

## **SECTION 9 BASIC IMPROVEMENTS**

### **Subdivision 1: GENERAL**

#### **1. Development Agreement Required**

- A. Before a final plat is approved by the City Council, the subdivider must execute and submit to the City Council a development agreement. The agreement must provide that private construction will not be started on the property and building permits will not be issued until all improvements required under this Ordinance have been made or arranged for. Subdivision agreement shall provide that all of the required improvements will be made in accordance with standards established by the City Engineer, and shall include adequate provisions (in the form of escrow deposits or other form of deposit acceptable to the City Council) to insure that all improvements accomplished by the subdivider will comply with such standards.
- B. If approved by the City Council, the City may install required improvements under contract after petition for it by the owner. The cost shall be assessed in accordance with the City assessment policy or as otherwise determined by the City Council.
- C. Approval of the final plat and subdivision agreement of the City Council shall be contingent on the deposit of those sums to the City required by the agreement. No signatures indicating the City's approval of the plat will be affixed to the plat until such sums have been deposited with the City Clerk.
- D. Subdivision agreement must be recorded concurrently with the final plat. All costs associated with recording the final plat and subdivision agreement are the responsibility of the subdivider. Developer shall be responsible for payment of the City's consultant and attorney time relating to review and drafting of the

development agreement. In the event the City installs the improvements and the costs assessed against the property, such fees will be included in the costs that are assessed. In the event the developer installs the improvements privately, such fees must be paid prior to beginning the improvements and prior to the issuance of a building permit for any part of the development.

2. **Certification of Compliance Required.** No final plat shall be approved by the City Council without first receiving a report certifying that the improvements described herein, together with the agreements and documents required herein, meet the minimum requirements of all applicable ordinances. Any plat approved prior to such a certification shall be presumed to be approved contingent upon the minimum requirements being met.
3. **Inspection of Improvements by the City Required.** The required improvements to be installed under the provisions of this Ordinance shall be inspected during the course of their construction by an engineer retained by the City Council. The subdivider or individual lot or tract owners thereto shall pay all the inspection costs pursuant.
4. **Excavation Permit Required.** No person shall be allowed to dig up, break, excavate, tunnel, drill, bore, undermine or in any manner break up any existing street to make or cause to be made any excavation in or under the surface of any street or to place, deposit or leave upon any street any earth or excavated material obstructing or tending to interfere with the free use of the street unless such person shall first have obtained an excavation permit from the city. A fee the City Council shall establish by resolution shall be paid for an excavation permit.

## **Subdivision 2: STREET IMPROVEMENTS**

- A. **Grading.** The full width of the right-of-way shall be graded, including the sub-grade of the areas to be paved, in accordance with standards and

specifications for road construction as approved by the City Council.

- B. **Street Paving Standards.** All platted streets must be improved with pavement in accordance with the standards and specifications for street construction as approved by the City Council after recommendation by the City Engineer.
- C. **Width of Paving.** All streets to be paved shall be of an overall width in accordance with standards and specifications for street construction as approved by the City Council after recommendation by the City Engineer.
- D. **Curb and Gutter Required.** Curb and gutter is required on all new City streets and shall be constructed in accordance with standards and specifications as approved by the City Council.
- E. **Street Signs.** Street signs of the standard design and width requirements as recommended by the Public Works Director, and approved by the City Council shall be installed at each street intersection, and the developer shall pay all costs incurred. All stop and traffic control signs shall also be included and be of the high intensity reflective type. Any private street shall follow the same requirements.
- F. **Street Lighting.** All streets within new subdivisions shall have at least one (1) street light located at each street intersection and lights must be installed so that there will be a light at least every three hundred fifty to five hundred (350-500) feet. The City may require additional lighting along sidewalks or pedestrian trails.

### **Subdivision 3: DRAINAGE IMPROVEMENTS**

- 1. **Specifications Approved by City Council.** Storm sewers, culverts, storm water inlets and other drainage facilities will be required to insure adequate storm water

drainage for the subdivision. Where required, such drainage facilities shall be constructed in accordance with the standards and specifications for street construction as approved by the City Council.

2. **Storm Sewers Required When Available.** Storm drains shall be constructed to serve all properties in the subdivision where a connection to the public storm sewer system is available at the boundary of the subdivision.
3. **Storm Sewers Not Available.** Where public storm sewer system is not available at the boundary of the subdivision, or where the introduction of said public system is deemed inappropriate by the City Council, provisions for storm water drainage shall be accomplished in accordance with the requirements of the City Engineer and the Drainage Plan. The use of dry wells for storm water disposal is prohibited.

#### **Subdivision 4: TREES REQUIRED**

All new residential subdivisions containing three (3) or more lots must provide for the planting of trees. Provisions shall be made by the subdivider to have one (1) deciduous tree planted in the front of the Lot of each residential lot platted of a minimum of two (2) inch diameter as measured eighteen (18) inches above ground. In the event the Developer wishes to plant trees after homes are constructed, Developer must deposit with the City \$100.00 per tree required. This deposit will be returned to developer without interest upon developer planting the tree. In the event a tree is not planted within six (6) months of the issuance of a certificate of occupancy for the lot, the City may use the funds deposited to plant a tree, of the City's choice, within the boulevard.

## **Subdivision 5: SANITARY SEWER AND WATER IMPROVEMENTS**

- A. **Sanitary Sewer Services Required.** Sanitary sewers shall be installed as required by standards and specifications as approved by the City Council. Where City sanitary sewer is not available for extension into the proposed subdivision, the City Council will not approve the plat.
  
- B. **Water Service Required.** Public water facilities, including pipefittings, hydrants etc., shall be installed as required by standards and specifications as approved by the City Council. Where City water facilities are not available for extension into the proposed subdivision, the City Council will not approve the plat.

## **Subdivision 6: ELECTRIC, TELEPHONE, GAS, TELECOMMUNICATIONS & CABLE DISTRIBUTION LINES**

- 1. **New Lines to be Underground.** All new electric distribution lines (excluding main line feeders and high voltage transmission lines), telephone service lines, gas lines, telecommunication lines, cable lines and services constructed within the confines of and providing service to customers in a newly platted area, shall be buried underground; unless the City Council, after recommendation by the Planning Commission, specifically finds that:
  - A. The placing of utilities underground would not be compatible with the development planned;
  - B. The additional cost of burying such utilities would create an undue financial hardship; or
  - C. Topographical, soil or any other conditions make the underground installation unreasonable or impractical.

## **Subdivision 7: EROSION AND SEDIMENT CONTROL**

1. **Erosion Control Measures Required.** The subdivider shall be responsible for the implementation and maintenance of development-wide erosion and sediment control measures aimed at keeping sediment on construction sites and out of water bodies, water courses, wetlands, storm drains and streets.
2. **Erosion Control Plan Required.** An Erosion and Sediment Control Plan shall be developed for the subdivision. Such plan shall be consistent with the "Storm Water Permit Program - Construction Activity" regulations promulgated by the Minnesota Pollution Control Agency (MPCA). A copy of the Erosion and Sediment Control Plan shall be submitted to the City Engineer for approval.

Section 9, Subdivision 6 of the City Subdivision Ordinance Number 320 was amended by Ordinance Number 336, adopted August 5, 2003 and published August 12, 2003.

3. **Coordination of Erosion Control Efforts.** Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to and maintained during development. Dirt/soil must be retained on construction site. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. When soil is exposed, the exposure shall be for the shortest feasible time.

### **Subdivision 8: FINANCING IMPROVEMENTS**

1. **Special Assessments.** Improvements required within a subdivision or designed exclusively to benefit a subdivision must be paid for by the developer or must be made through petition and special assessment on the benefited property. If improvements are to be made by petition, the petition must be filed with the City Council prior to the conveyance of title to individual lots or tracts.
2. **Private Installation of Improvements.**
  - A. As an alternate to the above the subdivider may elect to furnish a bond to the City of Foley for an amount equivalent to 150% of the cost of the improvements as determined by the City Engineer or an Engineer retained by the City Council, which bond shall comply with the following:
    1. The term of said bond shall not exceed five (5) years at which time if the improvements are not constructed the bond shall be forfeited and the City shall install the improvements from the bond proceeds.
    2. The bond shall be non-cancelable for the project period, which shall not exceed five (5) years.
  - B. The petition and special assessment procedure detailed above shall not apply to improvements in the subject subdivision.

- C. Lots may not be sold in areas that are under bond until said improvements are placed and approved by the City Engineer or an Engineer retained by the City Council.
  
- D. In any event, before any lots are sold in the platted area, the improvements required by this Ordinance must be completed, and in the event the said improvements are not completed prior to sale, the City Council shall be authorized to place the said improvements in the entire subdivision and to pay for said improvements from the bond proceeds.

Section 9, Subdivision 6 of the Subdivision Ordinance Number 320 was amended by Ordinance Number 336, adopted August 5, 2003 and published August 12, 2003.