

LIVONIA TOWNSHIP  
SHERBURNE COUNTY  
STATE OF MINNESOTA

ORDINANCE NUMBER 710

# LIVONIA TOWNSHIP SUBDIVISION ORDINANCE

## History

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## LIVONIA TOWNSHIP SUBDIVISION ORDINANCE

The Board of Supervisors of the Town of Livonia ordains:

**Section 1: Authority.** This Subdivision Ordinance (“Ordinance”) is adopted pursuant to Minnesota Statutes, section 462.358 and such other authority as may apply.

**Section 2: Purpose.** This Ordinance applies to the subdivision of land within the Town and is intended to be applied in conjunction with the Sherburne County Subdivision Ordinance in order to:

- A. Provide for and guide the orderly, economic, and safe development of land, urban services, and facilities;
- B. Encourage well-planned, efficient, and attractive subdivisions by establishing adequate and impartial standards for design and construction;
- C. Provide for the health, safety, and welfare of residents by requiring the necessary services such as properly designed streets, stormwater facilities, and adequate sewage, and water service;
- D. Provide for the proper design and construction of improvements by the developer;
- E. Ensure the protection and reimbursement of public funds expended related to the development of a subdivision through financial security and escrow requirements;
- F. Secure the rights of the public with respect to public lands and waters; and
- G. Set the minimum requirements necessary to protect the public health, safety, comfort, convenience, and general welfare.

**Section 3: Legislative Findings.** The Town Board hereby finds and determines as follows:

- A. The Town is authorized under Minnesota Statutes, section 462.358, subdivision 2b to require a reasonable portion of buildable land within a proposed subdivision be dedicated to the public, or preserved for public use, as streets, roads, sewers, electric, gas, and water facilities, storm water drainage and holding areas or ponds and similar utilities and improvements, parks, recreational facilities, playgrounds, trails, wetlands, or open space;
- B. The Town is authorized by Minnesota Statutes, section 462.358, subdivision 2a to condition its approval of a subdivision on compliance with certain requirements including, but not limited to, constructing and installing public improvements, establishing an escrow or other financial security with the Town, and entering into an agreement with the Town setting out the terms and conditions of approval;
- C. The Town and the County have entered into a joint powers agreement regarding the administration of zoning and subdivision regulations in the Town. Pursuant to that agreement, the County takes the primary role in the administration and enforcement of subdivision regulations in the Town. However, because the Town has a direct interest in the dedication of parks and the development of public improvements

within subdivisions the Town Board has enacted this Ordinance to provide a process for local review and approval, address park dedications, the development of public improvements, require developers to enter into development agreements with the Town, and related requirements and restrictions in order to protect the public health, safety, welfare, and finances of the Town;

- D. The Town is responsible for the administration and enforcement of this Ordinance and the County is responsible for the administration of all other zoning and subdivision regulations established for the Town;
- E. The Town has established the Livonia Town Park Board to oversee and manage the Town's park system;
- F. The Town has adopted a capital improvement budget for its park system;
- G. The Town has adopted a parks and open space plan; and
- H. The Town has established a special fund into which it deposits park dedication payments and from which it finances park projects.

**Section 4: Jurisdiction and Scope.** This Ordinance shall apply as provided in this Section.

**Subdivision 1: Jurisdiction.** The regulations and requirements of this Ordinance shall apply to all land within the boundaries of the Town outside of City boundaries.

**Subdivision 2: Scope and Application.** This Ordinance shall apply to all subdivisions of land hereinafter submitted for approval or proposed to be recorded with the County, except for administrative subdivisions and land transfers occurring pursuant to a registered land survey, which are regulated by the County. The regulations contained in this Ordinance are in addition to all other applicable federal, state, and local laws, rules, regulations, and ordinances. Except in the case of a resubdivision, this Ordinance shall not apply to any lot or lots forming part of a subdivision recorded in the office of the County Recorder prior to the effective date of this Ordinance.

**Subdivision 3: County Regulations.** The County has adopted, administers, and enforces the Subdivision Ordinance of Sherburne County ("County Ordinance") to regulate the subdivision, platting, and development of land within the County outside of the jurisdictional boundaries of cities. The regulations and requirements of this Ordinance are in addition to those imposed by the County Ordinance and anyone subdividing or platting land within the Town is required to comply with the requirements of both ordinances. However, with respect to park dedication requirements, a developer shall only be required to comply with the requirements contained in this Ordinance and shall not be required to make a park dedication to the County.

**Subdivision 4: Town Board Approval.** Approval by the Town Board is required for subdivisions subject to this Ordinance and the County is prohibited under Minnesota Statutes, section 505.09, subdivision 1a from approving a plat of land in the Town until the Town Board first approves the plat and the laying of the streets and other public ways shown on it. The Town's approval must be endorsed on the plat and signed by the chair of the Town Board.

**Subdivision 5: Public Hearings.** The public hearings conducted by the County regarding a proposed subdivision constitute the public hearings required by Minnesota Statutes, section 462.358 for the purposes of this Ordinance. The Town hereby reaffirms its delegation of authority to the County to conduct hearings regarding subdivisions and for its administration and enforcement of subdivision regulations in the Town consistent with this Ordinance and the County Ordinance.

**Subdivision 6: Pre-Existing Restrictions.** This Ordinance is not intended to repeal, annul, or in any way impair or interfere with existing provisions of other laws, ordinances, or with restrictive covenants running with the land except those specifically repealed by or in conflict with this Ordinance.

**Subdivision 7: Repealer.** This Ordinance supersedes and replaces any subdivision ordinances previously adopted by the Town Board and all such previous ordinances are hereby repealed. This Ordinance is in furtherance of the Joint Powers Agreement Regarding Zoning entered into between the Town and the County and does not repeal or otherwise impair the effect of that agreement.

**Section 5: Definitions.** Except for the terms specifically defined in this Section, which shall be controlling, the definitions contained in Section 5, Subdivision 2 of the County Ordinance are hereby adopted, and incorporated herein, by reference.

- A. **Administrative Subdivision.** “Administrative subdivision” means the adjustment of a common boundary line with administrative approval by the County as provided in Section 7 of the County Ordinance.
- B. **County.** “County” means Sherburne County, Minnesota.
- C. **County Ordinance.** “County Ordinance” means the Subdivision Ordinance of Sherburne County, including any amendments and successor ordinances.
- D. **County Recorder.** “County Recorder” means the County Recorder of Sherburne County, Minnesota.
- E. **Developer.** “Developer” means the person making application to the Town for approval for the subdivision or resubdivision of land.
- F. **Improvement Plans.** “Improvement plans” mean all design and construction plans required or otherwise proposed for the development of public improvements within a subdivision.
- G. **Park Board.** “Park Board” means the Livonia Township Park Board established by the Town Board of Livonia Township.
- H. **Park Plan.** “Park plan” means the plan developed by the Park Board and approved by the Town Board for the Town’s park system, including all amendments to the plan.
- I. **Park System.** “Park system” means all lands developed or held for public park, trail, or recreational purposes.

- J. **Person.** "Person" means any individual, firm, association, syndicate or partnership, corporation, trust, or any other legal entity.
- K. **Registered Land Survey.** "Registered land survey" means a survey developed for the purpose of conveying one or more tracts of registered property as provided in, and subject to, Section 9 of the County Ordinance.
- L. **Regular Meeting, Park Board.** "Regular meeting, Park Board" means the regular meeting of the Park Board held on the fourth Monday of the month.
- M. **Regular Meeting, Town Board.** "Regular meeting, Town Board" means the regular meeting held by the Town Board held on the fourth Monday of the month.
- N. **Residential Planned Unit Development.** "Residential planned unit development" means a subdivision taking advantage of the flexibility provided such developments and that is subject to Section 10.1 of the County Ordinance.
- O. **Simple Plat.** "Simple plat" means subdivisions resulting in no more than three lots, creates no new roads, and is subject to Section 8 of the County Ordinance.
- P. **Sketch Plan.** "Sketch plan" means a drawing showing the proposed subdivision of property. This plan is not necessarily drawn to scale and exact accuracy is not a requirement.
- Q. **Standard Plat.** "Standard plat" means a subdivision resulting in four or more lots, creates one or more new roads, or is otherwise subject to Section 10 of the County Ordinance.
- R. **Subdivision.** "Subdivision" means the separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests for the purpose of sale, rent, or lease. The term includes simple plats, standards plats, and residential planned unit developments.
- S. **Town.** "Town" means Livonia Township, Sherburne County, Minnesota.
- T. **Town Board.** "Town Board" means the Board of Supervisors of Livonia Township.

## Section 6: General Provisions.

**Subdivision 1: Compliance.** Compliance with this Ordinance is required and any person failing to comply with any provision, requirement, or regulation of this Ordinance shall constitute a violation of this Ordinance and subject the person to enforcement and the imposition of penalties as provided herein.

**Subdivision 2: Recording Prohibited.** Except as otherwise provided in law, no conveyance, subdivision, or plat of land shall be made, accepted for recording, or recorded unless it is made in conformance with the applicable requirements of this Ordinance.

**Subdivision 3: Separability.** Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining sections and provisions of this Ordinance.

**Subdivision 4: Interpretation.** In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance, or regulation impose greater restrictions than this Ordinance, the provisions of such statute, or other ordinance or regulation shall be controlling. Words used in the present tense include the past and future tense; the singular number includes the plural and the plural includes the singular; the words "shall" and "must" are mandatory; and the words "should" and "may" are permissive. If a word or term used in this Ordinance is not defined herein or in the County Ordinance, it shall have the meaning given it in the most applicable Minnesota Statutes or Minnesota Rules. If not defined therein, the word or term shall be given its ordinary meaning in the same context as used in this Ordinance. The references made herein to statutes, rules, regulations, or ordinances shall automatically include any amendments made thereto without further action by the Town Board. Furthermore, such references shall serve to incorporate those statutes, rules, regulations, or ordinances by reference to the extent necessary to achieve the intent and purposes of this Ordinance. However, such incorporations are intended only to give effect to this Ordinance and are not intended to make the Town responsible for the administration or enforcement of the statutes, rules, regulations, or ordinances being referenced

**Section 7: Subdivision Approval Process.** Anyone subdividing land within the Town must comply with the County Ordinance, obtain the County's approval as required by the County Ordinance, and comply with all other applicable laws, rules, regulations, and ordinances. Anyone seeking approval of a subdivision subject to this Ordinance is also required to obtain the Town's approval as provided in this Ordinance. The Town Board shall act by resolution to approve or deny subdivision applications submitted to it and the Town shall forward its resolutions to the County and provide a copy to the developer. The developer, or the developer's representative, shall be required to attend all meetings of the Park Board and Town Board at which its proposed subdivision is to be considered. The Town Board may condition its approval of any subdivision and failure to comply with those conditions shall render the Town Board's approval null and void.

**Subdivision 1: Simple Plats.** The procedures set out in this subdivision shall be followed for considering and acting on an application from a developer seeking approval for a simple plat.

A. **Sketch Plan.** The developer seeking approval of a simple plat shall prepare and submit to the Town a sketch plan of the proposed simple plat at least one week prior to the Town Board's regular meeting. Review of a sketch plan prior to the submission of an application will assist the Town Board to determine if there may be drainage, topographical, access, or other issues that will require review by the Town engineer and whether there are any issues that could interfere with the simple plat being approved. The Town may forward the sketch plan to the Park Board for its review and recommendations.

- B. **Application Requirements.** The developer shall submit to the Town at least seven copies of the application materials required to be submitted to the County by Section 8, Subdivision 3 of the County Ordinance. The application materials shall be submitted prior to the public hearing held by the County Planning Commission on the application and at least two weeks prior to the Town Board's regular meeting at which the application is to be reviewed. The required application fee must be submitted with the application materials before the application will be considered complete. The Town may forward the application materials to the Town engineer if it determines appropriate. A copy of the application materials shall also be forwarded to the Park Board.
- C. **Town Review and Recommendation.** The Town Board shall consider the application, together with any reports or recommendations from the Town engineer and the Park Board, at its regular meeting. The Town Board shall develop and forward its recommendation regarding the application to the County Planning Commission for consideration at its public hearing and to aid it in developing its report to the County Board. The Town Board's recommendation shall include whether it recommends approval or denial of the application and any conditions it recommends be imposed if the application is approved. The Town shall provide a copy of its recommendation to the developer.
- D. **Approval of Simple Plat.** Upon the County Board's approval of the simple plat the developer shall submit the approved documents to the Town Board for its review and approval. If the Town Board approves the simple plat, its resolution shall identify its conditions of approval which, at a minimum, shall include the required park dedication for the new lots being created. The Town shall not sign the mylars for the simple plat until the developer has made any required parkland dedication payment to the Town.

**Subdivision 2: Standard Plats.** The procedures set out in this subdivision shall be followed for considering and acting on an application from a developer seeking approval for a standard plat.

- A. **Sketch Plan.** The developer seeking approval of a standard plat shall prepare and submit to the Town a sketch plan of the proposed subdivision prior for formally submitting an application. Review and discussion of the sketch plan with the Town is helpful to identify potential issues that can be addressed by the developer before the formal preparation and submission of a preliminary plat. The sketch plan should include the information identified in Section 10, Subdivision 3 of the County Ordinance and shall be submitted to the Town at least one week prior to the Town Board's regular meeting. The sketch plan shall be forwarded to the Park Board for review at its regular meeting. The Park Board shall review the sketch plan and forward any recommendations it has, including with respect to the parkland dedication, to the Town Board for consideration at its regular meeting.
- B. **Preliminary Plat.** Submission and consideration of the preliminary plat shall be in accordance with the following:
  - (1) **Application Requirements.** The developer shall submit to the Town at least seven copies of the application materials required to be submitted to the County by Section 10, Subdivision 4 of the County Ordinance. The



application materials shall be submitted prior to the public hearing held by the County Planning Commission on the preliminary plat and at least two weeks prior to the Town Board's regular meeting at which the application is to be reviewed. The improvement plans must be submitted with the application. The required application fee and escrow amount to reimburse the Town for its professional costs must be submitted with the application materials before the application will be considered complete. The Town shall forward the application materials to the Town engineer for review and a report to the Town. The Town may also forward a copy of the application materials to the Park Board.

- (2) **Town Review and Recommendation.** The Town Board shall consider the application and the Town engineer's report at its regular meeting. The Town Board shall develop and forward its recommendation regarding the application to the County Planning Commission for consideration at its public hearing and to aid it in developing its report to the County Board. The Town Board's recommendation shall include whether it recommends approval or denial of the application and any conditions it recommends be imposed if the application is approved. The Town shall provide a copy of its recommendation to the developer.
- (3) **Approval of Preliminary Plat.** Upon the County Board's approval of the preliminary plat the developer shall submit the approved documents to the Town Board for its review and approval. If the Town Board approves the preliminary plat, its resolution shall identify its conditions of approval which, at a minimum, shall include a requirement that the developer enter into a development agreement with the Town, identify the required parkland dedication, and that the developer obtain the Town engineer's approval of the improvement plans prior to seeking the Town's approval of the final plat. Approval of a preliminary plat is an acceptance of the general layout as submitted and indicates the developer may proceed toward final plat in accordance with the terms of the approval and the provisions of this Ordinance.

C. **Final Plat.** Submission and consideration of the final plat shall be in accordance with the following:

- (1) **Application Requirements.** A request for approval of the final plat shall be submitted to the Town within two years from the date of its approval of the preliminary plat unless the Town and County each grant a written extension. The developer shall submit to the Town at least one full-sized copy and seven 11"x17" copies of the final plat together with the other application materials required to be submitted to the County by Section 10, Subdivision 5 of the County Ordinance. The application materials shall be submitted prior to the public hearing held by the County Planning Commission on the final plat and at least two weeks prior to the Town Board's regular meeting at which the application is to be reviewed. The Town shall forward the application materials to the Town's engineer for review and a report to the Town.

- (2) **Town Review and Recommendation.** The Town Board shall consider the application and the engineer's report for the purpose of developing a recommendation to forward to the County Planning Commission for consideration at its public hearing and in developing its report to the County Board.
- (3) **Approval of Final Plat.** Once the County Board approves the final plat the developer shall submit the approved documents to the Town Board for its review and approval at its regular meeting.
- (4) **Signing Mylars.** The Town shall not sign the mylars for a plat until all plans for public improvement have been received and approved, the development agreement is in a form acceptable to the Town Board and is fully executed, any required parkland dedication payment has been made, the required security is supplied in the required form and amount, and the amount of the escrow is sufficient to fully reimburse the Town its current and anticipated costs as determined by the Town.

D. **Denial.** The Town Board shall deny a preliminary plat or final plat if it finds one or more of the following exists regarding the proposed subdivision:

- (1) The physical characteristics of the land including, but not limited to, topography, vegetation, soils, susceptibility to flooding, water storage, drainage, or retention are such that the land is not suitable for the type of development or use contemplated;
- (2) The land is not physically suitable for the proposed density of development or does not have adequate access to accommodate the proposed density;
- (3) The design of the subdivision, or of the proposed improvements, does not meet applicable standards or are likely to cause a significant risk to the environment or to the public health, safety, or welfare; or
- (4) The design of the subdivision, or the types of proposed improvements, will conflict with public or private streets, easements, right-of-ways, or drainage facilities or systems.

### **Subdivision 3: Timeline for Submission of Documents.**

- (1) **Town Board Review.** The Town Board only considers subdivision requests at its regular meeting held on the fourth Monday of the month. Applications and other materials not submitted to the Town by the deadlines established herein will result in a delay in the Town's review.
- (2) **Park Board Review.** The Park Board holds its regular meetings on the fourth Monday of the month prior to the Town Board's regular meeting. Applications and other materials not submitted to the Town by the deadlines established herein will result in a delay in the Town's review.

**Section 8: Park Dedication Required.** A prerequisite to, and condition of, the Town's approval of a subdivision shall be a requirement that the developer dedicate a reasonable portion of the buildable land being subdivided to the Town for public parks, playgrounds, trails, recreational facilities, or open space (collectively referred to as "park purposes"). The Town may, at its option, require the developer to make a dedication of cash in lieu of part or all of the required parkland dedication. All such dedications shall be made in accordance with this Ordinance. If the development involves both residential and commercial or industrial uses, the parkland dedication requirements will be applied based upon the percentage of land devoted to the various uses. The specific amount and form of parkland dedication shall be established by the Town before the developer may seek final plat approval.

**Subdivision 1: Dedication of Parkland.** The dedication of land by a developer for park purposes shall comply with all of the following provisions.

- A. **Purpose of the Dedication.** The portion of the subdivision being dedicated to the public for the purposes of satisfying the parkland dedication requirement shall be for one or more park purposes as approved by the Town Board.
- B. **Form of Dedication.** Land dedicated to the Town for park purposes shall be shown on the plat as lots or outlots with approved lot and block numbers and the developer shall convey marketable title to the Town for all such lands by warranty deeds free and clear of all encumbrances as approved by the Town attorney.
- C. **Suitability of Land.** Land to be dedicated shall be reasonably suitable for its intended use, as determined by the Town, and shall be at a location convenient to the public to be served. Factors used in evaluating the adequacy of the land dedicated for park purposes shall include size, shape, topography, geology, hydrology, tree cover, access, and location.
- D. **Location of Parkland.** The developer shall confer with Town staff and the Park Board to identify and receive a recommendation as to the appropriate location of any parkland dedication. Such conference shall occur sufficiently early in the review process to allow the Town Board to review and act on the Park Board's recommendation, and for the developer to incorporate the approved recommendation, before the preliminary plat is formally acted on by the County or the Town. The preliminary plat shall show the location and dimensions of all land constituting the parkland dedication. The factors considered in determining the location and configuration of the dedicated parkland may include, but is not limited to, the following:
  - (1) Whether the land is reasonably located and suited for its intended use and the future needs of the Town;
  - (2) Whether the land is adjacent or proximate to other public lands used for park purposes;
  - (3) Whether an opportunity exists to extend an existing or proposed trail or park area;
  - (4) Whether the dedication would protect environmentally or historically sensitive sites;
  - (5) Whether the proposed dedication is consistent with the park plan and recreational goals of the Town; and

- (6) Whether the proposed dedication provides a unique public benefit or contains unique natural features.

- E. **Planned Parkland.** If any portion of the land located in the proposed subdivision has been identified in the Town's Park Plan, the Town's official map, or the County's comprehensive plan as a proposed park, playground, recreational area, or other public recreational purpose, such portions of the land shall be made part of the parkland dedication to the extent consistent with this Ordinance and state law.
- F. **Density Calculation.** The area of the parkland dedication shall not be used in calculating density requirements of the Sherburne County Zoning Ordinance and shall be in addition to, and not in lieu of, open space requirements for planned unit developments/cluster plats.
- G. **Private Parkland.** Where private open space for park and recreation purposes is provided in a proposed subdivision, such areas shall not be used for credit against the parkland dedication requirement, unless the Town Board finds it is in the public interest to do so and incorporates its finding into its approval of the preliminary plat and in the development agreement.
- H. **Minimum Area of Parkland Dedication.** The Town Board shall determine by resolution the amount of land within the proposed subdivision that is reasonably needed to be dedicated to the public for park purposes. The total amount of required parkland dedication shall not exceed ten percent of the gross area of the land to be subdivided. The percent of land dedicated for park purposes shall be in addition to property dedicated for streets, alleys, easements, or other public ways. No areas may be dedicated for public use until such areas have been approved by the Town Board as suitable and necessary for the health, safety, convenience, and general welfare of the Town. If the Town Board determines, based on the type of development and its particular features, that an area smaller than the required minimum area of land should be dedicated for park purposes, the Developer shall also be required to dedicate cash so the total parkland dedication is the equivalent of the minimum parkland dedication to ensure the full impacts to the Town's park and trail system are adequately addressed.

**Subdivision 2: Dedication of Cash.** If required or approved by the Town Board, the developer shall dedicate and pay cash to the Town for park purposes in lieu of all or a portion of the parkland dedication required by this Ordinance. The amount of the required cash contribution shall be established annually and shall be included in the Town's fee schedule. The fee for residential subdivisions shall be established per residential dwelling unit and the fee for commercial and industrial subdivisions shall be established per gross acre of land. All such fees shall be based on the average fair market value of the land to be subdivided as determined by the Town Board based on tax valuation or other relevant data. The amount of the required cash contribution will be adjusted by the Town Board as needed if a portion of parkland is also being dedicated to the public. If the developer objects to the Town Board's determination as to the value of the land, the value shall be determined either by negotiation between the Town and the developer or by the Town based on an independent appraisal of the market value of land in a same or similar land use category. If the Town elects to have an independent appraisal performed in order to resolve the objection, the developer shall be responsible for reimbursing the Town for the costs

**Subdivision 3: Land and Cash Dedication.** The Town may elect, at its sole discretion, to receive a combination of cash, land, and development of the land for park use. The potential cash donation generated by the dedicated land and/or the value of the development of land shall be calculated. That amount shall be subtracted from the minimum cash contribution established by this Ordinance.

**Subdivision 4: Determining Amount of Dedication.** The specific amount of parkland and/or cash to be dedicated for park purposes shall be calculated, established, and paid in accordance with this subdivision.

- A. **Calculation and Establishment.** The amount of parkland and/or cash to be dedicated for park purposes shall be calculated and established no later than at the time of final plat approval and shall be based upon the rates in effect at the date of subdivision application. The required amount of dedication for park purposes shall be forwarded to the County for inclusion as a condition of its approval of the subdivision. However, if such contribution is not included as a condition of County approval, it still remains an obligation of the applicant and the Town will not execute a development agreement, accept public roads, or approve construction until such time as the requirements of this Ordinance have been met. The Town Board may require the payment at the time of final plat approval or at a later time under terms agreed upon in the development agreement. An agreed to delayed payment may include interest at a rate set by the Town.
- B. **Opportunity to Request Study.** If the developer does not believe the amount of the dedication established by the Town Board fairly and accurately represents the effect of the subdivision on the park system of the Town, the developer may request the Town prepare an in-depth study of the effect of the subdivision on the park system and an estimate of that effect in cash and/or land. All costs of such study shall be borne by the developer and the developer shall escrow with the Town the total estimated amount of such costs before the Town will undertake the study. If the developer requests the preparation of such a study, the developer shall not seek final plat approval until the study has been completed and a determination is made as to the appropriate amount of land or cash necessary to offset the effects of the subdivision.
- C. **Deposit and Use of Cash Contribution.** Cash contributions made for park purposes shall be deposited in the Town's Park & Trail Fund and shall only be used for the acquisition or development of land for park purposes as determined by the Town. Said funds may be utilized anywhere within the Town park system. A percentage of the dedicated parkland or cash may be transferred to Sherburne County for park purposes pursuant to a written agreement and findings by the Town Board that such transfer is in the best interests of the Town and its approved Park Plan. Cash dedicated for park purposes shall not be used for ongoing or operation of parks, recreational facilities, playgrounds, trails, wetlands, or open space.

**Subdivision 5: General Requirements and Standards.**

- A. **Excluded Lands.** Wetlands, ponding areas, and drainage ways accepted by the Town or County may not be considered in the parkland and/or cash contribution to the Town.

- B. **Replatted Lands.** Property being replatted with the same number of lots and same number of dwelling units shall be exempt from all park dedication requirements. If the number of lots or the number of dwelling units is increased, or if land outside the previously recorded plat is added, then the park dedication requirement shall be based on the additional lots and on the additional land being added to the plat.

## **Section 9: Improvements within the Subdivision.**

**Subdivision 1: Responsibility for Installation.** The developer shall be responsible for installing, at its sole expense, the improvements to be installed within the subdivision. Improvements shall be constructed only upon the subdivided property unless otherwise specifically approved by the Town. If any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such lands, to be allocated in accordance with Town and Sherburne County policies.

**Subdivision 2: Development Agreement.** The developer seeking approval of a standard plat or a residential planned unit development shall be required to enter into a development agreement with the Town as a condition of approval of the subdivision and such agreement must be fully executed prior to the installation of any required improvements and prior to developer's request for final plat approval. The development agreement shall be drafted by the Town attorney and shall, at a minimum, contain provisions related to all of the following (to the extent applicable), as well as such other provisions as the Town may determine is appropriate:

- A. **Improvements.** The development agreement shall identify the public improvements to be installed within the subdivision and dedicated to the public. The Town shall assume no responsibility for constructing such improvements. The developer may request the Town to install specific improvements and the Town may, in its sole description, agree to install such improvements. If the Town does agree to install any improvements, such work shall be performed only to the extent expressly provided in the development agreement and at the developer's sole expense. The Town shall not be responsible for maintaining or repairing any improvements unless and until they are accepted by Town Board resolution in accordance with the provisions of the development agreement. The improvements shall be completed in accordance with the approved improvement plans, required specifications, and within the timeline established in the development agreement.
- B. **Plans and Inspections.** The developer shall be responsible for developing, at its own cost, improvement plans for all improvements to be constructed within the subdivision. The improvement plans shall be developed by a professional engineer who is registered in the State of Minnesota, and said plans shall contain professional certification. All improvement plans shall be submitted for review by the Town engineer and approval by the Town Board. Inspections during the installation of improvements shall be conducted by the Town engineer at the developer's expense.
- C. **Security.** The developer shall be required to make an escrow deposit and to furnish security (an irrevocable letter of credit or a certified check) as is determined by the Town. The amount of the escrow deposit or the amount of the security is to be

based on the Town engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. The amount of the required escrow deposit, and the form and amount of the required security, shall be based on the Town engineer's estimate of costs and shall be established in the development agreement. The Town shall be entitled to reimburse itself from the security for its costs, including any damages and costs (including attorney fees) incurred on account of any breach of the development agreement.

- D. **Reimbursement of Town Costs.** The developer shall be required to reimburse the Town for all costs it incurs related to the processing, approval, and development of the subdivision, and the drafting and enforcement of the development agreement including, but not limited to, administrative costs, recording costs, engineering costs, and legal costs.
- E. **Park Dedication.** The amount of land or cash to be dedicated to the public for park purposes by the developer shall be specified.

## **Section 10: Enforcement and Penalties.**

**Subdivision 1: Penalties.** Any person, firm or corporation who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a maximum fine or maximum period of imprisonment, or both, as specified by Minnesota Statutes, section 609.03. A violation of this Ordinance shall include, but is not limited to, failing, neglecting, or refusing to comply with the provisions of this Ordinance, or knowingly making any false statements in any document required to be submitted under the provisions of this Ordinance. Each day that a violation continues shall constitute a separate offense. In the event of a violation or a threatened violation of this Ordinance, the Town Board, in addition to other remedies, may institute appropriate criminal and/or civil actions or proceedings to prevent, prosecute, restore, restrain, correct, or abate such violations or threatened violations.

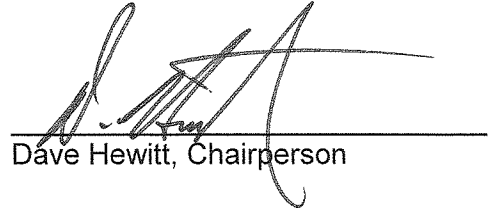
**Subdivision 2: Enforcement.** The Town Board and the Town attorney have the authority to enforce this Ordinance by issuing notices of violation, cease and desist orders, citations, and taking or instituting such actions and seeking such remedies as may be needed to prevent a violation, enforce this Ordinance, or to bring a property into compliance. If a cease and desist order is issued to stop an activity, the activity may not be resumed until the reason for the work stoppage has been completely satisfied and the cease and desist order lifted. The Town Board or its legally authorized agent may enforce the Ordinance whether through criminal prosecution, civil remedy, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to a civil remedy. The Town may seek injunctive relief for any violation, including to require the restoration of a premises to its condition existing prior to the violation or to a condition that complies with this Ordinance. The cost of enforcement may be added to any fines or other penalties imposed as provided in Minnesota Statutes, section 366.01, subdivision 10. The Town may also collect such other reasonable costs it incurs to enforce this Ordinance by certifying the amount to the County Auditor as a service charge pursuant to Minnesota Statutes, section 366.012 for collection together with the property taxes levied against any real property the person or entity subject to the enforcement action owns in the state. The Town will provide the property owner written notice of its intent to certify the amount on or before September 15. The amounts so certified to the County shall be

subject to the same penalties, interest, and other conditions provided for the collection of property taxes.


This ordinance shall be effective upon its passage and the first day of publication in the official newspaper of the Town.

Adopted this 24<sup>th</sup> day of February, 2014.

**BY THE TOWN BOARD**



\_\_\_\_\_  
Dave Hewitt, Chairperson

Attest: \_\_\_\_\_  
Rose Olson, Clerk/Treasurer