

CHAPTER 6: SUBDIVISIONS & RIGHT-OF-WAYS

SECTION 600. SUBDIVISIONS.

SECTION 610. STREET NAMES.

SECTION 620. HOUSE NUMBERING.

SECTION 630. PUBLIC RIGHT-OF-WAYS.

SECTION 640. EXCAVATIONS: STREET AND SEWER.

SECTION 600. SUBDIVISIONS.

Section 600.00. General Provisions.

Subd. 1. Title. This ordinance shall be known as the “subdivision ordinance.”

Subd. 2. Purpose. Each new subdivision becomes a permanent unit in the basic physical structure of the future community, a unit to which the future community will of necessity be forced to adhere. Piecemeal planning of such subdivisions, without correlation to the community’s plans and planning standards, will bring a disastrous, disconnected patchwork of plats and poor circulation of traffic. In order that new subdivisions will contribute toward an attractive, orderly, stable and wholesome community environment, adequate municipal services, and safe streets, all subdivisions hereafter platted within the city shall fully comply with the regulations hereinafter set forth in this ordinance.

Subd. 3. Interpretation. In their interpretation and application the provisions of this ordinance shall be the minimum requirements adopted for the protection of the public health, safety and general welfare.

Subd. 4. Scope. Except in the case of re-subdivision, this ordinance shall not apply to any lot or lots forming a part of a subdivision recorded in the office of the county recorder or registrar of titles. Nor is it intended by this ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provision of other laws or ordinances except those specifically repealed by, or in conflict with, this ordinance, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the city is a party. Where this ordinance imposes a greater restriction upon land than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this ordinance shall control.

Section 600.05. Definitions.

See chapter 12 for definitions.

Section 600.07. Simple Subdivision.

Portions of a lot may be severed for the purpose of accretion onto neighboring parcels, provided the severed portion does not make the balance of the remaining lot a nonconforming lot; and provided:

1. The size of the newly-created lots conform to the minimum requirements of the zoning ordinance;
2. Each lot abuts upon a public street open for travel or upon an existing easement or a private street access that is determined by the city council as providing satisfactory ingress and egress;
3. The subdivision will not lend itself to future subdivision for the creation of additional properties within the applicable zone;
4. If a smaller piece has been severed for accretion onto a neighboring parcel, the severed portion shall not cause the hardcover to exceed the maximum allowed on the property to which it is accreted;
5. The remainder lot (after a smaller piece is accreted onto a neighboring parcel) shall be zoning code and shoreland management district code compliant in matters of location of accessory structures, hard cover maximums, and sideyard setbacks relative to both principal and accessory structures; and
6. The city may impose such additional conditions as it deems necessary and appropriate for public safety, health, and welfare, including requiring the applicant to enter into an encroachment agreement, easement agreement, or developer’s agreement with the city, in form meeting the approval of the city attorney.

A dimensional map of such subdivision must be filed with the city clerk before the division is submitted to the council for approval. A fee set by the city council and recorded in chapter 5 of this code book, together with actual costs of publication of notice, provided that any other fees required under the section 600 et seq shall be paid by the applicant as set by the city code, as well as payment for all sewer hookup charges which might be due. The subdivider shall conform with all other applicable requirements of section 600 et seq including public right-of-way and easement dedication that may be required.

As further limitation to the authorized simple subdivision, no such division shall be approved if there is any provision or authorization as a result of the division to allow and permit by easement access to Lake Minnetonka from off-shore lake lots; should there be a desire to provide such access, the subdivider shall be required to plat the property pursuant to the terms of section 600.10 et seq and apart from the provisions of this section governing simple subdivision. (THIS SECTION AMENDED JAN 2016, ORD 250)

Section 600.10. Preliminary Plat.

Subd. 1. Procedure.

A. The subdivider shall submit to the city clerk:

- (1) 14 hard copies and 1 electronic copy of the preliminary plat.
- (2) A cash down payment toward all costs including investigation, inspection, publication, consultant fees, engineering fees, and attorney fees incurred in the timely review of the proposed subdivision by the city. The subdivider shall be liable to the city for these costs incurred. No permits or licenses shall issue until all expenses incurred are paid to the city by the subdivider. The downpayment amount shall be determined by the city council and set forth in chapter 5 of this code book.

B. The city clerk shall then:

- (1) Set a public hearing before the planning commission on the preliminary plat, which shall be held at the next regular meeting of the planning commission on, but not earlier than 10 days after submission of the preliminary plat. Notice of said hearing shall be published in the official city newspaper at least 5 days prior to the hearing. The newspaper notice shall include an easily understood description of the area to be subdivided. The cost of the notice shall be paid by the subdivider in addition to the cash fee for other expenses.

- (2) Refer 1 copy of the preliminary plat to the planning commission and 1 copy to the city engineer.

C. The city engineer shall submit their report to the planning commission on or before the hearing on the preliminary plat. This report shall be on the feasibility of street location and construction and on any drainage problems that might be encountered.

D. The planning commission shall conduct the hearing on the preliminary plat and shall make its report within 5 days after such hearing. The primary function of the planning commission in reviewing a preliminary plat is to determine whether such plat conforms to the design standards set forth in the ordinance. The planning commission may approve a preliminary plat subject to certain revisions and may delegate its staff or one of its members to see that the further revisions conform to the intent of the planning commission.

E. A subdivision application must receive preliminary approval or disapproval within 120 days of its delivery, unless the applicant agrees to an extension in writing. If the report of the planning commission has not been received in time to meet the 120-day requirement or agreed upon extension deadline, the council may act without such report. If no city council action is taken within the 120-day requirement or agreed upon extension deadline, the application will be deemed approved. (THIS PARAGRAPH AMENDED BY ORD 269 JUN 2017)

Approval of a preliminary plat by the council is tentative only involving merely the general acceptability of the layout. Subsequent approval will be required of the engineering proposals, pertaining to storm drainage, grading, gradients and roadway widths and the surfacing of streets, which will be considered in connection with the final plat.

If the preliminary plat is not approved by the council, the reasons for such action shall be recorded in the proceedings of the council and transmitted to the applicant.

Subd. 2. Data Required.

- A. Scale: 1 inch to 100 feet, if possible. Otherwise, 1 inch to 50 feet or 200 feet.
- B. Identification and Description:
- 1) Proposed name of subdivision. The subdivider shall indicate that the proposed name does not duplicate or resemble in pronunciation the name of any plat theretofore recorded.
 - 2) Location by section, town, range or by other legal description.
 - 3) Names and addresses of the owner, subdivider, surveyor and designer of the plan. The subdivider shall submit a statement that they have the area being subdivided under ownership or control.
 - 4) Graphic scale.
 - 5) North point.
 - 6) Date of preparation.
 - 7) A plat, showing private streets, shall contain in the dedication thereon, or there shall be shown in the title thereto, appropriate covenants, showing easements as set forth in section 600.25 hereof and the provision in said section 600.25 for their maintenance, and the use or uses to which they shall be subject, so that a title search as to any of the lots or parcels in said plat shall constitute notice thereof. As to lots or parcels designated in a registered land survey, the certificate of title thereto shall show the foregoing in a recital or a memorial thereon.
- C. Existing conditions in tract and in surrounding area to a distance of 100 feet:
- 1) Boundary line of proposed subdivision, clearly indicated.
 - 2) Any non-residential zoning district.
 - 3) Total approximate acreage of proposed subdivision.
 - 4) Platted streets, railroad right-of-way and utility easements.
 - 5) Boundary lines and ownership of adjoining un-subdivided land.
 - 6) Permanent buildings and structures.
 - 7) Sewers, water mains, culverts or other underground facilities.
 - 8) Topography, showing lakes, watercourses, marsh areas, and contours at vertical intervals of not more than 2 feet, except that contour lines shall be no more than 100 feet apart. Contour lines shall be shown by means of dashed lines on the preliminary plat.
 - 9) Wooded area.
 - 10) Other information, such as soil tests, if requested by city engineer.
- D. Subdivision Designer Features:
- 1) Layout of proposed streets, showing right-of-way widths and names of streets. The name of any street heretofore used in the city or its environs shall not be used, unless the proposed street is an extension of an already named street, in which event the name shall be used. The street layout shall include all contiguous land owned or controlled by the subdivider.
 - 2) Location and widths of proposed pedestrian ways and utility easements.
 - 3) Layout, numbers, dimensions and square footage of lots.
 - 4) Areas, other than streets, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
 - 5) Proposed use of all parcels, and if zoning change is contemplated, proposed rezoning.
 - 6) When lots are located on a curve or when side lot lines are at angles other than 90° to the street and/or lake, the width at the building setback line shall be shown.

Section 600.15. Final Plat.

Subd. 1. Procedure:

- A. Unless an extension of time is requested by the subdivider and granted by the council, the subdivider shall within 6 months following approval of the preliminary plat, submit to the clerk:
- (a) 14 hard copies and 1 electronic copy of the final plat. This final plat shall incorporate all changes required by the council. Otherwise it shall conform to the preliminary plat. The final plat may constitute only that portion of the preliminary plat that the subdivider proposes to record and develop at the time. If the final plat is not submitted within 6 months, the approval of the preliminary plat shall be considered void.

- (b) An up-to-date certified abstract of title, registered property report or such other evidence as the city attorney may require showing title or control in the applicant.
- B. The clerk shall refer copies of the final plat to the city engineer. The clerk shall refer such abstract of title, registered property report or such other evidence of title to the city attorney for his examination and report.
- C. The reports of the city attorney and city engineer shall be submitted to the council within 15 days after filing of the final plat. The city engineer shall state whether the final plat and the proposed improvements conform to the engineering standards and specification established in this ordinance.
- D. The subdivider shall pay the fees of the city engineer and the city attorney for their services and reports in connection with the final plat.
- E. The council shall act on the final plat within 60 days of the date on which it was filed with the clerk. No final plat will be approved that:
- (a) Does not conform to the preliminary plat;
- (b) Does not meet the design standards and engineering specifications set forth in this ordinance.
- F. If the final plat is approved by the council, the subdivider shall record it with the county registrar of deeds or registrar of titles within 6 months after the date of approval; otherwise the approval shall be considered void.
- G. The subdivider shall, immediately upon recording, furnish the clerk with 2 prints of the final plat showing evidence of the recording.

Subd. 2. Data Required.

- A. Indication of type of water supply, sewage disposal, drainage and flood control.
- B. Soil borings if required by city engineer.
- C. Evidence that ground water is at least 5 feet below lowest building floor level, or plan for solving ground water problems.
- D. Any supplementary engineering data required by the city engineer.
- E. Data required under regulation of County Surveyor - accurate angular and lineal dimensions for all lines, angles, and curvatures used to describe boundaries, streets, easements, areas to be reserved for public use, and other important features. Dimensions of lot lines shall be shown in feet and hundredths.
- F. An identification system for all lots and blocks.
- G. True angles and distances tied to the nearest established street lines or official monuments (not less than 3) which shall be accurately described in the plat.
- H. City, county or section lines accurately tied to the lines of the subdivision by distances and angles.
- I. Complete curve data, including radii, internal angles, points and curvatures, tangent bearings, and lengths of all arcs.
- J. Accurate location of all monuments.
- K. Certification by a registered land surveyor to the effect that the plat represents a survey made by them and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct.
- L. Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas.
- M. Certifications showing that all taxes currently due on the property to be subdivided have been paid in full.
- N. Form of approval: Approved by the city of Greenwood this _____ day of _____, 20____ .

Section 600.20. Design Standards.

Subd. 1. Streets.

- A. *General Design.* The design of all streets shall be considered in their relation to: public safety; existing and planned streets; efficient circulation of traffic; topographical conditions; runoff of storm water; and proposed uses of the land to be served by such streets. The arrangement of streets in new subdivision shall make provisions for the appropriate continuation of existing streets in adjoining areas. Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new

subdivision adjoins un-subdivided land susceptible to being divided, then the new streets shall be carried to the boundaries of such un-subdivided land.

- B. *Width.* All right-of-way widths shall be a minimum of 50 feet except where a wider minimum width is shown on the city's Plan.
- C. *Reverse Curves.* Tangents of at least 50 feet in length shall be introduced between reverse curves on collector streets.
- D. *Street Grades.* All centerline gradients shall be at least 0.4%, and shall not exceed 10%.
- E. *Minor Streets.* Minor streets shall be so aligned that their use by through traffic will be discouraged.
- F. *Street Jogs.* Street jogs with centerline offsets of less than 125 feet shall be avoided.
- G. *Safe Intersections.* It must be evidenced that all street intersections and confluences encourage safe and efficient traffic flow.
- H. *Alleys.* Alleys are not permitted in residential areas.
- I. *Cul-de-Sacs.* Each cul-de-sac shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 80 feet, and a street property line diameter at least 100 feet.
- J. *Half-Streets.* Half streets shall be prohibited, except where essential to the reasonable development of the subdivision and adjoining un-subdivided areas.
- K. *Reserve Strips.* Reserve strips controlling access to streets shall be prohibited except under conditions approved by the council.
- L. *Hardship to Owners of Adjoining Property Avoided.* The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.
- M. *Street Interval.* In general, provisions shall be made at intervals not exceeding 1/2 mile for through streets (streets running through the subdivision in a fairly direct manner).
- N. *Intersections.* In general, streets shall intersect at right angles.

Subd. 2. Easements.

- A. *Utilities.* Easement at least 14 feet wide, centered on rear and other lot lines, shall be provided for utilities, where necessary. They shall have continuity of alignment from block to block. At deflection points, easements for pole-line anchors shall be provided where necessary.
- B. *Drainage.* Where a subdivision is traversed by a water course, there shall be provided a drainage way, channel or drainage right-of-way conforming substantially with the lines of such water course, together with such further width or construction of both, as will be adequate for stormwater run-off.

Subd. 3. Blocks.

- A. *Pedestrian Ways.* A pedestrian way or easement may be required in locations deemed necessary to public health, convenience and necessity.

Subd. 4. Lots.

- A. *Location.* All lots shall abut on a publicly dedicated or private street.
- B. *Size.* All lots shall be at least equal to the minimum lot size required within the applicable zoning district.
- C. *Shape.* At least 2 sides of all lots shall each be at least 100 feet in length. Lots shall meet the minimum lot width requirements of the applicable zoning district. Lot lines shall not be drawn in irregular shapes for the purpose of circumventing this requirement. (THIS PARAGRAPH AMENDED APR 2019 ORD 287)
- D. *Side Lot Lines.* Sidelines of lots shall be substantially at right angles to the street line.
- E. *Water Courses.* Lots abutting upon a watercourse, drainage way, channel or stream shall have a sufficient width or elevation to assure house sites that are not subject to flooding.
- F. *Features.* In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions, which if preserved will add attractiveness and stability to the proposed development.

- G. *Lot Remnants*. All remnants of land below minimum lot size left over after subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels. However, outlots may be used if there is a reasonable likelihood that future subdivision of adjoining land will absorb these outlots into standard lots.
- H. *Lots Along Thoroughfares*. In new subdivisions there shall be no direct vehicular access from residential lots to a major thoroughfare. Residential lots shall be separated from major thoroughfares and railroad rights-of-way by a 25 foot buffer strip, which may be in the form of added depth or width of lots backing on or siding on a thoroughfare or railroad right-of-way. A screen planting easement shall be granted to the city and shown upon the plat for the 25 foot buffer strip, if it adjoins a major thoroughfare.

Subd. 5. Tree Replacement.

No simple subdivision, or full plat subdivision, shall be approved by the city council except on condition that:

- A. All "Significant Trees"; and
- B. All trees to be cut down in excess of the maximum permitted under section 1140.80 for construction-related tree cutting permits shall be replaced in accordance with the tree replacement schedule in section 1140.80.

Subd. 6. General. The proposed subdivision shall, in all respects conform to the city code.

Section 600.25. Private Streets.

Notwithstanding anything to the contrary herein, a subdivider may plat or subdivide land into 1 or more lots or parcels and provide that said lots may abut on private streets, provided that such private street shall conform to the following requirements:

Subd. 1. That said private streets shall have a width of not less than 30 feet available for surfacing and vehicular travel and, in addition thereto, two 10-foot privately owned strips on either side thereof, shall be subject to perpetual easements for the installation of utilities and for drainage. With a cul-de-sac design, the roadway available for surfacing and for vehicular travel and subject to the above described perpetual utility easements, shall have an outside roadway diameter of not less than 80 feet.

Subd. 2. That it shall be provided that the municipality or any other public authority shall have access over said streets for emergency vehicles or other proper governmental uses.

Subd. 3. That the subdivider shall provide for the organization and perpetual maintenance of an authority, such as a non-profit corporation or association, to hold title to said private streets and to maintain said private streets, including the snow plowing, lighting, grass cutting, and tree trimming, making road repairs and doing all other things necessary for the proper maintenance thereof. This plan shall be submitted with the preliminary plat.

Subd. 4. That the plat, showing said private streets, shall contain in the dedication thereon, or there shall be shown in the title thereto, appropriate covenants, showing the said easements, and the foregoing provision for their maintenance, and the use or uses to which they shall be subject, so that a title search as to any of the lots or parcels in said plat shall constitute notice thereof. As to lots or parcels designated in a registered land survey, the certificates of title thereto shall show the foregoing in a recital or a memorial thereon.

Section 600.30. Required Improvements.

Before the council approves a final plat, the subdivider shall give satisfactory assurance that they will provide the following improvements:

Subd. 1. Monuments. Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat and as required by the engineer. Pipes or steel rods shall be placed at the corners of each lot and at each intersection of street centerlines. All U.S., state, county or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

Subd. 2. Streets - Public. The traveled surface of all streets shall be not less than 33 feet in width. They shall have applied to them not less than 8 inches of screened or crushed, packed gravel with 3 coats of tar, 1 being a penetration coat, and 2 being a sealcoat.

Subd. 3. Drainage Facilities. Such facilities and easements shall be installed as will adequately provide for the drainage of surface waters.

Subd. 4. Tree Planting. Trees having a trunk diameter (measured 12 inches above the ground) of not less than 1-3/4 inches shall be planted along all streets where trees do not exist, and not less than 1 per lot. This requirement will be

satisfied, and it is preferable if an equivalent number of the same size exist or are planted in a naturalistic way in the front yards of the lots. The trees shall be planted in at least 1 cubic yard of growing soil, and shall survive 1 growing season or be replaced.

Subd. 5. Street Name Signs. Street name signs shall be placed at all street intersections within or abutting the subdivision. The city shall install the signs, and the cost of the sign shall be paid by the developer.

Subd. 6. Financing. Before a final plat is approved by the council, the subdivider shall submit an agreement and performance bond in such form as approved by the city council to assure the following:

- A. The subdivider shall pay for the cost of all improvements required in the subdivision and the subdivision and the subdivision's share of costs of trunk facilities to be extended to the subdivision.
- B. Guaranteed completion of the required improvements within 2 years from the date of approval of the final plat by the city council.
- C. Payment by the subdivider to the city engineer and city attorney for review of plans and specifications and for subsequent inspections by the city engineer.
- D. The amount of the performance bond shall be determined by the council upon recommendation of the city engineer.

Subd. 7. Inspection. All improvements required on site as described under engineering standards shall be inspected during construction by the city engineer at the expense of the subdivider. This inspection shall include aggregate samples, samples of road surfacing materials and visual inspection of projects during the installation of work.

Section 600.35. Other Provisions.

Subd. 1. Variances and Exceptions. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this ordinance, the city council shall, upon an affirmative vote of at least 3/5 of the total membership of such council, have the power to vary the requirements of this ordinance in harmony with the general purpose and intent hereof, so that the public health, safety and general welfare may be secured and substantial justice done.

Subd. 2. Tract / Parcel Size.

- A. No registered land survey hereinafter filed against property located within this city shall have a tract designated upon it that shall be smaller in dimension or area than the minimum provided for platted lots in this ordinance. No building permit shall be issued by any governing body or official or its or their agents for the construction of any building, structure or improvement on any tract contained in a registered land survey hereafter filed against land within this city, which registered land survey contains a tract that is smaller in dimension or area than the minimum dimension or area provided for platted lot in this ordinance, unless prior to the filing of said registered land survey the same had been approved by the city council or, after filing of a registered land survey, without such approval, the city council subsequently approves such registered land survey by an affirmative vote of at least 3/5 of the total membership thereof.
- B. No unplatted land within its limits of the city shall, unless such parcel is a separate parcel of land of record at the time of adoption of this ordinance or unless the agreement to convey said parcel has been entered into at the time of adoption of this ordinance and the instrument of conveyance is recorded or registered within 6 months from said date, hereafter be conveyed by metes and bounds description unless the area of said parcel shall not be less than the minimum required lot size for properties within the applicable zoning district for the property in question, unless a variance is first obtained from the city council in accordance with subsection A of this subdivision 2; however, nothing in this ordinance shall prohibit conveyance by metes and bounds description of any parcel of land of less than the minimum required lot size for properties within the applicable zoning district for the property in question. If such a parcel is added to, and combined with, and becomes a part of an adjacent lot or area so as to increase the size of such adjacent tract or parcel of land, provided, the remaining portion of such tract being so divided shall not be less than the minimum required lot size for properties within the applicable zoning district for the property in question, unless such remaining tract also is added to and combined with and becomes a part of some other adjoining tract.

Subd. 3. Park Dedication. Park dedication fees are established to ensure that every new lot bears a proportionate share of the overall park system burden. As such, the council may require 8% of each proposed subdivision to be dedicated for public use as parks, playgrounds, trails, or open space, but not including land necessary and dedicated for stormwater holding areas or ponds. Such dedicated land must be suitable for parks or playgrounds and shall

conform to the city plan for parks and playgrounds. As an alternative, the council may require that the subdivider contribute a cash amount equal to 8% of the assessor's land valuation for the entire parcel prior to subdivision on January 2 of the year of the final plat application. If the subdividing property owner can prove that the property was subject to the park dedication requirement (land or cash) prior to subdivision, then the subdivided parcel that contains the principal structure shall be exempt from the park dedication requirement. All other newly created parcels shall be subject to the park dedication requirement. Cash payments will be placed in a special park fund and will be used only for the acquisition and development or improvement of parks, playgrounds, trails, wetlands, or open space.

(THIS SUBD AMENDED BY ORD 290 JUL 2019)

Subd. 4. Building Permits. No building permit shall be issued by any governing body or official for the construction of any building, structure or improvement on any land henceforth subdivided or conveyed until all requirements of this ordinance have been fully complied with.

Subd. 5. Validity. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Subd. 6. Violations. Any person violating any provision of this ordinance shall be guilty of a misdemeanor, re-platting or subdividing or conveying of land not in accordance with this ordinance may enjoined.

(THIS SECTION REVISED BY ORD 268 JUN 2017)

SECTION 610. STREET NAMES.

Section 610.00. Street Names.

Subd. 1. Renaming. Upon petition of 30% of the residents on an affected street, or on motion of a council member, the city council may consider the change of a street name for purposes of consistency, elimination of confusion, or the honoring of a long standing resident of the city and contributor to the city welfare.

Subd. 2. Recording. All streets names that are changed shall be recorded in the office of the city clerk.

Section 620.00. House Numbering.

To assist in providing immediate access to all lots, buildings, and structures in the city the same shall be numbered in accordance with the following plan:

Subd. 1. North-south numbers shall commence at the south border of the city and north-south streets shall begin at the number 4600 and run to 5600.

Subd. 2. East-west numbers shall commence at the east border of the city and east-west streets shall begin at number 20800 and run to 22000.

Subd. 3. Odd numbers shall be on the south and east sides of the streets; even numbers shall be on the north and west sides of the streets. There shall be 100 numbers to each block, as assigned on a grid of 330 feet for east-west numbers, and 100 numbers to each block, as assigned on a grid of 660 for north-south numbers.

Subd. 4. The city clerk shall keep a chart showing the proper street number of every lot, parcel and building in the city, which shall be open to inspection by anyone interested and shall assign a street number to each house and/or structure in the city.

Subd. 5. It shall be the duty of the owners and occupants of every house and structure in the city to display in a place visible from the street figures at least 2-1/2 inches high showing the number of the house, building or other structure occupied.

SECTION 630. PUBLIC RIGHT-OF-WAYS.

Section 630.01. Election to Manage the Public Right-of-Ways.

In accordance with Minnesota Statutes, section 237.163 subdivision 2(b), the city hereby elects to manage right-of-ways within its jurisdiction. This section shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and 2017 Session Laws, Chapter 94 amending the Act and the other laws governing applicable rights of the city and users of the right-of-way.

Section 630.02. Definitions.

Except as provided in the definitions section 1205 of the code, the definitions in Minnesota Rules 7819.0100 are hereby adopted by reference and are incorporated into this ordinance as if set out in full.

Section 630.03. Permit Requirement.

Subd. 1. Permit Required. Except as otherwise provided herein, no person may obstruct or perform work in any right-of-way, or install or place facilities in any right-of-way, without first having obtained the appropriate permit from the city.

- (a) *Excavation Permit*. An excavation permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.
- (b) *Obstruction Permit*. An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.
- (c) *Small Wireless Facility Permit*. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

(NOTE: MINN. STAT. § 237.163, SUBD. 13)

Subd. 2. Permit Extensions. No person may obstruct or perform work in the right-of-way beyond the date specified in a permit unless a new permit or permit extension is granted.

Subd. 3. Delay Penalty. In accordance with Minnesota Rule 7819.1000, subpart 3, the city may impose a delay penalty for unreasonable delays in work conducted in the right-of-way. The city council shall establish the amount of the delay penalty from time to time by ordinance and set forth in chapter 5.

Subd. 4. Permit Display. Permits issued under this section shall be conspicuously displayed or otherwise available for inspection at all times at the indicated work site.

Section 630.04. Permit Applications.

A permit application shall contain the following:

- A. A completed application form, including all required plans or drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following:
 - (1) The applicant's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.
 - (2) A certificate of insurance in an amount set forth in chapter 5 naming the city as an additional insured, verifying that the applicant is insured against claims for personal injury, death, or property damages associated with work in the right-of-way, and requiring 30-day notice to the city of cancellation or material modification of the policy.
 - (3) If the applicant is a corporation, a copy of the certificate required to be filed under Minnesota Statutes, section 300.06 as recorded and certified to by the Secretary of State.
 - (4) A copy of the applicant's certificate of authority from the Minnesota Public Utilities Commission, or other authorization or approval from the applicable state or federal agency to lawfully operate, to the extent such authority is required by law to have such authorization or approval from said commission or other state or federal agency.
- B. Payment of a Permit Fee covering the city's administrative and management costs and any associated costs of any right-of-way restoration that the city will complete. The permit fee shall be determined by the city council and set forth in chapter 5. NOTE: FEES ARE ESTABLISHED BY MN STATE STATUTES 237.162 & 237.163 OR ANY ORDINANCE ENACTED UNDER THOSE SECTIONS.

Section 630.05. Permit Denial & Conditions.

Subd. 1. Denial of Permit. The city may deny a permit if a completed application is not filed, if the requirements and conditions of this ordinance are not met, or if the city determines that the denial is necessary to protect the health, safety, and welfare or to protect the right-of-way and its current use.

Subd. 2. Conditions. The city may impose reasonable conditions upon the issuance of the permit to protect the health, safety and welfare or to protect the right-of-way and its current use.

Subd. 3. Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

- (a) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
- (b) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limited to 25 feet or the height of existing adjacent utility poles (whichever is less) in single-family residential zones or on right-of-way adjacent to single-family residential zones in the applicable conditional use permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
- (c) No wireless facility may extend more than 10 feet above its wireless support structure.
- (d) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
- (e) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
- (f) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.
- (g) A small wireless facility exceeding 8 cubic feet in total rectangular volume at the largest dimensions shall have visual screening in single-family residential zones or right-of-way adjacent to single-family residential zones.
The visual screening shall be approved by the city council in the applicable conditional use permit.
- (h) A small wireless facility and its screening shall not interfere with the view from single-family properties or the view of lakes, ponds, and wetlands.
- (i) A small wireless facility and screening shall be properly maintained so as to not become unsightly or hazardous and painted in a color approved in the permit by the city council in the applicable conditional use permit.

(NOTE: MINN. STAT. § 237.163, SUBD. 3B)

Subd. 4. Small Wireless Facility Agreement. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of fees set forth in chapter 5.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant.

(NOTE: MINN. STAT. § 237.163, SUBD. 6G)

Section 630.055. Action on Small Wireless Facility Permit Applications.

Subd. 1. Deadline for Action. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

Subd. 2. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:

- (a) are located within a two-mile radius;
- (b) consist of substantially similar equipment; and
- (c) are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

Subd. 3. Tolling of Deadline. The 90-day deadline for action on a small wireless facility permit application may be tolled if:

- (a) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
- (b) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.
- (c) The city and a small wireless facility applicant agree in writing to toll the review period.

(NOTE: MINN. STAT. § 237.163, SUBD. 3C)

Section 630.06. Permit Fees.

The city council may establish an appropriate permit fee schedule that will be available to the public and set forth in chapter 5 of the code. Unless otherwise agreed to in a franchise, right-of-way permit fees are separate from and in addition to franchise fees imposed on a right-of-way user. NOTE: FEES ARE ESTABLISHED BY MN STATE STATUTES 237.162 & 237.163 OR ANY ORDINANCE ENACTED UNDER THOSE SECTIONS.

Subd. 1. Excavation Permit Fee. The city shall impose an excavation permit fee in an amount sufficient to recover: management costs; degradation costs, if applicable.

Subd. 2. Obstruction Permit Fee. The city shall impose an obstruction permit fee in an amount sufficient to recover management costs.

Subd. 3. Small Wireless Facility Permit Fee. The city shall impose a small wireless facility permit fee in an amount sufficient to recover: management costs, and; city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

Section 630.07. Work Standards.

All work performed in the right-of-way shall be done in conformance with Minnesota Rules, part 7819.1100, or applicable local requirements.

Section 630.08. Right-of-Way Restoration by Permittee.

Unless otherwise provided in a permit, the permittee shall promptly and fully restore the right-of-way to a condition equivalent to that prior to its work. The permittee shall complete restoration according to Minnesota Rules, part 7819.1100, or such standards as may be specified by the city. If the pavement settles, the permittee shall pay to the city all costs associated with correcting the problem within 30 days of billing. Upon the city's request, the permittee shall post a construction performance bond in accordance with the provisions of Minnesota Rules, part 7819.3000. If the permittee fails to restore the right-of-way as required, the city may exercise its rights under the construction performance bond.

Section 630.09. Right-of-Way Restoration by the City.

The city may choose to restore the right-of-way itself. If the city restores the right-of-way, the permittee shall pay the estimated costs thereof as part of the permit application fee with the actual costs to be determined and paid or refunded on completion of the project.

Section 630.10. Inspection.

Subd. 1. Notice of Completion. The permittee shall notify the city in writing when the work under a permit is completed.

Subd. 2. Site Inspection. City personnel and others authorized by law may inspect the work-site at any time during or upon completion of the work. At any time, the city may order immediate cessation of work that poses a threat to the life, health, safety or well being of the public.

Section 630.11. Work Done Without a Permit.

Subd. 1. Non-Emergencies. Except in an emergency, any person who obstructs or performs work in a right-of-way without the necessary permit must immediately obtain a permit and pay double the normal permit fee as a penalty.

Subd. 2. Emergency Situations. Any person with facilities in the right-of-way shall immediately notify the city of any emergency in relation to its facilities. Such person may take whatever actions are necessary to respond to the emergency. Such person shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements in this ordinance as soon as is feasible.

Section 630.12. Revocation or Denial of Permit.

Subd. 1. Revocation of a Permit. The city may revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. The permittee's failure to timely respond or implement the approved plan shall be cause for immediate revocation of the permit.

Subd. 2. Denial of a Permit. The city may deny a permit for failure to meet the requirements and conditions of this section 630 or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

Subd. 3. Procedural Requirements. The denial or revocation of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within 3 business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission.

(NOTE: MINN. STAT. § 237.163, SUBDS. 4(C) AND 5(F)).

Section 630.13. Mapping Data.

Each permittee shall provide mapping information required by the city, including the following:

- A. the location and approximate depth of all facilities, with the location based on:
 - (1) coordinates derived in accordance with the GIS coordinate system being used by the city; or
 - (2) if specifically authorized by the city, based on offsets from property lines, distances from the centerline of the public right-of-way, and curb lines.
- B. the type and size of the facility;
- C. the location of all aboveground facilities;
- D. the location any facilities that have been abandoned; and
- E. a legend explaining symbols, characters, abbreviations, scale, and other data shown on the map.

Section 630.14. Location of Facilities.

Subd. 1 Underground. Except as explicitly permitted by the city, all new or replacement facilities must be installed and maintained underground.

Subd. 2. Additional Requirements. The city may impose additional restrictions on the location, size, design and appearance of any facilities to-be located in the right-of-way. The city may assign specific corridors or locations within the right-of-way for each type of facility to-be located in the right-of-way. Permits issued by the city may designate the proper corridor or location for the facility at issue.

Subd. 3. Prohibited Installations. The city may prohibit the installation or placement of additional facilities within the right-of-way if necessary to protect health, safety, and welfare, or protect the right-of-way and its current use. In making such decision, the city shall be guided primarily by considerations of the public interest, the condition of the right-of-way, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects.

Section 630.15. Relocation of Facilities.

Upon the city's written request, a person with facilities in the right-of-way shall promptly and at its own expense permanently remove and relocate its facilities as necessary to prevent interference in connection with a public project, such as a road improvement, or as the city may deem necessary to further public health or safety.

Section 630.16. Right-of-Way Vacation.

If the city vacates a right-of-way that contains the facilities of a permittee, the permittee's rights in the vacated right-of-way are governed by Minnesota Rules, part 7819.3200.

Section 630.17. Indemnification & Liability.

By applying for and accepting a permit under this ordinance, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rules, part 7819.1250.

Section 630.18. Abandoned Facilities.

Any person who has abandoned facilities in any right-of-way shall promptly remove them if necessary to accommodate other right-of-way repair, excavation, or construction.

Section 630.19. Appeal.

A right-of-way user that: (1) has been denied a permit; (2) has had permit revoked; or (3) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed upon written request by the city council at its next regular meeting. A decision affirming the denial, revocation, or fee imposition will be writing and supported by written findings.

Section 630.20. Reservation of Regulatory and Police Powers.

A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

Section 630.21. Permit for Private Use of Publicly Owned Right-of-Way.

Subd. 1. Purpose. The public welfare requires that the public right-of-ways within the city, including highways, roads, streets and alleys, be reserved for public purposes. Public use of the full width of the right-of-ways is necessary to public safety and the proper and efficient maintenance of the right-of-ways. However, it is recognized that limited private use or encroachment onto the right-of-ways is not necessarily inconsistent with public use. It is the purpose of this ordinance to provide for lawful incidental private use of publicly owned right-of-ways not inconsistent with public use.

Subd. 2. Permit Required. The right to use publicly owned right-of-ways within the city for any private use or purpose other than the primary purpose of public travel, whether such use constitutes substantial or incidental use, may be acquired only through permit granted pursuant to this ordinance. Any private property located within or encroaching upon publicly owned right-of-ways, which has not been authorized in accordance with this ordinance, shall be unlawful and subject to removal. The permit fee shall be determined by the city council and set forth in chapter 5 of this code book.

Subd. 3. Application. Any person may apply to the city council for a permit to keep or maintain private property within a publicly owned right-of-way. The application shall be in writing and must describe with specificity the private property and right-of-way involved, and the nature and extent of the requested encroachment. The city council may grant the permit if it is determined that the use applied for is incidental and not inconsistent with safe and efficient public use. However, no permit will be issued until the applicant has agreed in writing to waive any right to recover from the city for damage occurring to the property located within the right-of-way which may result from the performance of the city or its agents of its public duties required by law.

Subd. 4. Revocation. The city reserves the right to revoke any permit granted under this section as may be required by the public interest.

(SECTION 630 AMENDED DEC 2017 ORD 272)

SECTION 640. EXCAVATIONS: STREET AND SEWER.

Section 640.00. City Clerk or Inspector to Control.

The city clerk or inspector under the direction of the council, shall have control of the drainage and sewer system, and of all drains and sewers now or hereafter built or authorized by the municipality, and the building, repairs and maintenance thereof, and connections therewith.

Section 640.05. Permit Required.

No person, firm or corporation shall make an excavation within any street or alley in the city for the purpose of installing water, sewer, steam, or gas pipes, or electric or telephone conduits or for any other purpose, without first obtaining a permit for such excavation from the city clerk; however, such permit shall not be required for any such excavation which is made under a contract awarded by the city, or made by contractors hired by the city. The permit fee shall be determined by the city council and set forth in chapter 5 of this code book.

Section 640.10. Plans to Be Approved.

No drain shall be built, repaired, extended or connected with any public sewers or drain unless and until the plan and construction of such drain to be built, extended or connected with a public sewer, or for the repairs thereto, has been approved by the city clerk or inspector, and all of the provisions of this ordinance are complied with, and a permit for such building, repair or extension and connection has been issued as herein provided.

Section 640.15. Application.

Application for permits shall be made in writing on forms provided for that purpose by the city clerk. Said form shall set forth the pertinent regulations applicable to said permit, as prepared from time to time by the city engineer or other city official, and as modified by the city engineer with respect to the particular work covered by the permit. The city engineer shall prepare such regulations with respect to excavations within any street or alley, and shall modify them with respect to particular work, as shall be necessary or advisable to protect the public from injury, to prevent damage to public or private property, and to minimize interference with the public use of the streets.

Section 640.20. Prerequisite to Issue of Permit.

No drain shall be built, repaired, extended or connected with the public sewer nor shall a permit for any such work be issued or approved unless and until all assessments for sewer construction, or such installments thereof as shall be due at the time such connection is made, against the property to be drained, shall be paid.

Section 640.25. Permit at Site.

Permits for excavations will be issued in writing and the permit shall be kept on the site of the work while it is in progress in the custody of the individual in charge, and shall be exhibited upon request made by any city official or police officer.

Section 640.30. Fees.

Before a permit is issued, the applicant requesting the permit shall pay a required permit fee for each location covered by the permit. The fee shall be determined by the council from time to time and set forth in chapter 5 of this code book.

Section 640.35. Completion and Connection with Public Sewer.

Thereupon the person to whom the permit was granted may proceed with the construction of the sewer in accordance therewith. They shall notify the city clerk or inspector of the progress of the work at such stages in the course of the construction as the city clerk or inspector may direct; and in particular shall notify the city clerk or inspector when the construction and connection of the sewer is complete and ready for inspection; the city clerk or inspector shall inspect the work after it is completed and before the excavations are filled in, and shall require that the work be done satisfactorily and in compliance with the law, before the excavations are filled in.

Section 640.40. Construction Requirements.

All connections with the public sewers shall be made with iron, copper, or other materials acceptable to the city engineer. The internal diameter of the stone pipe not to be less than 6 inches. The internal diameter of the iron pipe not to be less than 4 inches. No sewer pipe connection with any public sewer shall have a fall of less than 1/4 inch to 1 foot. The requirements of the city ordinance regulating excavations in public streets are to be strictly complied with in excavating for sewers.

Section 640.45. Street Openings, Requirements.

The street must be opened in a manner that will cause the least inconvenience to the public and provide for the passage of water along the gutters. No tunneling will be permitted except when the exigencies of the case require such a permit. No excavation in any street or public place shall be left open over night except thoroughly barricaded or railed off and properly lighted so as to secure public safety. In all cases when, from necessity, a trench or pipe is left open during the night a sufficient number of lighted lanterns or torches shall be placed over such trench from twilight until daylight, and the trench shall be properly railed in.

Section 640.50. Separate Connections.

Every building shall be separately and independently connected with the public sewer except, where one or more houses or buildings are located on one or more connecting lots, and owned by one owner, and serviced by one central sewer system, one connection from sewer will be permitted.

Section 640.55. Openings, Frost Protection, Backfill.

If any openings are made for any purpose whatsoever and water mains or service pipes exposed, measures must be taken to protect them from frost. In refilling openings, all the earth must be replaced in the trench and if the earth is frozen it must be removed and the excavation filled with good backfill material. All backfill must be placed in layers of not over 6 inches and thoroughly compacted to prevent after-settlement. The backfill around the pipe and to an elevation of 1 foot above the pipe shall be free of rock over 2 inches in size.

Section 640.60. Obstruction Prohibited.

No refuse or solids of any sort obstructive to the flow of waste water shall be placed, thrown or allowed to enter any public sewer, or allowed to remain on or in any trap or catch basin so as to obstruct the sewer; and no person shall injure or break or remove any portion of any catch basin, covering flag, gully grating, flush tank or manhole, or any part of any sewer, nor do any act obstructing or in any way interfering with the use of any sewer or the flow of waste water through any sewer.

Section 640.65. Steam Exhaust.

No steam exhaust or blow off shall be connected with any soil or waste pipe or drain that communicates with a public sewer.

Section 640.70. Rainspouts.

No rainspout or any other form of surface drainage shall connect with or enter any public sewer in the city.

Section 640.75. Inflammable Liquids.

No waste from dyeing, clothes cleaning or other establishment using naphtha, gasoline or other inflammable liquids shall enter into any sewer.

Section 640.80. Grease.

A grease trap and grated slop basin shall be constructed under the sink of every laundry, hotel, eating house, restaurant or other public cooking establishment.

Section 640.85. Slops and Industrial Wastes.

All refuse from butcher shops, rendering establishments, packing houses and other industrial establishments must be intercepted by some form of catch basin or grated slop basins and not allowed to enter the sewer. No refuse, either liquid or solid, of such character, quality or nature that will unreasonably interfere with the ordinance treatment processes of any sewage treatment plant now or hereafter operated by the city shall be discharged into any sewer or drain of the city.

Section 640.90. Inspection and Repairs.

The city clerk, inspector, or their representative shall have the right to enter upon any premises or into any building in the city, at all reasonable hours, to inspect the sewers and drains and traps and fixtures connected therewith. If it shall be found from such inspection or otherwise that the provisions of law are not being complied with in any respect, or that any part of the drainage system is in need of clearing out or repairs, the city clerk or their representative shall serve a notice at once, or as soon as may be, upon the owner, and upon the occupant, and upon the person in charge of the premises specifying the work necessary to be done to make the sewer system comply with the law, or to put it in good workable condition. The notice shall also specify such time as is reasonable considering the amount of work to be done, and the nature of the emergency, within which the defects must be remedied. It shall thereupon become the duty of every person served with such notice to comply therewith; and if it is not complied with, the city may cause the work to be done at the expense of any person so served. The responsibility for repair shall extend to the service sewer from the main in the street to the end of the system on the premises.

Section 640.95. Bond.

A surety bond may be required from each person, firm or corporation requesting a permit except a duly licensed and bonded plumber, or a public utility corporation holding a franchise from the city, said bond to be conditioned that the holder will perform said work in accordance with the applicable regulations, will indemnify and save harmless the city from all damage caused in the execution of such work or costs in connection with the repair of the streets or alleys excavated. The amount of the surety bond shall be determined by the city council and set forth in chapter 5 of this code book.