

CHAPTER V

PLANNING AND LAND USE REGULATIONS

Section 500 - Planning commission

500.01. Commission. The planning commission has the powers and duties assigned to it by Minnesota Statutes, section 462.351 to 462.365 and this code. The planning commission is the planning agency of the city.

500.03. Amendments. The planning commission upon its own motion may and at the direction of the council must prepare proposed changes in the zoning code, the comprehensive municipal plan, the subdivision regulations, and other official controls of the city. The procedures for the adoption of these changes is that specified for the amendment of the zoning code in section 515 (appendix I) of this code and law.

500.05. Uniform development and improvement standards. Subdivision 1. Declaration. The public health, safety and welfare require that uniform standards be established for the development and improvement of property (i) in non-residential zoning districts, (ii) of property in residential zoning districts that is improved with, or proposed to be improved with, a building or structure other than a single-family dwelling or two-family dwelling, and (iii) in connection with the issuance of a building permit and the granting of a conditional use permit or variance, or the rezoning of property. The city council finds that development and improvement of such property causes a substantial impact on public facilities such as transportation, utilities and parks. Uniform standards are necessary to ensure the orderly development and improvement of such property.

Subd. 2. Procedure. The city council will consider and review each building permit application for proposed construction on property in a non-residential zoning district or on property in a non-residential zoning district or on any property in a residential zoning district that is improved with, or proposed to be improved with, a building or structure other than a single-family or two-family dwelling. The application must be referred to the planning commission and city engineer for review and comment.

Subd. 3. City engineer's report. The city engineer must review the application to determine whether any on-site or off-site improvements are required as a result of the proposed construction. The engineer must consider such items as grading, gravel base, blacktop, boulevard sodding, sidewalk, curb and gutter, drainage, parking area, sanitary sewer, storm sewer, catch basin, sewer connections, water mains, property lines, buffer zones and other items of a similar nature including street, alley, utility and drainage easements. The city engineer will report the findings to the planning commission.

Subd. 4. Planning commission evaluation. The planning commission must study and evaluate the proposed construction and the report of the city engineer. The planning commission may recommend approval or disapproval of the application. The planning commission may recommend approval subject to such conditions that are necessary and reasonable for the orderly development of the property consistent with sound municipal planning.

Subd. 5. City council action. The city council will review the recommendation of the planning commission and the report of the city engineer and adopt the recommendations that it determines to be necessary and proper as standards for the development of the property. The city council must specifically enumerate the conditions and work to be performed by the applicant. The city council must determine whether the city will undertake to perform all or any part of construction requirements located in the street, taking into consideration available financing and other improvements scheduled; otherwise such work is to be done by the applicant. If the applicant is not able to complete the work requirements or conditions the applicant may, in lieu thereof, enter into an agreement with the city to post a bond of sufficient amount satisfactory to the city guaranteeing the performance of such work requirements and conditions in accordance with plans and specifications approved by the city.

Subd. 6. Policy. The city council may by resolution adopt policies regarding the nature and extent of off-site improvements required under this subsection.

Subd. 7. Definitions. To the extent applicable, the terms and definitions contained in Crystal code (appendix I - zoning), section 515 apply to this chapter.

Section 505 - Subdivision regulations

505.01 Title. This section may be cited and referred to as the Crystal subdivision regulations.

505.03. Subdivision regulations. Subdivision 1. Purpose. The city finds that regulation of the subdivision of real property in the city is necessary for the following purposes:

- a) to insure the orderly, economic, and safe development of land in the city;
- b) to insure the adequate and timely provision of urban services and facilities; and
- c) to protect and promote the public health, safety, and welfare.

Subd. 2. Scope. This section is adopted pursuant to Minnesota Statutes, section 462.358. A proposed subdivision of property in the city must be submitted to the city for review and approval before being filed for record with the appropriate county officer as defined in this section. The provisions of this section apply to property or a project to which the Minnesota condominium law, Minnesota Statutes, chapter 515 applies.

505.05. Restrictions. Subdivision 1. General rule. It is unlawful for a person to convey land or to attempt to file for record a conveyance of land that is described by metes and bounds, or by reference to an unapproved subdivision plat or by reference to an unapproved registered land survey unless otherwise authorized by this section or approved by the council. This provision does not apply to a conveyance of land described in Minnesota Statutes, section 462.358, subdivision 4b.

Subd. 2. Building permits. A building permit or other permit will not be issued by the city for the construction of a building, structure, or other improvement to land in the city unless the requirements of this section have been complied with.

Subd. 3. Taxes. A proposed subdivision of land will not be considered by the city unless past due taxes and special assessments thereon have been paid in full or arrangements for their payment satisfactory to the city have been made.

Subd. 4. Flood hazard. Land will not be subdivided if the council determines that the land is unsuitable for development because of flood hazard unless corrective measures consistent with subsection 515.47 of the zoning code can be feasibly accomplished.

Subd. 5. Conditions. The city council may impose additional conditions on subdivisions where deemed necessary for the protection and promotion of the public health, safety and welfare.

505.07. Conflicts. Where the requirements of this section are either more or less restrictive than comparable requirements imposed by other pertinent laws, ordinances, statutes, or other regulations, the regulations that are more restrictive or impose higher standards govern.

505.09. Definitions. Subdivision 1. For the purposes of this section the terms defined in this subsection have the meanings given them.

Subd. 2. "Alley" means public or private right-of-way designed to serve primarily as a means of secondary access to the side or rear of adjacent properties whose principal frontage is on a street.

Subd. 3. "Applicant" means the owner of land proposed to be subdivided or the owner's designated representative. Where the applicant is not the owner of the land the written consent of the owner is required, accompanied by a statement of the representative's legal interest, if any, in the land.

Subd. 4. "Appropriate county officer" means the county recorder of Hennepin county or the registrar of titles of Hennepin county.

Subd. 5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroads, waterways, other natural barriers, the exterior boundary of the subdivision or any combination of the preceding.

Subd. 6. "Building" means any structure which is built for the support, shelter, or enclosure of persons, animals, or chattels.

Subd. 7. "Comprehensive plan" means the formally adopted comprehensive development plan of the city, composed of maps, charts, diagrams, and text describing and explaining the recommended policies and programs to guide the city's future development and redevelopment.

Subd. 8. "Director" means the person designated by the city manager to administer the provisions of this section.

Subd. 9. "Easement" means a grant by a property owner to either the public or an individual for the use of a portion of the owner's property for certain specified purposes (e.g., drives, utilities, etc.)

Subd. 10. "Lot" means the smallest unit of land created by a subdivision that meets minimal requirements of both this section and the zoning code: each lot is individually depicted and numbered on the subdivision plat.

Subd. 11. "Lot split" means the subdivision of an existing lot of record: this may include creating new lots for building purposes or dividing a lot for combination with existing, adjacent, lots of record.

Subd. 12. "Outlot" means unbuildable land so delineated on a plat.

Subd. 13. "Parcel" means a parcel of land of any legal description or size.

Subd. 14. "Parcel of record" means a parcel of land of any legal description or size that is recorded with the appropriate county officer.

Subd. 15. "Plat, final" means the final, formally approved layout of the proposed subdivision showing the same information as the preliminary plat, complying with the requirements of this section and any additional requirements imposed by the council, and prepared in the form required by the appropriate county officer and by Minnesota Statutes, section 506.

Subd. 16. "Plat, preliminary" means a tentative layout of the proposed subdivision prepared for the purpose of formal review by the city; the preliminary plat shows lots, blocks, streets, and other features relevant to the development of the property, but not in the detail or final form of the final plat.

Subd. 17. "Plat, sketch" means a rough drawing of a proposed subdivision intended for informal review by the city; the sketch plat is not typically drawn as accurately as the preliminary plat and usually does not contain all the information normally required of a preliminary plat.

Subd. 18. "Restrictive covenant" means a contract or agreement entered into between private parties establishing restrictions on the development or use of property other than those established by this section or the zoning code.

Subd. 19. "Street" means a public or private right-of-way designed to serve as a means of principal access to adjacent properties and includes a public or private right-of-way that is not an alley.

Subd. 20. "Subdivision" means, as a verb, the process of separating a parcel of land into two or more parcels for the purpose of building or conveyance including the division of previously subdivided property; as a noun, the term means the product resulting from the separation of a parcel into two or more parcels: the term also includes activity regulated by the Minnesota condominium law.

Subd. 21. "Survey, certified" means a scaled drawing prepared by a registered land surveyor of a parcel indicating the location and dimension of property lines and, if appropriate, the location and dimensions of existing or proposed buildings; a survey visually depicts a parcel's legal description and may also show additional information such as topographic data and the location of recorded easements.

Subd. 22. "Zoning code" means section 515 of this code contained in appendix I (zoning).

Subd. 23. When the term "findings of fact" is used in this section the term means written findings embodied in a resolution of the body making the findings.

505.11. Procedures. Subdivision 1. General. Except as provided in subsection 505.13 when land in the city is proposed to be subdivided, the owner of the land or the owner's authorized representative must apply for and secure approval of the proposed subdivision in accordance with the following procedure:

- a) sketch plat (optional);
- b) preliminary plat; and
- c) final plat.

Subdivision review will be carried out simultaneously and coordinated with applicable flexible zoning regulations and flood plain regulations contained in the zoning code.

505.13. Procedural exceptions. Subdivision 1. Parcel combinations. Combinations of adjacent complete parcels of record may be approved administratively by the director. When a combination is requested for the purpose of obtaining a building permit, or for the purpose of meeting minimum development standards imposed by this section or any other provision of this code, the city must be provided with (i) satisfactory evidence that the combination has been recorded with the appropriate county officer, (ii) a signed, notarized affidavit stating the purpose for which the combination is requested, and (iii) a certified survey of the lots to be combined as deemed necessary by the director. When a combination is requested solely for the purpose of receiving a single tax statement for adjacent parcels, the applicant must present satisfactory evidence that the parcels involved are complete parcels of record. There is no fee for a parcel combination.

Subd. 2. Division; tax parcels. The division of a parcel of record that was combined for the sole purpose of receiving a single tax statement may be approved administratively by the director. The applicant must submit (i) satisfactory evidence that the previous combination was made solely for the purpose of receiving a single tax statement, (ii) satisfactory evidence that the proposed manner of division corresponds to the legal descriptions of the parcels which existed prior to the combination, and (iii) a certified survey of the parcels being divided as deemed necessary by the director to show the lots in the division meet all current code requirements. The director may require that a proposed division of tax combined real estate follow the procedures for either a lot split or a normal subdivision plat. There is no fee for a parcel division.

Subd. 3. Lot splits. Lot splits may be approved by submission of a certified survey and legal description indicating the proposed manner of division, provided that the division can be described in fractional or proportional parts by reference to the legal descriptions existing of record on the date of the request. A lot split will not be approved for a parcel described by metes and bounds. Lot splits require council approval, following review and recommendation by the planning commission. Pursuant to Minnesota Statutes, section 462.358, approval of a lot split by the council is deemed to include waiver of the prohibitions against conveyance of property as contained in subsection 505.05 of this section. Lot splits are approved by the city council following the same hearing procedures required for a normal subdivision. The director may waive the technical information requirements of a normal subdivision determined to be unnecessary. The normal preliminary plat and final plat procedures will be waived. The director may require that a proposed lot split be processed by means of the normal subdivision plat procedure. Submission of a lot split for approval must be accompanied by the same fee required for a plat.

505.15. Sketch plats. Subdivision 1. Submission. When a subdivision of property is proposed, a sketch plat may, in the director's judgment, be prepared and submitted for review. Submission of a sketch plat is not normally required, but is encouraged. The director may require a sketch plat if the proposed subdivision presents substantial problems or difficulties on its face.

Subd. 2. Initiation. Submission of a sketch plat is the initiation of the plat approval process.

Subd. 3. Content. The sketch plat must be a conceptual plan of the proposed subdivision.

Subd. 4. Review and approval. Sketch plats are reviewed by the director and, upon the request or approval of the applicant, by the planning commission. Sketch plat review is for the purpose of identifying potential problems, suggesting design considerations and otherwise discussing the requirements of this section, other ordinances and the comprehensive plan and their objectives as they apply to the parcel of land contained in the application. The review of a submitted sketch plat is for purposes of discussion and comment only. The applicant may not infer any future approval of a preliminary or final plat based upon the sketch plan review. Vested rights to a particular subdivision plan do not accrue because of favorable comments made by either the director or the commission.

505.17. Preliminary plats. Subdivision 1. Submission. Except as provided in subsection 505.13, when a subdivision of property is proposed, a preliminary plat must be prepared and submitted by the applicant for approval. Requests for review and approval of preliminary plats are filed with the director on an approved application form, accompanied by ten copies of the plat and other required information items. Application must be made at least two weeks prior to the planning commission meeting at which formal action is requested.

Subd. 2. Fee. The fee for preliminary plat review and approval is set in appendix IV.

Subd. 3. Content. The application must include the following:

- a) a location map outlining the area to be subdivided and its relation to the remainder of the city.
- b) a location map outlining the area to be subdivided and its relation to adjacent properties.
- c) the names and addresses of owners of property located within 350 feet of the exterior boundaries of the proposed subdivision.
- d) an existing site schematic, drawn to the same scale as the preliminary plat, showing:
 - 1) north arrow, scale, and acreage of the subject property;
 - 2) existing topographic contours at intervals of five feet or less, as determined by the director, for the property and adjacent properties;
 - 3) existing streets, utilities, and public facilities (e.g., schools, parks, etc.) on the property and adjacent properties;
 - 4) unusual topographic or physiographic features, including, but not limited to, waterways, steep slopes, wooded areas, etc.;
 - 5) existing easements, public and private, on the property and the purposes for which they are provided.
- e) a preliminary plat drawn to a scale of not greater than one inch to 100 feet (1" = 100') embodying the design standards provided for by subsection 505.31 showing:
 - 1) north arrow and scale;
 - 2) names and addresses of persons who prepared the plat;
 - 3) proposed topographic contours at the same interval as contained on the existing site schematic;

- 4) proposed streets, utilities, and public facilities on the property and, where appropriate, the manner of coordination of these items with adjacent properties;
- 5) proposed layout of lots and blocks including approximate dimensions of each and manner of numbering;
- 6) name of the proposed subdivision;
- 7) proposed easements or existing easements to be maintained and the purpose for which they are provided; and
- 8) other information deemed necessary by the director.

Subd. 4. Preliminary plats; review. Preliminary plats must be reviewed by the planning commission. The commission must hold a public hearing on the proposed subdivision. Notice of the public hearing must be published as provided by law. Individual notices of the public hearing must be mailed to each owner of record of property located within 350 feet of the exterior boundaries of the proposed subdivision at least five days prior to the public hearing. Failure of a property owner to receive the notice does not invalidate the proceedings. The publication and mailing notice process is performed by the city.

Subd. 5. Reports. The director, upon submission of a preliminary plat for review and approval, must prepare a report on the proposal for the planning commission and council. Copies of the report and the submissions of the applicant must be provided to the planning commission at least five days prior to the public hearing. The report must be entered in and made a permanent part of the record of the public hearing.

Subd. 6. Conduct of hearing. At the public hearing the planning commission will consider the report and recommendation of the director along with the comments of members of the public. The planning commission may question the applicant regarding the proposal, request additional information of the applicant, or retain expert testimony at the expense of the applicant.

Subd. 7. Actions. The planning commission acts on the proposed subdivision in one of the following ways:

- a) recommends approval of the preliminary plat as submitted to the council;
- b) recommends approval of the preliminary plat with modifications or conditions to the council;
- c) recommends denial of the preliminary plat to the council;
- d) postpones action on the preliminary plat to the next regular meeting of the planning commission or to a later date agreed to by the applicants; or

- e) with the consent of the applicant, tables action on the preliminary plat.

Subd. 8. Procedure. Unless postponed or tabled the recommendation of the planning commission with findings of fact is forwarded to the council for its consideration. If the planning commission postpones consideration of the proposed subdivision, the applicant must be provided with a written statement of the reasons for such action and the facts on which the action is based. A preliminary plat may not be postponed more than once without the consent of the applicant, and may only be postponed to the next regular meeting of the planning commission or to a later date agreed to by the applicant. Following initial postponement or failure of the applicant and commission to agree to a satisfactory later date, the applicant may request the planning commission to forward the preliminary plat with or without recommendation to the council for consideration. A decision to forward the preliminary plat without recommendation is at the discretion of the planning commission. The commission may table the preliminary plat only with the consent of the applicant. Thereafter, the planning commission will consider the proposed subdivision at a regular meeting requested by one of its members or by the applicant.

Subd. 9. Schedule. The preliminary plat must be forwarded to the council after consideration of the plat by the planning commission. Consideration of the preliminary plat by the council must be scheduled not more than 30 days following the date the plat was forwarded by the planning commission, unless otherwise agreed to by the applicant. The council must be provided with copies of the director's report, the submissions of the applicant, the minutes of the commission's public hearing including the commission's findings of fact. These items will be made a permanent part of the record of the meeting of the council.

Subd. 10. Council consideration. The council may hold a public hearing as part of its deliberations on the proposed subdivision. If the council determines to hold a public hearing, the procedures of subsection 505.17 must be complied with. The council may question the applicant regarding the proposal, to request additional information of the applicant, or to retain expert testimony at the expense of the applicant.

Subd. 11. Council action. The council acts on the proposed subdivision in one of the following ways:

- a) approves the preliminary plat as submitted;
- b) approves the preliminary plat with modifications or conditions;
- c) disapproves the preliminary plat;
- d) postpones action on the preliminary plat to the next regular meeting of the council or to such later date agreed to by the applicant; or
- e) with the consent of the applicant, tables action on the preliminary plat.

Subd. 12. Findings. Action by the council approving, approving with modifications, or disapproving a preliminary plat must be accompanied by findings of fact. The applicant must be provided with written documentation of the council's action stating the reasons for the council's decision. If the council postpones consideration of the proposed subdivision, the applicant must be provided with a written statement of the reasons for that action. A preliminary plat may not be postponed more than once without the consent of the applicant, and must be postponed to the next regular meeting of the council, or a later date agreed to by the applicant. Following initial postponement or failure of the applicant and council to agree upon a later date, the applicant may request that the council act to approve, approve with modifications, or disapprove the preliminary plat, unless the preliminary plat is postponed or tabled. Failure of the council to act on the preliminary plat within 60 days of receipt of the preliminary plat is approval of the plat. The council, with the consent of the applicant, may table the preliminary plat and thereafter the council will consider the proposed subdivision at a regular council meeting as requested by a councilmember or by the applicant.

Subd. 13. Time limit. Approval of a preliminary plat is valid for one year from the date of the approval, unless prior to or within that one year period an extension is granted by the council. If after the one year period or extension thereof a final plat has not been submitted for review and approval, the approval of the preliminary plat is void.

505.19. Final plats. Subdivision 1. Submission. Upon approval or approval with modifications of the preliminary plat by the council the applicant may proceed to prepare the final plat for review and approval. Except as provided in subsection 505.13, a final plat is required for all subdivisions. Requests for review and approval of final plats are filed with the director on an approved application form, accompanied by ten diazo reproduction copies of the final plat and any other required submissions. Application must be made at least two weeks prior to the council meeting at which formal action is requested.

Subd. 2. Fee. The fee for final plat review and approval is set by appendix IV.

Subd. 3. Final plat; form. Final plats must be prepared at a scale not less than one inch to 100 feet (1" - 100'), and consistent with Minnesota Statutes, section 505 and rules of the appropriate county officer. Two exact transparent reproducible copies of the final plat must be submitted for official certification and execution by the city. Multiple sheets with match lines and master index may be used. The final plat must be consistent with the approved preliminary plat and must comply with all conditions or modifications imposed by the council. The final plat must also include the following:

- a) primary control points approved by the appropriate county officer, or descriptions to such control points, by which all dimensions, angles, bearings, and similar data on the plat referenced;
- b) boundary lines; right-of-way lines for all streets and alleys; easements; and property lines with accurate dimensions, bearings, deflection angles, radii, arcs, central angles or curves;

- c) names of rights-of-way and the width of each;
- d) location and description of monuments to be placed or maintained;
- e) certification as to accuracy of the plat by a certified surveyor;
- f) language dedicating for public use any streets or other rights-of-way, easements, parks, or other public lands or ways required by this section or imposed as a condition of approval by the council; and
- g) spaces for certification of approval to be signed by the mayor and clerk and official seal of the city.

Subd. 4. Final plat; content. The final plat must be accompanied by the following items if required by the director:

- a) an abstract of title or certificate of title for the land contained in the proposed subdivision;
- b) an express written, irrevocable offer of dedication of all public streets, municipal uses, utilities, parks, public easements, etc. as shown on the final plat;
- c) a warranty deed and title policy in the name of the city, for each parcel proposed for dedication (the title policy will be in an amount determined necessary by the city), and if required by the director a title opinion from the city attorney;
- d) as may be required by subsection 505.23, a letter of credit, cash escrow deposit, or other security determined acceptable by the attorney in an amount equal to 100% of the engineer's estimate of the costs for improvements required to be installed by the subdivider; and
- e) as may be required by subsection 505.23, a contract establishing the subdivider's obligation to complete the required improvements.

Subd. 5. Final plat; review; approval. The director will compare the final plat with the preliminary plat and conditions or modifications imposed by the council. The attorney will examine the abstract of title or certificate of title to ascertain that the land contained within the proposed subdivision is in the name of the applicant and that it is free and clear of all encumbrances or liens. The attorney will also review the offers of dedication and warranty deeds attached thereto. The director will review the final plat for accuracy in its preparation and compliance with the design standards provided for by subsection 505.37. The engineer will certify that the financial surety, if required, is of sufficient amount.

Subd. 6. Final plat; council consideration. Upon completion of the review of the final plat and submissions by the director and city attorney, the director must schedule the final plat for consideration of the council. If the review of the final plat by the director or attorney identifies deficiencies in the final plat or the required submissions, the applicant will be notified by the director. Noted deficiencies must be corrected prior to consideration of the final plat by the council. Unless deficiencies in the final plat or required submissions have been noted, the final plat must be scheduled for council consideration no later than 60 days after its submission to the director.

Subd. 7. Final plat; council action. When considering the final plat the council must be provided with certifications by the director and city attorney that the final plat and required submissions conform to the requirements of this section. The council must then act to approve or disapprove the final plat. The council's action must be based upon findings of fact, and the applicant will be provided with written documentation of the council's action. The council may postpone or table consideration of the final plat. Unless the final plat is postponed or tabled, failure of the council to act on the plat within 60 days of the receipt of the final plat is approval.

Subd. 8. Final plat; execution. The mayor and city clerk must affix their signatures and the official seal of the city to the final plat. The council must accept by separate resolution the lands and improvements offered for public dedication. The applicant must file approved subdivisions and all accompanying legal documents with the appropriate county officer. If the final plat is not recorded within 90 days after its approval by the council the plat is void.

505.21. Required improvements. Subdivision 1. Responsibility. The subdivider is responsible for completing the improvements required by this section and as stipulated by the council in its approval of the final plat. The required improvements must be constructed in compliance with the design standards of subsection 505.31 and completed to the satisfaction of the director.

Subd. 2. Required improvements. Unless waived pursuant to subdivision 3, the following improvements must be completed and paid for by the subdivider as approved in the development contract:

- a) curb and gutter;
- b) sidewalks;
- c) watermains;
- d) sanitary sewers;
- e) utility services;
- f) street paving;
- g) alley paving;

- h) storm sewers and culverts;
- i) bridges;
- j) pedestrian paths and walks;
- k) monuments;
- l) ornamental street lights;
- m) necessary approved alterations to natural drainage ways;
- n) temporary street signs;
- o) reforestation and landscaping;
- p) miscellaneous items as agreed upon by the city council and the subdivider;
- q) miscellaneous items as contained in the design standards provided for by subsection 505.31.

Subd. 3. Waiver. The council may waive required improvements deemed to be necessary or which the city may itself undertake. The city may construct the improvements as public improvements and assess all or part of the cost thereof against benefitted properties. A waiver must be requested by the subdivider and must be considered by the council at the time of preliminary or final plat approval.

Subd. 4. Required plans. Prior to the commencement of construction of any required improvements, the subdivider must submit sufficiently detailed plans, profiles, and specifications for the required improvements for the review and approval of the engineer. The plans, profiles, and specifications must comply with the design standards of subsection 505.31 and other provisions of this code. The subdivider is responsible for obtaining permits required for construction of the improvements.

505.23. Improvements; bond. Subdivision 1. Form. The subdivider must provide the city with a letter of credit, cash escrow, or other acceptable security in an amount equal to 100% of the director's estimate of costs for the required improvements. The surety must be submitted simultaneously with the request for approval of the final plat. The surety must (i) name the city as obligee, (ii) specify the improvements that the surety secures, and (iii) stipulate that the surety secures the dedication of all the specified improvements and land, as required by the council, free and clear of encumbrances and liens. The subdivider may submit separate sureties for separate required improvements. Prior to approval of the final plat by the council the city attorney must review the submitted bond, or other security, as to its conformance with statutory provisions, form, sufficiency, and manner of execution. The required bond must be furnished in addition to a standard form development contract.

Subd. 2. Waiver. The council may waive the requirement that the subdivider provide a bond or other security. In such case the council must be provided with a signed, legally enforceable development contract specifying the required improvements and the subdivider's responsibility to complete them. The development contract must also specify that the city may undertake completion of the required improvements and assess the cost of same against the land contained in the subdivision upon failure of the applicant to satisfactorily complete the improvements. The contract must stipulate an agreed upon date for completion of the required improvements not later than two years from the date of approval of the development contract. The contract must be submitted at the time of final plat consideration by the council. The council may either waive the required bond submission and subsequently approve the development contract or require that a bond be submitted prior to approval of the final plat. If the development contract is accepted by the council, the approval of the final plat is conditional pending satisfactory completion of the required improvements. If the security is waived and a development contract is submitted the final plat may not be signed or recorded until the required improvements have been completed to the satisfaction of the director.

Subd. 3. Governmental units. Governmental units to which these bond and contract requirements apply may file in lieu of the bond or contract a certified resolution, from the officers or agencies empowered to act on their behalf, agreeing to comply with the provisions of this subsection.

505.25. Improvements; completion. Subdivision 1. Time. Required improvements must be completed within a time period specified by the council. At the request of the subdivider and on the recommendation of the planning commission, the council may extend the completion deadline for a period of one year provided the term of the required security is extended.

Subd. 2. Quality. The subdivider must request inspection of completed improvements by the director. The director will inspect improvements for compliance with the approved final plat, the submitted plans, profiles, and specifications for the improvements and the quality of their construction. Upon a finding that the improvements have been satisfactorily completed, the director must certify their completion by letter to the subdivider and the council. Upon a finding that improvements have not been satisfactorily completed, the director must certify the deficiencies by letter to the subdivider and the council.

Subd. 3. Remedies. If the required improvements have not been satisfactorily completed by the completion deadline, the council may:

- a) extend the deadline for completion of the improvements for a period of not to exceed one year;
- b) declare any submitted bonds or other securities in default and apply funds obtained from such to complete the required improvements;
- c) declare the development contract, if such has been entered into, to be violated and thereupon undertake to complete the required improvements, assessing the cost of same against the land contained in the subdivision; or

- d) when no improvements have been commenced, rescind its previous approval of the final plat and, if the plat has been recorded, undertake necessary action to vacate the plat or the public rights-of-way contained therein.

Subd. 4. Bond waiver. If the bond requirement has been waived and a development contract entered into, the director must certify satisfactory completion of the required improvements prior to the execution of the final plat by the mayor and clerk.

Subd. 5. Building permits. A building permit for private construction may not be issued for land in a subdivision for which the final plat has not been recorded with the appropriate county officer. A building permit for private construction may not be issued for more than 60% of the lots or dwelling units contained in a subdivision for which all required improvements have not been completed. When the subdivision is to be accomplished in stages this requirement applies to each phase.

Subd. 6. Release. Bonds or other security held by the city to secure required improvements will be released one year following the date of certification of satisfactory completion of the improvements by the director.

505.27. Land dedication, easements, and covenants. Subdivision 1. Dedications. The council may require dedication of public improvements and lands designated on the plat or intended for public use. The city may require reservations and dedications for improvements that are not to be undertaken or completed immediately or as part of an approved subdivision. These requirements include, but are not limited to, lands for public utilities, streets, and park and recreation facilities. The city may approve or disapprove the locations of lands proposed for dedication pursuant to this subsection. The provisions of section 510 apply to these dedications.

Subd. 2. Streets. The final plat must indicate the location and reservation of rights-of-way, public and private, in the proposed subdivision.

Subd. 3. Utilities. The city requires that easements be provided for the location of public utilities and that proper legal instruments accomplishing that be provided prior to the approval of final plat. The final plat must show the location of the easements to be located in conformance to the design standards provided for by subsection 505.31. The city may require the dedication of certain lands in fee simple for public utility use where deemed necessary or desirable in the public interest. In such case the dedication will be accomplished by submission of a warranty deed and a written irrevocable offer of dedication prior to approval of the final plat. Unless authorized by the city council, private water, sanitary, or storm sewer facilities may not be constructed within a proposed subdivision to meet the requirements of this subsection.

505.29. Plats; restrictive covenants. Restrictive covenants may not appear on the face of a plat. The council may not impose a condition in the form of a restrictive covenant as part of its approval of a final plat.

505.31. Plats; design standards. Subdivision 1. Adoption. The director must prepare a set of comprehensive, detailed design standards and guidelines for platting. The design standards must be submitted to the council for approval by resolution.

Subd. 2. Application of standards. The design standards apply to property, lands, structures, or projects regulated by this section and are the minimum requirements for the design and development of subdivisions or projects. The council may waive any design standards as part of its approval of final plat when it finds that the public interest will not be adversely affected thereby. The council may impose additional or more restrictive design standards as part of its approval of final plat where a finding is made that the public interest will be served thereby.

Subd. 3. Amendment. The design standards may be amended as necessary in the same manner as adopted. Proposed subdivisions for which the final plat has not yet been approved are subject to any adopted amendment of the design standards.

Subd. 4. Copies. Copies of the design standards will be provided to all interested parties on request at a reasonable charge.

505.33. Variances; appeals; procedures. Subdivision 1. Authority. The council may consider and grant variances to the provisions of this section when it finds that unusual hardship on the land or practical difficulties related to the land would result from the strict application of the provisions of this section. The council may review and rule upon appeals by an affected property owner where it is alleged that there has been an error in the interpretation or application of the provisions of this section. Variances and appeals will be processed in accordance with subsection 515.55 of the zoning code.

505.35. Fees required. Subdivision 1. Basic fee. In order to defray the administrative costs of processing requests for review and approval of sketch plats, preliminary plats, final plats, variances, appeals, or amendments a base fee as described in appendix IV is required.

Subd. 2. Additional cost. In order to defray the additional costs of processing requests for applications submitted pursuant to the provisions of this section, additional costs for staff and consulting time and materials expended by the city in the processing of the applicant's requests may be required of the applicant.

505.37. Enforcement and penalties. Subdivision 1. Director. The director must enforce the provisions of this section and bring to the attention of the city attorney any violations or lack of compliance with this section.

Subd. 2. Permits. A building permit may not be issued for property found to be in violation of this section until the violation has been corrected.

Section 510 - Park dedication

510.01. Dedication required. A reasonable portion of the buildable land to be divided must be dedicated to the public or preserved for public use as parks, playgrounds, trails, or open space. "Buildable land" means the gross acreage of all property in the proposed plat or subdivision excluding wetlands designated by federal or state agencies, wetlands classified by the Wetland Conservation Act, as amended, state or county rights of way, and steep slopes as defined by the zoning ordinance. This requirement applies to plats, subdivisions, or lot divisions that (i) create at least one additional lot, or (ii) combine lots for the purpose of development involving changed or mixed land uses or the intensification of uses, or (iii) consist of a planned development as defined and regulated by the zoning code. The dedication requirements are not satisfied if the city reasonably determines that the land proposed for dedication is unsuitable for public recreational use. The dedication required by this section is in addition to dedication required for streets, roads, utilities, storm water ponding areas, or similar utilities and improvements. Previously subdivided property from which a park dedication has been received, being resubdivided with the same number of lots, is exempt from park dedication requirements. If, as a result of subdividing the property, the number of lots is increased, then the park dedication fee applies only to the net increase of lots. (Amended, Ord. 2008-06, Sec. 1)

510.03. Amount required. The amount of land required for dedication is based upon the buildable land area and equals the land the city reasonably finds it will need to acquire for park or other recreational purposes as a result of approval of the land division. Generally, 10% of the buildable land area to be subdivided must be dedicated for residential subdivisions and 5% for commercial and industrial subdivisions. (Amended, Ord. 2008-06, Sec. 1)

510.05. Cash payment in lieu of dedication. The city may require a cash payment in lieu of land dedication. In determining whether to require payment or dedication, the council will consider such factors as whether park land is needed in the proposed location, whether the proposed dedication is suitable for the intended use, and whether a cash payment would be more beneficial to development of the entire park system. (Amended, Ord. 2008-06, Sec. 1)

510.07. Amount of cash payment. The cash payment in lieu of dedication is determined by the fair market value of the buildable land as determined by the city Assessor at the time of final plat approval, including the value added by existing utilities, streets and other public improvements serving the property but excluding the value added by all other existing improvements to the land. The amount of the cash payment shall be 2% of the fair market value as determined by the assessor. The cash payment is for each lot in residential subdivisions and for each acre in commercial and industrial subdivisions as set out in the fee schedule. (Amended, Ord. 2006-08, Sec. 1; Ord. 2008-06, Sec. 1)

510.09. Park and open space fund. Cash payments in lieu of dedication are payable no later than at the time of final subdivision approval. The payment must be placed in a special fund established by the city to be used solely for the purposes of acquisition and development or improvement of parks, playgrounds, trails, or open space. (Amended, Ord. 2008-06, Sec. 1)

510.11. Partial dedication. The City may accept a dedication of land in an amount less than that specified in subsection 510.03 and require a cash payment equivalent to the balance of the dedication requirement. The partial cash payment is determined by subtracting the percentage of land actually dedicated from the percentage of land required to be dedicated under subsection 510.03, and applying the resulting percentage to the fair market value of the buildable land. (Amended, Ord. 2008-06, Sec. 1)

510.13. Credit for private land. A credit of up to 25% of the dedication requirements may be awarded for park and open space that is to be privately owned and maintained by the future residents of the subdivision. A credit will not be awarded unless the following conditions are met:

- a) private open space may not be occupied by nonrecreational buildings and must be available for the use of all the residents of the proposed subdivision;
- b) required building setbacks will not be included in computation of private open spaces;
- c) use of the private open space must be restricted for park, playground, trail, or open space purposes by recorded covenants that (i) run with the land in favor of future owners of property within the subdivision and (ii) cannot be defeated or eliminated without the consent of the city council;
- d) the private open space will be of a size, shape, location, topography, and useability for park or recreational purposes, or contain unique features which are important to be preserved; and
- e) the private open space must reduce the demand for public recreational facilities or public open space occasioned by development of the subdivision.

510.15. In establishing the portion to be dedicated or preserved, or the cash fee in lieu thereof, the city shall give due consideration to the open space, recreational, or common areas and facilities open to the public that the applicant proposes to reserve in the subdivision. (Added, Ord. 2008-06, Sec. 1)

Section 515 - Zoning

(The Zoning Code is contained in Appendix I)

Section 520 – Site and building plan review

(Added, Ord. No. 95-2)

520.01. Purpose. It is the intent of this section to serve the public interest by promoting a high standard of development within the city. Through a comprehensive review of both functional and aesthetic aspects of new or intensified development, the city seeks to accomplish the following:

- a) implement the comprehensive plan;
- b) maintain and improve the city's tax base to a reasonable extent;
- c) mitigate to the extent feasible adverse impacts of one land use upon another;
- d) promote the orderly and safe flow of vehicular and pedestrian traffic; and
- e) preserve and enhance the natural and built environment.

520.03. Approval required. Except as provided in subsection 520.05 without first obtaining site and building plan approval it is unlawful to do any of the following:

- a) construct a building;
- b) move a building to any lot within the city;
- c) expand or change the use of a building or parcel of land or modify a building, accessory structure or site or land feature in any manner which results in a different intensity of use, including the requirement for additional parking;
- d) grade or take other actions to prepare a site for development, except in conformance with a permit or an approved plan; or
- e) remove earth, soils, gravel or other natural material from or place the same on a site, except in conformance with a permit or an approved plan.

520.05. Exceptions. The following do not require site or building plan approval:

- a) construction or alteration of a single family residential building or accessory building;
- b) enlargement of a building by less than 10% of its gross floor area, provided that there is no variance involved and also provided that the director of community development has conducted an administrative review pursuant to subsection 520.15.

- c) changes in the leasable space of a multi-tenant building where the change does not intensify the use, require additional parking, or result in an inability to maintain required performance standards; or
- d) construction or alteration of any use permitted within the R-2 district, unless required by the planning commission or city council at the time of rezoning or plat approval.

520.07. Review procedure. Subdivision 1. Application. Application for a site and building plan review is made to the director of community development on forms provided by the city and must be accompanied by the following:

- a) a plat or map of the property showing the proposed improvements;
- b) a list of the names and addresses of the owners of properties situated wholly or partially within 350 feet of the property as such appear on the certified records of the Hennepin County Taxpayer Services Division Manager;
- c) evidence of ownership or an interest in the property;
- d) the fee required by appendix IV;
- e) complete site and building elevations and footprint plans, signed by a registered architect, civil engineer, landscape architect or other appropriate design professional; and
- f) such other information as may be required by the city.

Subd. 2. Plan amendment. An application for a site and building plan review on a parcel for which the zoning is contrary to the land use designation in the comprehensive plan must be accompanied by an application for an amendment to the comprehensive plan. If an environmental assessment worksheet is required, no site and building plan approval will be granted until the environmental assessment worksheet has been received and a negative declaration for an environmental impact statement has been made by the city council.

Subd. 3. EIS. If an environmental impact statement is required, no site and building plan may be approved until the environmental impact statement has been prepared.

Subd. 4. Review committee. Upon submittal of the required materials, the application must be reviewed by the staff development review committee. A staff report must be prepared and mailed to the applicant, detailing any additional requirements before setting a public hearing date.

520.09. Standards. In evaluating a site and building plan, the planning commission and city council must consider the plan's compliance with the following:

- a) consistency with the elements and objectives of the city's development guides, including the comprehensive plan, general building requirements, subsection 515.07 and stormwater management plan;
- b) consistency with this section;
- c) preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas;
- d) creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;
- e) creation of a functional and harmonious design for structures and site features, with special attention to the following:
 - 1) an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;
 - 2) the amount and location of open space and landscaping;
 - 3) materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and
 - 4) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.
- f) promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and
- g) protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sign buffers, preservation of views, light and air and those aspects of design not adequately covered by other regulations that may have substantial effects on neighboring land uses.

520.11. Planning commission review. Upon receipt of a completed application, a date will be set for planning commission consideration. The review will be held no fewer than ten days after mailed notice is sent to the owners of properties located wholly or partially within 350 feet of the site, as reflected in the certified records of the Hennepin County Taxpayer Services Division Manager. Following the hearing or any continuance thereof which is not appealed by the applicant, the planning commission must make a recommendation to the city council regarding the matter.

520.13. Multiple applications. A site and building plan application that is accompanied by a request for a conditional use permit or for a zoning map amendment must be considered by the planning commission concurrently with the conditional use permit or rezoning application.

520.15. Administrative approvals. Subdivision 1. Director. Site and building plans that do not involve a variance and that are not accompanied by other matters requiring consideration by the planning commission or city council may be approved by the director of community development. If any application is processed administratively, the director of community development must render a decision within 30 days after the application is made and serve a copy of the decision upon the applicant by mail.

Subd. 2. Appeal. Any person aggrieved by a decision of the director of community development may appeal the decision to the planning commission in the manner specified in section 515.56 of the zoning code.

520.17. Term of approval. Subdivision 1. Commencement of construction. Construction of the building or initiation of the use must begin no later than December 31 of the year following the year in which site and building plan approval is granted. After the expiration of such period the approval is null and void unless the city council grants an extension of time or a building permit has been issued and substantial work performed on the project.

Subd. 2. Extension. Upon request by the applicant, the city council may grant a one-year extension of time for a site and building plan approval following compliance with the notice and public hearing requirements of this section. The city may decline to grant an extension if there has been a change in circumstances affecting the property or if there are other reasons to justify the denial. A change in circumstance may be an approved modification to the comprehensive guide plan, substantial changes to the surrounding development pattern or other items as determined by the city.

Subd. 3. Three extensions. Three consecutive one-year extensions constitutes conclusive proof that the development has not made adequate progress toward completion, and no further extensions may be granted.

520.19. Conditions. The planning commission, city council or director of community development may impose conditions in granting approval to site and building plans to carry out the intent of this section or to protect adjacent properties.

520.21. Specific project. Site and building plans are valid only for the project for which approval is granted. Construction of all site elements must be in substantial compliance with the plans and specifications approved by the planning commission, city council or director of community development.

520.23. Architectural standards. Subdivision 1. Intent. It is not the intent of the city to restrict design freedom unduly when reviewing project architecture in connection with a site and building plan. However, it is in the best interest of the city to promote high standards of architectural design and compatibility with surrounding structures and neighborhoods.

Architectural plans must be prepared by an architect or other qualified person acceptable to the director of community development and show the following:

- a) elevations of all sides of the building;
- b) type and color of exterior building materials;
- c) a typical floor plan;
- d) dimensions of all structures; and
- e) the location of trash and recycling containers and of heating, ventilation and air conditioning equipment.

Subd. 2. Exterior materials. Blank walls, unadorned prestressed concrete panels, concrete block, unfinished metal and corrugated metal are not permitted as exterior materials for residential or non-residential buildings. This restriction does not apply to industrial uses, provided that adequate screening is included in the design. This restriction applies to principal structures and to accessory buildings except those accessory buildings not visible from any exterior property line. The city council may, at its discretion, allow architecturally enhanced block or concrete panels. (Amended, Ord. No. 2000-04, Sec. 1)

Subd. 3. Mechanical equipment. Rooftop or ground mounted mechanical equipment and exterior trash and recycling storage areas must be enclosed with materials compatible with the principal structure. Low profile, self-contained mechanical units that blend in with the building architecture are exempt from the screening requirement.

Subd. 4. Utilities. Underground utilities must be provided for new and substantially renovated structures.

520.25. Landscape plan requirements. Landscape plans must be prepared by a landscape architect or other qualified person acceptable to the director of community development, drawn to a scale of not less than one inch equals 50 feet and must show the following:

- a) boundary lines of the property with accurate dimensions;

- b) locations of existing and proposed buildings, parking lots, roads and other improvements;
- c) proposed grading plan with two foot contour intervals;
- d) location, approximate size and common name of existing trees and shrubs;
- e) a planting schedule containing symbols, quantities, common and botanical names, size of plant materials, root condition and special planting instructions;
- f) planting details illustrating proposed locations of all new plant material;
- g) locations and details of other landscape features including berms, fences and planter boxes;
- h) details of restoration of disturbed areas including areas to be sodded or seeded;
- i) location and details of irrigation systems; and
- j) details and cross sections of all required screening.

520.27. Minimum landscaping requirements. Subdivision 1. Plan. Open areas of a lot that are not used or improved for required parking areas, drives or storage must be landscaped with a combination of overstory trees, understory trees, shrubs, flowers and ground cover materials. The plan for landscaping will include ground cover, bushes, shrubbery, trees, sculpture, foundations decorative walks or other similar site design features or materials in a quantity having a minimum value in conformance with the following table:

<u>Project Value</u>		<u>Minimum Landscape Value</u>
(Including building construction, site preparation, and site improvements)		
Below \$1,000,000	=	2%
\$1,000,001 - \$2,000,000	=	\$20,000 + 1% of Project Value in excess of \$1,000,000
\$2,000,001 - \$3,000,000	=	\$30,000 + 0.75% of Project Value in excess of \$2,000,000
\$3,000,001 - \$4,000,000	=	\$37,500 + 0.25% of Project Value in excess of \$3,000,000
Over \$4,000,000	=	1%

Where healthy plant materials of acceptable species exist on a site prior to its development, the application of the standards in this subdivision may be adjusted by the city council to allow credit for such material, provided that such adjustment is consistent with the intent of this section. The city may permit the seeding of areas reserved for future expansion of the development if consistent with the intent of this section.

Subd. 2. Trees. A reasonable attempt must be made to preserve as many existing trees as is practicable and to incorporate them into the site plan.

Subd. 3. Overstory trees. New overstory trees must be balled and burlapped or moved from the growing site by tree spade. Deciduous trees must have a minimum caliper of 2 1/2 inches. Coniferous trees will be a minimum of six feet in height. Ornamental trees must have a minimum caliper of 1 1/2 inches.

Subd. 4. Uncovered areas. Site areas not covered by buildings, sidewalks, parking lots, driveways, patios or similar hard surface materials must be covered with sod or an equivalent ground cover approved by the city. This requirement must not apply to site areas retained in a natural state.

Subd. 5. Sprinkler system. In order to provide for adequate maintenance of landscaped areas, an underground sprinkler system must be provided as part of each new development, except one and two-family dwellings and additions to existing structures that do not at least equal the floor area of the existing structure. A sprinkler system must be provided for landscaped areas except areas to be preserved in a natural state.

Subd. 6. Trees: species. Not more than 50% of the required number of trees must be composed of one species. The following trees are prohibited:

- a) a species of the genus *Ulmus* (elm), except those elms bred to be immune to Dutch elm disease;
- b) box elder;
- c) a species of the genus *Populus* (poplar); or
- d) female ginko.

520.29. Internal parking lot landscaping. Subdivision 1. Parking stalls. Parking lots containing over 150 stalls must be designed to incorporate unpaved, landscaped islands in number and dimension as required by the city. Landscape islands must contain a minimum of 180 square feet. Islands that are necessary to promote the safe and efficient flow of traffic are not subject to the "150 stall" standard and may be omitted. Parking lot landscape areas must cover at least 8% of the surface in which they are contained.

Subd. 2. Landscape areas. Parking lot landscape areas, including landscape islands, must be reasonably distributed throughout the parking lot area so as to break up expanses of paved areas. Parking lot landscape areas must be provided with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch or shrubbery as determined appropriate by the planning commission. Parking lot landscape trees must be provided at the rate of one tree for each 15 surface parking spaces provided, or major fraction thereof. Parking lot landscaping must be contained in planting beds bordered by a raised concrete curb or equivalent approved by the planning commission.

520.31. Maintenance of landscaping. The owner, tenant and their respective agents are jointly and severally responsible for the maintenance of all landscaping in a condition presenting a healthy, neat and orderly appearance and free from refuse and debris. Plants and ground cover that are required by an approved site or landscape plan and which have died must be replaced within three months of notification by the city. However, the time for compliance may be extended up to nine months by the director of community development in order to allow for seasonal or weather conditions.

520.33. Retaining walls. Retaining walls must be constructed in accordance with plans prepared by a registered engineer or landscape architect in conformance with the uniform building code.

520.35. Landscaping bond required. Subdivision 1. Improvements. When screening, landscaping or other similar improvements to property are required a performance bond is required in accordance with the provisions set forth in subsection 515.53, subdivision 3 d) of the zoning code.

Subd. 2. Completion of work. In the event construction of the project is not completed within the time prescribed by building permits and other approvals, the city may, at its option, complete the work required at the expense of the owner and the surety.

Subd. 3. Extension. The city may allow an extended period of time for completion of all landscaping if the delay is due to conditions which are reasonably beyond the control of the developer. Extensions not exceeding 270 days, may be granted due to seasonal or weather conditions. If an extension is granted, the city may require additional security as appropriate.

520.37. Screening and buffering. Subdivision 1. Certain uses. The following uses must be screened or buffered in accordance with the requirements of this subdivision:

- a) Principal buildings and structures and any building or structure accessory thereto located in any business, industrial or planned unit development district containing non-residential uses must be buffered from lots used for any residential purpose.

- b) Principal buildings and structures and any building or structure accessory thereto located in any R-4, R-0, or planned unit development district containing residential development at densities exceeding five units per acre must be buffered from lots located in any R-1, R-2, or R-3 district.
- c) Off-street parking facilities containing five or more spaces must be buffered from streets located within 25 feet, and from lots that are used for a residential purpose.
- d) Loading docks must be screened from lot lines and public roads.
- e) Trash and recycling storage facilities must be screened from lot lines and public roads.
- f) Outside storage in business and industrial districts that is allowed by other provisions of this code must be screened from all public views.

Subd. 2. Materials. Required screening or buffering may be achieved with fences, walls, earth berms, hedges or other landscape materials. Walls and fences must be architecturally harmonious with the principal building. Earth berms may not exceed a slope of 3:1. The screen must be designed to employ materials that provide an effective visual barrier.

Subd. 3. Location. Required screening or buffering must be located on the lot occupied by the use, building, facility or structure to be screened. No screening or buffering may be located on a public right of way or within eight feet of the traveled portion of a street or highway, nor within 25 feet of a corner safety zone as set forth in subsection 515.07, subdivision 8 b) of the zoning code.

Subd. 4. Height. Required screening or buffering must be of a height needed to accomplish the goals of this section. Height of plantings required under this section must be measured at the time of installation.

Section 525 – Cemeteries
(Renumbered, Ord. No. 95-2)

525.01. Establishment. A cemetery or place of burial of the dead may not be established or set apart in the city and a cemetery may not be enlarged or extended without the consent of the council after favorable recommendation of the planning commission.

525.03. Burial permits. A permit may not be issued for the interment of any dead body or the disposal of the remains of the dead except in a cemetery existing on July 28, 1949 or one thereafter licensed according to the provisions of this section.

525.05. Application for cemetery license. Before the granting of any license as provided for in this section, the applicant, if a corporation, association or organization, must file with the clerk a copy of its articles of incorporation, by-laws, rules and regulations, together with a plat of the cemetery, and a list of all members of the association or organization, all of which will be certified by its secretary.

525.07. Interment. Interment of the dead bodies or the remains of any human being or any other disposition thereof, may not be made in any tomb, vault, cemetery or place within the city, or within the enlargement of any cemetery, until such tomb, vault, cemetery or place has been set apart and devoted to that purpose by the council.

525.09. Cemetery lots. Subdivision 1. General. Cemetery lots are governed by this subsection.

Subd. 2. Encumbrance. A grave, lot or tract of land may not be sold for burial purposes if the same is encumbered with a mortgage or other encumbrance, until a release therefrom is recorded.

Subd. 3. Transfer. A lot or grave in a cemetery that has been sold and conveyed for burial purposes may not be resold or transferred except as provided by law. All instruments of conveyance, including contracts of sale, of graves or lots must have printed in large type at the top or beginning thereof the words, “non-transferable” and followed by the words, “except by descent or resale to the cemetery association.”

Subd. 4. Special use permit. A grave, lot, tract or other subdivision of property set apart for burial cemetery purposes or for the burial, cremation or disposal of the remains of the dead may not be sold or conveyed for burial purposes until a conditional use permit has been issued as required by the zoning code and a plat of the cemetery tract has been filed with the city and approved by a resolution of the council.

Subd. 5. Subdivisions. A grave may not be divided or subdivided for sale or burial. No part of the cemetery may be used for interment of a human body or the ashes thereof except such as is platted as a grave, or burial lot, or is designated as an area for a mausoleum. Not more than one body of an adult human being may be buried in any one grave.

Subd. 6. Copies of instruments. A copy of all forms or instruments used for conveyancing, including contracts for sale, must be filed with the city clerk.

525.11. Assessments. When a grave, lot or tract or niche in a mausoleum has been sold for burial purposes, and conveyed as such by contract or deed by the cemetery association there may be no further assessment for perpetual care or upkeep made against the property.

525.13. Vandalism. It is unlawful to cut or remove shrubs or trees in any cemetery or burial ground within the city, or remove, injure or cut flowers or verdure therein, or deface or damage any fence, ornament, market, or other memorial, or otherwise desecrate the sepulchre of the dead in any cemetery or burial place in the city.

Section 530 – Statutory authorization
(Added, Ord. No. 2002-04)

530.01. Statutory authorization. This section is adopted pursuant to Minnesota Statutes, section 462.351.

530.03. Findings. The city of Crystal hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the city to provide adequate water, sewage, flood control, and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas which may be affected by unplanned land usage.

530.05. Purpose. The purpose of this section is to promote, preserve and enhance the natural resources within the city of Crystal and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land disturbing and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

530.07. Definitions. Subdivision 1. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directive.

Subd. 2. For the purposes of this section, the following terms, phrases, words, and their derivatives shall have the meaning stated below.

- a) Applicant. Any person who wishes to obtain a building permit, zoning or subdivision approval.
- b) Control measure. A practice or combination of practices to control erosion and attendant pollution.
- c) Detention facility. A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.
- d) Flood fringe. The portion of the floodplain outside of the floodway.
- e) Floodplain. The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.
- f) Floodway. The channel of the watercourse, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.
- g) Hydric soils. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.
- h) Hydrophytic vegetation. Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- i) Land disturbing or development activities. Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.
- j) Person. Any individual, firm, corporation, partnership, franchise, association, or governmental entity.
- k) Public waters. Waters of the state as defined in Minnesota Statutes, section 103G.005, subdivision 15.
- l) Regional flood. A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.
- m) Retention facility. A permanent natural or man made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

- n) Sediment. Solid matter carried by water, sewage, or other liquids.
- o) Structure. Anything manufactured, constructed or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.
- p) Wetlands. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:
 - 1) Have a predominance of hydric soils;
 - 2) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
 - 3) Under normal circumstances support a prevalence of such vegetation.

530.09. Scope and effect. Subdivision 1. Applicability. Every applicant for a building permit, subdivision approval, or other permit to allow land disturbing activities must submit a storm water management plan to the community development department. No building permit, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this section.

Subd. 2. Exemptions. The provisions of this section do not apply to:

- a) Any part of a subdivision if a plat for the subdivision has been approved by the city council on or before the effective date of this section;
- b) Any land disturbing activity for which plans have been approved by the watershed management organization within six months prior to the effective date of this section;
- c) A lot for which a building permit has been approved on or before the effective date of this section;
- d) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles;
or
- e) Emergency work to protect life, limb, or property.

Subd. 3. Waiver. The city council, upon recommendation of the planning commission, may waive any requirement of this section upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in Section 530.11. The city council may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct as may be necessary to adequately meet said standards and requirements.

530.11. Storm water management plan approval procedures. Subdivision 1. Application. A written application for storm water management plan approval, along with the proposed storm water management plan, shall be filed with the community development department. Said application shall include at a minimum, a completed planning & zoning application form, any required fee according to the adopted fee schedule, and a narrative or attachments that provide adequate evidence showing that the proposed use will conform to the standards set forth in this section.

Two copies of clearly legible blue or black lined drawings, one full size and the other reduced to either 8-½ " x 11" or 11" x 17", shall be accompanied by the completed form and fee required by the community development department. Full-size drawings shall be prepared to a scale appropriate to the project site and suitable for the review to be performed.

Subd. 2. Storm water management plan. At a minimum, the storm water management plan shall contain the following information.

- a) Existing site map. A map of existing site conditions showing the site and immediately adjacent areas, including:
 - 1) The street address, property identification number or legal description of the subject property;
 - 2) North point, date, scale of drawing, and number of sheets;
 - 3) Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two feet;
 - 4) A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including depth of water, a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;
 - 5) Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where storm water collects;

- 6) A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of development proposed and for the type of sewage disposal proposed and describing any remedial steps to be taken by the developer to render the soils suitable;
 - 7) Vegetative cover and clearly delineating any vegetation proposed for removal; and
 - 8) 100-year floodplains, flood fringes and floodways.
- b) Site construction plan. A site construction plan including:
- 1) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
 - 2) Locations and dimensions of all temporary soil or dirt stockpiles;
 - 3) Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this section;
 - 4) Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this section; and
 - 5) Provisions for maintenance of the construction site erosion control measures during construction.
- c) Plan of final site conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes including:
- 1) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;
 - 2) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials which will be added to the site as part of the development;
 - 3) A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect;
 - 4) The proposed size, alignment and intended use of any structures to be erected on the site;

- 5) A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and
- 6) Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.

530.13. Plan review procedure. Subdivision 1. Process. Storm water management plans meeting the requirements of section 530.11 shall be submitted by the community development department to the planning commission for review in accordance with section 530.15. The commission shall recommend approval, recommend approval with conditions, or recommend denial of the storm water management plan. Following planning commission action, the storm water management plan shall be submitted to the city council at its next available meeting.

Subd. 2. Duration. Approval of a plan submitted under the provisions of this section shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the community development department for an extension of time to commence construction setting forth the reasons for the requested extension, the department may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the community development department within 15 days. The department shall make a decision on the extension within 30 days of receipt, or shall refer it to the planning commission and city council for a decision. Any plan may be revised in the same manner as originally approved.

Subd. 3. Conditions. A storm water management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this section are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance to the city of Crystal or other public entity of certain lands or interests therein.

Subd. 4. Performance bond. Prior to approval of any storm water management plan, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions within a specific time, which time may be extended in accordance with section 530.13, subdivision 2. The adequacy, conditions and acceptability of any agreement and bond shall be determined by the community development director.

Subd. 5. Fees. All applications for storm water management plan approval shall be accompanied by a processing fee in the amount listed in the city's fee schedule.

530.15. Approval standards. Subdivision 1. No storm water management plan which fails to meet the standards contained in this section shall be approved by the city council.

Subd. 2. Site dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

Subd. 3. Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

Subd. 4. Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

Subd. 5. Drain inlet protection. All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas."

Subd. 6. Site erosion control. The following criteria apply only to construction activities that result in runoff leaving the site.

- a) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff rates of less than 0.5 ft./sec. across the disturbed area for the one year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
- b) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
- c) Runoff from the entire disturbed area on the site shall be controlled by meeting either subsections 1 and 2 below or 1 and 3 below.
 - 1) All disturbed ground left inactive for 14 or more days shall be stabilized by seeding or sodding, or by mulching or covering or other equivalent control measure.

- 2) For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
- 3) For sites with less than ten acres disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measures must include a maintenance and inspection schedule.
- d) Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a downslope drainage length of less than 25 feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven days, they shall be stabilized by mulching, vegetative cover, tarps, or other means. Erosion from piles which will be in existence for less than seven days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the stormdrain inlets must be protected with straw bale or other appropriate filtering barriers.

Subd. 7. Storm water management criteria for permanent facilities.

- a) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that (1) the two-year, ten-year, and 100-year storm peak discharge rates existing before the proposed development shall not be increased, and (2) accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.
- b) The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

- c) The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:
 - 1) Natural infiltration of precipitation on-site;
 - 2) Flow attenuation by use of open vegetated swales and natural depressions;
 - 3) Storm water retention facilities; and
 - 4) Storm water detention facilities.
- d) A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subsection a) above. Justification shall be provided by the applicant for the method selected.

Subd. 8. Design standards. Storm water detention facilities constructed in the city of Crystal shall be designed according to the most current technology as reflected in the MPCA publication "Protecting Water Quality in Urban Areas", and shall contain, at a minimum, the following design factors:

- a) A permanent pond surface area equal to 2% of the impervious area draining to the pond or 1% of the entire area draining to the pond, whichever amount is greater;
- b) An average permanent pool depth of four to ten feet;
- c) As an alternative to subsections a) and b) above, the volume of the permanent pool shall be equal to or greater than the runoff from a 2.0-inch rainfall for the fully developed site.
- d) A permanent pool length – to – width ratio of 3:1 or greater;
- e) A minimum protective shelf extending ten feet into the permanent pool with a slope of 10:1, beyond which slopes should not exceed 3:1;
- f) A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod (16.5 feet);
- g) All storm water detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations;

- h) Storm water detention facilities for new development must be sufficient to limit peak flows in each subwatershed to those that existed before the development for the ten year storm event. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the storm water management plan;
- i) All storm water detention facilities must have a forebay to remove coarse-grained particles prior to discharge into a watercourse or storage basin.

Subd. 9. Wetlands.

- a) Runoff shall not be discharged directly into wetlands without presettlement of the runoff.
- b) A protective buffer strip of natural vegetation at least one rod (16.5 feet) in width shall surround all wetlands.
- c) Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. Replacement must be guided by the following principles in descending order of priority.
 - 1) Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
 - 2) Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
 - 3) Rectifying the impact by repairing, rehabilitation, or restoring the affected wetland environment;
 - 4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and
 - 5) Compensating for the impact by replacing or providing substitute wetland resources or environments.

Subd. 10. Steep slopes. No land disturbing or development activities shall be allowed on slopes of 18% or more.

Subd. 11. Catch basins. All newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse-grained material. Such basins shall be cleaned when they are half filled with material.

Subd. 12. Drain leaders. All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.

Subd. 13. Inspection and maintenance. All storm water management facilities shall be designed to minimize the need of maintenance, to provide access for maintenance purposes and to be structurally sound. All storm water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. The director of public works, or designated representative, shall inspect all storm water management facilities during construction, during the first year of operation, and at least once every five years thereafter. The inspection records will be kept on file at the public works department for a period of six years. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the storm water management facilities for inspection and maintenance purposes.

Subd. 14. Models/methodologies/computations. Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the public works director. Plans, specification and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the public works director.

Subd. 15. Watershed management plans and groundwater management plans. Storm water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minnesota Statutes, section 103B.231 and 103B.255 respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.

Subd. 16. Easements. If a storm water management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

530.17. Penalty. Any person, firm or corporation violating any provision of this section shall be fined not less than \$5.00 nor more than \$500.00 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

530.19. Other controls. In the event of any conflict between the provisions of this section and the provisions of an erosion control or shoreland protection ordinance adopted by the city council, the more restrictive standard prevails.

530.21. Severability. The provisions of this section are severable. If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application.