requirements specified in this Section. Such area or areas shall be dedicated to the City by the developer if the City Council approves such dedication. If the subdivider does not choose to dedicate an area in excess of the required 10% of such proposed site, the City may take other action to obtain use of such site.

B. It is required that plats show sites of a character, extent and location suitable for the development of a park, playground, or other recreation purposes. The City Council may require the developer satisfactorily grade any such recreation areas shown on the plat to ensure maximum advantage of natural features, notable waterways, etc.

C. Land to be dedicated for parks and open space shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. Factors to be used in evaluating the adequacy of proposed parks, playgrounds, open space or other public lands and recreation areas shall include: size, shape, topography, geology, soil types, hydrology, tree cover, access and location of the proposed public property.

Subd. 3 Dedication Requirements.

A. The City does hereby require that in all plats of subdivisions to be developed for residential, commercial industrial or other uses, or as a planned unit development which includes residential, commercial and industrial uses, or any combination thereof, 10% of the gross area of all property being subdivided shall be dedicated for parks, playgrounds, greenway trail, recreational areas, or public open space. Such percentages shall be in addition to the property dedicated for streets, alleys, drainage ways, pedestrian ways or other public ways. Storm water ponding areas

may be incorporated into the park land but shall not be considered a part of the park land dedication. Slopes in excess of 18%, wetlands, ponding areas and natural waterways shall not be accepted by the City as a part of the park land dedication requirements. Minor subdivisions are exempt from the park dedication requirements of this Section.

B. The City shall have the option of requiring a cash contribution in lieu of the land dedication. The required cash contribution shall be in accordance with the Fee Schedule as set forth by resolution adopted by the City Council. The City may elect to accept a combination of land dedicated for park use and a cash payment.

C. During the Sketch Plan review phase, the Park Board shall forward their written comments and recommendations to the Planning & Zoning Commission and City Council regarding the appropriate park dedication. The subdivider shall be required to pay said dedication upon execution of the Developer's Agreement or the city Council may accept payment at a later date under the terms as specified in the Developer's Agreement, so long as said payment is made no later than before the application for the Final Plat is decided by the City. Delayed payment shall include interest at a rate set by the City.

D. All revenue obtained as park dedication fees shall be directed to the City's Parks and Recreation Fund and shall only be used for planning, acquisition or development of parks, playgrounds, public open space and for trails, pedestrian ways and sidewalks. Paying the park dedication fee in full is a mandatory prerequisite for approval of the Final Plat. The Final Plat application must be denied if the park dedication fee has not been paid by the time the application for Final Plat is decided by the City.

E. Places of worship, school, government buildings and other non-profit organizations who operate and are based and located within the city limits of the City of Montgomery may be exempt from the requirements specified in this Section, by action of the City Council. If the property that is exempt from park dedication is ever subdivided, replatted, or sold and used for other purposes, than those mentioned above, it will be subject to the requirements specified in this Section. Subdivision of land for schools and religious institutions may create additional demand on the City's park and recreation land and facilities. The City may enter into agreements with these organizations that foster cooperative use of property for recreational activities.

F. The following Zoning Classifications shall be used to determine public sites and open space requirements for this Section:

1. Residential – R-1, R-2, & R-3 zoning.

2. Commercial, Industrial – B-1, B-2, I-1, & I-2 zoning.

G. When land is to be dedicated to satisfy the park dedication requirement, separate lots or outlots shall be indicated on the plat drawings for the area to be dedicated. Such lots or outlots shall be dedicated or deeded to the City pursuant to the Developer's Agreement. The subdivider shall be responsible for finishing the grading, installing the ground cover, and the construction of trails on all land to be dedicated to the City.

H. Where private open space for park and recreation purposes is provided in a proposed subdivision, the areas may not be used for credit against the requirement of dedication for park and recreation purposes.

I. All new parks shall provide access ways, from all practical directions, as determined by the City. All access ways shall be in compliance with the Americans with Disabilities Act and allow for the access of emergency motorized vehicle traffic within the park.

J. Property being re-platted with the same number of lots and same number of dwelling units shall be exempt from all park land dedication requirements. If the number of lots or the number of dwelling units is increased, or if land outside the previously recorded plat is added, then the park land dedication and/or park cash contributions shall be based on the additional lots and on the additional land being added to the plat. If the additional land does not create additional lots, then each 1/3 acre added shall be considered a new lot for purposes of calculating the dedication requirements.

K. When land is dedicated and deeded to the City for park purposes, it shall be the responsibility of the City to maintain such dedicated property.

Section 1225 – DOCUMENTS TO BE FILED

1225.01 Sketch Plan. The Sketch Plan to be submitted shall be based upon tax map information or some other similarly accurate base map at a scale of not less than 200 feet to the inch and which enables the entire tract to be shown on one sheet. The Sketch Plan shall show the following information:

- A. The location of that portion which is to be subdivided in relation to the entire tract, and the existing street pattern;
- B. All existing structures, wooded areas, streams and other significant physical features, within the portion to be subdivided and within 500 feet thereof. Topographic data shall also be indicated at intervals of not more than 2 feet and be based on the datum of the 5th General Adjustment of 1929;
- C. The name of the owner and all adjoining property owners within 350 feet, as disclosed by the most recent tax records;
- D. The tax map sheet, block and lot numbers, if available;
- E. All utilities available, and all streets which are either proposed, mapped, or built;
- F. The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of drainage, sewerage, and water supply within the subdivided area; and
- G. All existing restrictions on the use of land including easements, covenants, or zoning lines.

1225.02 Preliminary Plat.

Subd. 1 Application for Consideration. The Application for Consideration shall contain the following information: date of application, name and signature of applicant, property location and owner, property type, property description and reasons for request, fee information, date for consideration, and chronology of application. All applications for consideration of a Preliminary Plat must be signed by all persons or entities having an ownership interest in the property covered by the proposed Preliminary Plat. At the time of the filing of the Application for Consideration the applicant must file a certification of ownership acceptable to the City Attorney, stating that the applicant or applicants, together, have 100% of the ownership of the property to be platted. The Planning & Zoning Commission and City Council have no jurisdiction whatever to review the Preliminary Plat unless the Application for Consideration has been signed by 100% of those persons or entities having an ownership interest in the property covered by the Preliminary Plat. As concerns easement holders across the

property to be platted, the subdivider's obtaining and filing a consent to plat signed by the easement holder, in a form approved by the City Attorney, will be sufficient for the purposes of this Section in lieu of requiring the easement holder to sign the Application for Consideration of the Preliminary Plat. Any Preliminary Plat approved by the Planning & Zoning Commission and the City Council shall be rendered null and void if it is later found that 100% of the persons or entities having a title interest to the property to be platted have not signed the Application for Consideration for the Preliminary Plat. In the event a Preliminary Plat is rendered null and void under this paragraph, the subdivider will be required to start the platting process over, beginning with a Sketch Plan.

Subd. 2 Preliminary Plat Information. The following information shall be submitted for the consideration of a Preliminary Plat, and shall be either placed directly on the plat or be attached to the plat. The Preliminary Plat shall be on a sheet 20 inches wide and 30 inches long and shall be drawn to a scale of 1 inch equaling 100 feet. Where necessary, the Preliminary Plat may be on several sheets provided they are numbered and a key map is presented on the sheets showing the entire subdivision.

A. Identification. The date; north point; map scale; name and address of: owner, subdivider, surveyor, engineer and designer, including their license numbers and seals; the name of the subdivision and all subdivisions immediately adjacent; an abstractor's certificate indicating the names and addresses of property owners within 350 feet of the exterior boundary lines of the proposed plat; the location of the subdivision by section, township, and range; and, graphic scale, not less than 1 inch to 100 feet.

B. Description. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the City Engineer, and be referred and tied to the nearest quarter (1/4) section corner and shall be shown on the Preliminary Plat. Descriptions, reference ties and elevations of all bench marks. The total acreage of the subdivision and the proposed subdivision name, which shall not duplicate or be alike in pronunciation of any Montgomery plat heretofore recorded. The Minnesota Coordinate System shall be used.

C. Existing Conditions.

1. Total acreage in said Preliminary Plat computed to 1/10 of an acre; Zoning District of the subdivision, including exact boundary lines of the district, if more than one district, as well as setting out any proposed changes in the zoning district lines, including

dimensions and/or to the zoning ordinance text applicable to the area to be subdivided.

2. Topographic data with a contour interval of not more than 2 feet and supplementals of 1 foot in extremely flat areas; the datum shall be of the 5th General Adjustment of 1929. Water courses, lakes, marshes, wooded areas, rock out-crops, power transportation poles and lines, gas lines, single trees with a diameter of 8 inches or more as measured 3 feet above the base of the trunk and other significant existing features for the proposed subdivision and adjacent property.

3. The location, right-of-way width and names of existing or platted streets or other public ways. Parks and public lands, permanent buildings and structures, easements, section and corporate lines within the subdivision and to a distance 100 feet beyond.

4. Location, size, grade and direction of flow of existing sewers, water mains, culverts, drains and underground facilities on the property and to a distance of 100 feet beyond. Such elevations and locations of catch basins, inverts, manholes, hydrants and street pavement widths and type.

D. Design Features. Layout of proposed streets, alleys, pedestrian ways and easements showing right-of-way widths, gradients and proposed street names. Preliminary dimensions of lots and blocks with their layout numbers using consecutive numbering of all lots and blocks beginning with number 1 within the subdivision; out-lots shall be designated by alphabetical order beginning with "A". Areas intended to be dedicated or reserved for public use, including their size in acres. Number of residential lots, typical lot sizes plus information about all proposed uses within the subdivision. Minimum front and side building setback lines. Location, size and gradients of proposed sanitary sewers, storm sewers, water mains, and plans for surface drainage and flood control.

E. Development Proposals.

1. Plans and cross-sections showing the proposed location and type of street lighting standards, street trees, curbs, water mains, sanitary sewers, and storm drains, and the size and type thereof, the character, width and depth of pavements and sub-base, the location of manholes, basins and underground conduits.

2. The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes. Connection

to existing lines or alternate means of water supply or sewer disposal and treatment as provided in public health standards. Profiles of all proposed water and sewer lines. Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal. Preliminary designs of any bridges or culverts which may be required.

3. The width, location grades and street profiles of all streets or public ways proposed by the developer in the subdivision.

4. All onsite sanitation and water supply facilities shall be designed to meet the minimum specification of the State Department of Health, and a note to this effect, including an estimate of the costs for such facilities shall be stated on the plat and signed by a licensed engineer.

5. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. A copy of all proposed private restrictions.

6. An approximate grading plan if the natural contours are to be changed more than 2 feet including the types of buildings proposed to be constructed on the lots, i.e. FB = Full Basement, SE L/O = Split Entry Lookout, SE W/O = Split Entry Walkout, or FB W/O = Full Basement Walkout.

7. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and the probable future drainage layout of the entire tract shall be submitted. The part of the subdivider's entire holding submitted shall be considered in the light of the entire holdings.

8. A plan for potential re-subdivision when large lots are utilized (in excess of 1 acre, 200 feet of width or over 200 feet of lot depth).

F. The Preliminary Plat shall contain all information required by and shall conform to the requirements of Minnesota Statutes Chapter 505, as may be amended from time to time.

Subd. 3 Supplemental Information. A letter from concerned parties as requested by the Planning & Zoning Commission may be required. The Planning & Zoning

Commission and City Council reserve the right to require additional information from the subdivider to make an informed decision. The subdivider will comply fully with the Planning & Zoning Commission's or City Council's request for additional and supplemental information pursuant to this subdivision. A subdivider's failure to comply with requests for additional information shall be a basis upon which the Planning & Zoning Commission and the City Council can deny the application for Preliminary Plat.

1225.03 Final Plat.

Subd. 1 Application for Approval of Final Plat. The same persons or entities required to sign the Application for Consideration of the Preliminary Plat in Section 1225.02 shall sign the Application for Approval of the Final Plat required herein; except that the subdivider shall not be required to obtain a new consent to plat from those having an easement over, under, or across the property to be platted. The Planning & Zoning Commission and City Council have no jurisdiction whatever to review the Final Plat unless the Application for Approval has been signed by 100% of those persons or entities having an ownership interest in the property covered by the Final Plat. Any Final Plat approved by the City Council shall be rendered null and void if it is later found that 100% of the persons or entities having a title interest to the property platted have not signed the Application for Approval of Final Plat. If the Preliminary Plat is rendered null and void due to the subdivider's failure to timely submit the proposed Final Plat to the Administrator, or rendered null and void because less than 100% of the persons or entities having an ownership interest in the property covered by the Final Plat did not sign the Application for Approval of Final Plat, the subdivider shall be required to start the platting process over from the very beginning, with a Sketch Plan.

Subd. 2 Final Plat. The Final Plat shall be on a sheet 24 inches wide and 36 inches long and shall be drawn to scale of 1 inch equaling 100 feet. The Final Plat shall comply with the requirements of Minnesota Statutes Chapter 505, as may be amended from time to time. Where necessary, the Final Plat may be on several sheets provided they are numbered and a key map is presented on the sheets showing the entire subdivision. The Final Plat will have incorporated all changes or modifications required and in all other respects conform to the approved Preliminary Plat. It may constitute only that portion of the approved Preliminary Plat which the subdivider proposed to record and develop, provided that such portion conforms with all the requirements of this Chapter.

A. Information Required. The information which is required for the Preliminary Plat shall be required on the Final Plat with the exception of the following data which may be omitted:

1. Total acreage figure.

2. Site data such as number of lots, typical lot size, park acreage, etc.

3. Sites, if any, for multi-family dwellings, shopping centers, industry or other non-public uses exclusive of that information about subdivision's own land use classification.

B. Official Form. The Final Plat shall have the official form required for the granting of approval by the Planning & Zoning Commission and City Council.

C. Order of Signing. The Planning & Zoning Commission and City Council representatives shall not sign the Final Plat until it has been approved by the City Council and has been properly signed and certified by the registered land surveyor, all owners of record, and all mortgage holders of record having a title interest in the platted property.

D. Certification Required.

1. Notarized certification by owner and any mortgage holder of record that the plat has been adopted and that there is a dedication of utilities, streets, and other public areas. The mortgage holder's consent may be by separate document approved by the city attorney.

2. 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.

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

4. Space for Certificates of Approval to be filled in by the signatures of the Chair of the Planning & Zoning Commission, the Mayor, the City Administrator, and the City Attorney. The form of approval by the Planning & Zoning Commission is as follows:

The form for approval by County Authorities as required.

REVIEW

Be it known that on this _____ day of _____, 20____, the Planning Commission of the City of Montgomery, Minnesota, did duly review this plat of _____.

Chair

Secretary

APPROVALS

Be it known that on this ____ day of _____, 20____, the City Council of Montgomery, Minnesota, did duly approve this plat of _____ and that, as per Minnesota Statutes Section 505.03, subdivision 2, this plat has been submitted to and written comments and recommendations have been received from the _____.(County Engineer, MnDOT, or other agency requiring notification of platting.)

Mayor

City Administrator

CITY ATTORNEY

I hereby certify that I have examined the plat of _____ and do hereby recommend this plat for approval as to form this ____ day of _____, 20____.

City Attorney, Montgomery, Minnesota

The form for approval by County Authorities as required.

1225.04 Planning & Zoning Commission Recommendation. The following information shall be contained in all recommendations submitted to the City Council by the Planning & Zoning Commission: date of consideration, name of petitioner, requested action, findings, planning considerations, and recommendations.

1225.05 Supplementary Documents.

Subd. 1 Mylar Copies. Mylar copies of the plat as approved by the City, in both 22" by 34" and 11" by 17".

Subd. 2 Electronic Copies. Electronic copies of the recorded plat in Shapefile or CAD Format and .PDF format for inclusion in the City's base map.

Subd. 3 Subdivision Development Plans. A complete set of subdivision development plans containing plans and specifications to construct the required public improvements and to make the subdivision suitable for development, which conform to the City requirements.

Subd. 4 Subdivider to Provide City 5 Full-Sized Copies of the Recorded Plat. Subdivider shall provide to the City Administrator 5 full-sized copies of the recorded plat, evidencing filing of the plat with the County, within 90 days after Final Plat approval by the City Council. No building permits will be approved by the City for construction of any structure on any lot in the plat until the City has received the 5 full-sized copies of the recorded plat required herein.

Subd. 5 Subdivider Shall Provide City Administrator with 3 Complete Copies of Any Covenants. The subdivider is to file with the City Administrator within 90 days of the City Council's approval of the Final Plat 3 complete copies of any covenants recorded against any portion of the property platted pursuant to this Chapter of the Montgomery Code.

Subd. 6 City to Prepare and Distribute a Street Address Map. Upon adopting and filing of a Final Plat, the City shall prepare a street address map and distribute it to the subdivider, utility companies, the Fire and Police Departments, the County and other agencies deemed appropriate.

Subd. 7 Subdivider Must Timely File with the City Administrator a Performance Bond or Letter of Credit in a Form Acceptable to the City. The subdivider must timely file with the City Administrator a performance bond or a letter of credit per the Developer's Agreement, for the utility and street improvements, site grading, and erosion control. The City may release a portion of the performance bond or letter of credit as the required improvements are approved by the City Engineer and the City Council.

Section 1230 – SUBDIVISION ADMINISTRATION

1230.01 Enforcing Officer. This Chapter shall be administered and enforced by the City Administrator or any other person or entity appointed by the City Council to enforce this Chapter of the City Code.

1230.02 Duties of the Administrator. The Administrator is charged with the enforcement of this Chapter and the regulations contained therein. The Administrator shall receive and forward to the Planning & Zoning Commission all applications, materials and information governed by the regulations contained in this Chapter.

1230.03 Variances and Waivers. If the City Council finds that practical difficulties may result from strict compliance with this Chapter, it may vary the regulations so that the general intent may be preserved and the public interest protected; provided that such variations will not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Official Zoning Map, or the Zoning Code.

Subd. 1 Waivers. Where the City Council finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements subject to appropriate conditions.

Subd. 2 Variances. Application for a variance shall be made in writing by the subdivider when the Sketch Plan is filed for consideration by the Planning Commission, and shall state all facts relied upon by the applicant and be supplemented with maps, plans and other additional data. The plans for variances shall include such covenants and other provisions necessary to guarantee the full achievement of the plan.

Subd. 3 Rules. In the granting of waivers or variances pursuant to this Chapter, the City Council shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied. Any variance granted shall be made by resolution and entered into the minutes setting forth the reasons which justified the resolution.

1230.04 Variances Permitted. The following types of variances are permissible when, in the opinion of the City Council, the proposal conforms to the provisions of Section 1230.03 of this Chapter, is consistent with the intent and purpose of this Chapter and that the proposed variance is not in conflict with the Comprehensive Plan, the Zoning Code, and any other part of the City Code which may be applicable.

Subd. 1 Exceptional Topography. A variance may be granted where the subdivider can show that by reason of exceptional topography or other physical

conditions the strict compliance with this Chapter would cause practical difficulties on the enjoyment of a substantial property right.

Subd. 2 Complete Neighborhood. A variance may be granted in a case where a subdivision is large enough to constitute a self-contained neighborhood provided the City Council receives adequate safeguards to assure the development is according to a plan.

Subd. 3 Planned Unit Development. To provide flexibility for new land planning and land development techniques and concepts, variances may be granted for Planned Unit Development. Complete and detailed plans shall be submitted showing the information required in Chapter 11 of this Code, with the addition of all proposed structures, uses, sidewalks, landscaping, off-street parking and other features and facilities.

1230.05 Application, Fees, Charges, and Application Requirements.

Subd. 1 Filing with the City Administrator. All applications for plats and subdivisions and all lot divisions presented for City Council approval shall be filed with the City Administrator on forms prescribed by the City Administrator, and shall be accompanied by a fee in the amount set forth by ordinance or by resolution. The fee shall not be refunded for any reason, including without limitation, rejection of the plat, subdivision, or lot division by the City Council, or abandonment or withdrawal of the proposed plat, subdivision, or lot division by the applicant. The City shall have no duty to process or act on any plat, subdivision, or lot division unless and until the applicable fee has been paid to the City. Also, no application shall be complete until all information and documents required by this Chapter have been filed with the City Administrator.

Subd. 2 Additional Fees. Each person, by filing or submitting an application for approval by the City of a proposed plat, subdivision, or lot division, shall have agreed to pay all administrative expenses, engineering, planning, attorney's fees, and all related costs, with interest, incurred by the City in connection with or as a result of reviewing and acting on such application. If more than one person signs an application, all signers shall be jointly and severally liable for such expenses and fees, with interest and costs as provided. The expenses and fees to be paid to the City pursuant to this Section shall be payable upon demand made by the City, and if not paid within five days after the demand is made, shall bear interest from the date of demand until paid at a rate equal to the lesser of the highest interest rate allowed by law or two percentage points in excess of the reference rate. The applicants shall also pay all costs, including attorney's fees, incurred by the City in collecting the expenses, fees, and interest, with interest on such costs of collection from the dates incurred until paid, at the same interest rate as is payable on the expenses and fees. For the purposes of this Section, reference rate shall mean the rate publicly announced from time to time by the City's bank depository, or any successor, as its reference rate, and if the bank, or its

successor, ceases publicly announcing its reference rate, reference rate shall mean the interest rate charged from time to time by such bank or its successor on 90-day unsecured business loans to its most creditworthy customers.

Subd. 3 Clarification. These fees shall be in addition to building permit fees, inspection fees, trunk water, trunk sanitary sewer, trunk storm water facility costs, zoning fees, charges, expenses and other such fees, charges and expenses currently required by the City or which may be established in the future.

Section 1298 – COMPLIANCE, VIOLATIONS, AND PENALTIES

1298.01 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 County Recorder.

1298.02 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 plan, 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 County Recorder.

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.

1298.03 Criminal Penalties.

Subd. 1 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 \$1,000.00, or both. A defendant convicted of a misdemeanor under this Section of the City Code, 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, as may be amended from time to time, which the City hereby adopts and incorporates herein.

Subd. 2 Administrative Remedies. The City may also, at its sole discretion, invoke any administrative remedy available to it under the City Code in the event a person violates any provision of this Section. For the purposes of this Section a person is defined as an individual, a partnership, a corporation, or any other entity.

Subd. 3 Non-Exclusivity of Remedies. Violations of this Section of the Montgomery City Code may be remedied by the City, at its sole discretion, both administratively and through criminal prosecution. These remedy options are not mutually exclusive and the City may pursue both options simultaneously.

Subd. 4 Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Section 1299 – SEPARABILITY

1299.99 Separability. It is hereby declared to be the intention that the several provisions of this Chapter are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provision of this Chapter to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Chapter to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.