

## **ARTICLE 10 - SUBDIVISION REGULATIONS**

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Table 10-1: Lot Standards

**CITY OF HAM LAKE**  
**ARTICLE 10 - SUBDIVISION REGULATIONS**

The following regulations apply to the subdivision of lands, whether by the platting process or by individual lot splits. No lands shall be subdivided unless in conformance with this code, *provided*, that upon compliance with Article 10-600 of this Code, the City Council may grant reasonable variances to the strict application of this code.

The regulations are intended to cover the sequencing of events, general procedures and general rules. The City Council shall, by resolution, adopt specific procedures, submittal requirements and policies from time to time as deemed necessary. Actions by the City Council which constitute a denial of an application or request shall be in the form of written findings of fact stating the reasons for denial.

For the purpose of computing the 120 day review time as contemplated by Minnesota Statutes Chapter 462.358, Subd. 3b, the Sketch Plan phase shall not be deemed to be a part of the plat application process, and the 120-day review period shall not begin to run until the applicant shall have submitted all items necessary for the City to be able to make a decision on Preliminary Plat approval, including all other agency reviews and comments.

**10-100 Subdivision by means other than traditional platting**

**10-101 Lot Divisions**

Land parcels which were not created by platting may be further divided into no more than two additional parcels of record, upon review by the Planning Commission and approval of the City Council, which may attach conditions to such lot splits, including, without limitation, the acquisition of drainage, utility and road easements as needed, parkland dedication, and drainage fund contributions. Platting of such lots shall be required in the discretion of the City Council. Land parcels which were created by platting may not be further subdivided, except as follows:

**a)** The parcel was originally platted as an outlot, and there is documentation that the purpose of the creation of the outlot was to permit subsequent replatting; or

**b)** All new lots meet the frontage, setback and lot size standards that were in effect for the lots contained in the original plat of the subdivision. If the original subdivision was a PUD or other subdivision category that did not have specific lot sizes, frontages or setback requirements at the time of original platting, then all new lots must be configured and dimensioned in a manner that is not materially different from the lots contained in the original subdivision, and the overall density per acre which existed at the

time of original platting may not be exceeded for the area encompassed by the original plat.<sup>1</sup>

Notwithstanding the foregoing, lot splits of any type which are intended merely to adjust existing lot lines, and for combination with adjoining parcels, and which do not create any new buildable parcels, may be approved by the City Council.

<sup>1</sup> For the legislative history (Findings of Fact) which preceded this Code section, see the text of original Ordinance Number 2002-27 (effective 1/5/03).

**10-102 Minor Plats** Where a plat will contain one or two lots, the City Council may waive any of the requirements of the code and expedite the plat approval process.

**10-103 Other Requirements** Lots subdivided under this section shall be subject to all of the requirements of lots which are subdivided by the traditional platting process in terms of physical characteristics, park dedication fees, and the dedication of easements for road, drainage or utility purposes.

#### **10-104 Estate Related Divisions**

##### **A. Preamble**

The City of Ham Lake recognizes that due to the 21<sup>st</sup> Century economic recession that began circa 2006 in the real estate industry, there is a severe lack of demand for new residential lots, and literally no new residential developments have surfaced in the City during this time. As a result, persons acquiring real estate parcels via inheritance (“Inherited Property”) have no real opportunity to divest themselves of ownership through sales to land developers, and no ready market if they subdivide inherited land into saleable lots. There is therefore a temporary need to allow subdivision by means other than platting, to enable inheriting parties to divide inherited lands among the heirs, without the need to build roads, pay park dedication fees, or otherwise incur development costs. The purpose of this Article 10-104 is to recognize this temporary situation and to allow subdivisions to accommodate the heirs of such property. It is the City’s intention in this Article 10-104 to allow distributions of property only, and not to serve a land development mechanism.

##### **B. Qualifying Property**

In order to qualify for the provisions related to Inherited Property, the property must meet all of the following conditions:

- 1) The property size before the event that triggered the inheritance must have been at least five acres;

- 2) The Inherited Property must be divided into parcels that are approximately equal in value for each heir inheriting or otherwise obtaining title;
- 3) No subdivided parcel may be less than 2.5 acres in size;
- 4) Each subdivided parcel must have at least 200 feet of frontage on a public road, meet current livability standards for ISTS installation, and be capable of meeting all setback requirements for residential lots;
- 5) Prior to the event that triggered the inheritance, the Inherited Property was owned by a single individual or an entity set up specifically to serve as an estate-planning tool. Business corporations do not qualify as such entities.
- 6) Each subdivided parcel is to be conveyed to an heir or named beneficiary of the prior owner of the main parcel;

**C. Subdivision Requirements**

Subdivisions of Inherited Property may be implemented without platting on approval of the City Council after review by City staff. If the property qualifies as Inherited Property, then the lots subdivided may be stamped as approved for recording, but shall not be required to pave adjoining unpaved roads. The applicants may be required to pay park dedication fees, drainage contribution fees or other traditional subdivision fees. However, such fees may also be deferred to future development situations involving the subdivided lots, which may include a requirement for payment of such fees at the time a building permit is requested. In addition, the City may require dedication of drainage, utility and road easements as a condition of approval. All costs of City review and implementation of approvals shall be paid by the applicants prior to stamping any document of conveyance.

**D. Restrictions on Usage; Development Agreement**

Subdivided lots under this section are not eligible for building permits until and unless all of the lots created by this method of subdivision meet City standards for road access, frontage, paving and other road requirements, as well as all other lot standards under the City's codes. A Development Agreement so stating shall be recorded prior to stamping the documents of conveyance creating the lot(s). Notwithstanding the foregoing, building permits may be issued for repairs and additions to structures that existed on the lots prior to the subdivision.

**E. Sunset Clause**

This Article 10-104 shall automatically be repealed as of July 2, 2017 unless renewed by replacement ordinance.

**10-200 Subdivision by Traditional Platting**

**10-201 Sequence of Platting Process** The following sequence shall be observed in the traditional platting process: Sketch Plan, Preliminary Plat, Final Plat. Each stage shall be reviewed by the Planning Commission and acted upon by the City Council. As used in this code, the acronym "ISTS" refers to "Individual Sewage Treatment System(s)", both in the singular and in the plural.

**10-202 Conditions Precedent to Accepting Plat Application** At the time of plat application, the applicant shall furnish the following:

- a) A signed consent form executed by an owner of the property to be platted, consenting to the platting and rezoning (if necessary) of the property, and further consenting to be co-liable with the developer for the repayment of any municipal expenses incurred in the plat review process;
- b) A cash deposit or Letter of Credit from a State or Federally Chartered banking institution satisfactory to the City Administrator, in the amount to be set by Resolution of the City Council, for each lot or each unit in the case of a condominium plat.
- c) A signed City form in which the applicant agrees to accept continuing responsibility for reimbursement of municipal expenditures incurred in the plat review process, and further agrees to deposit such additional funds as are required by the City Administrator if the initial deposit is exhausted.

Further, if the deposit account shall at any time be exhausted, and the Developer shall fail to remit funds as required by the City Administrator within 10 days after the request is made, such delinquency shall be deemed grounds for the City Council to summarily disapprove of the plat, at any regular or special meeting, and any subsequent request to plat the land shall be required to start from the sketch plan stage.

**10-203 Sketch Plan** A sketch plan shall require no technical data, but shall be a scaled drawing, prepared by a registered land surveyor, showing the outer perimeter of the property proposed to be platted, estimated dimensions, the street configuration, and the lot lines. At the time of Sketch Plan review, the proponent shall identify the need for any variances. At the time of application for Sketch Plan Review, the proponent shall, as a condition to having the matter placed upon the Planning Commission agenda for review, acknowledge in writing having received the following notification:

### **Notice to Developers**

The Ham Lake City Code prohibits the use of “non-standard” ISTS as that term is defined from time to time by the Minnesota Department of Health. In addition, the City does not accept performance or surety bonds for financial guarantees, but will accept only cash deposits or letters of credit issued under strict guidelines, and only from FDIC-insured banking institutions. The undersigned has been notified of the City’s regulations on ISTS and performance security.

For Commercial Condominiums, no occupancy shall be permitted in any condominium unit unless that particular use is a permitted use in the zoning district in which the condominium is located, or which is a conditional use in that district, and has obtained a conditional use permit.

**10-204 Preliminary Plat** The Preliminary Plat shall be a final subdivision design, containing accurate dimensions of all elements. Preliminary Plat review shall include the conducting of a public hearing by the Planning Commission, after written notice as provided by statute or policy. Prior to conducting the public hearing, the following shall have occurred:

**A.** The City Staff shall have submitted the Preliminary Plat drawing and other related documents to all other agencies or entities necessary to review and comment on the plat, and shall either have received replies from each, or, if thirty days have elapsed since submission, the failure to have replied shall be deemed to be an approval by the entity;

**B.** The City’s engineer shall have issued written recommendations regarding the plat, after review of the technical data required under this code, including, without limitation, the following:

**i)** A Lot Usage Map which displays the locations of the ISTS Area, the proposed location for a well, the Eligible Building Area, and the Yard Area, as those terms are outlined in **Article 10-302**.

**ii)** A table accompanying the Lot Usage Map which describes the square footage within each of the areas noted in (B(i)) above;

**iii)** A soils report by a qualified soils analyst which demonstrates that the Livability standards found in **Article 10-302** can be met for each lot, together with a report by a qualified ISTS designer that the ISTS Area can support two separate Standard ISTS. At a minimum, there shall be five soil borings analyzed on each lot. One boring shall come from the approximate center of the Eligible Building Area, and four borings shall come from the ISTS area, at least one coming from the lowest elevation of the ISTS area.

iv) Such other information as may be required by the City's engineer. In the event that piezometer readings are intended for usage in demonstrating the existing water table conditions, the proponent shall follow the recommendations of the City's engineer in creating test holes and in the timing of piezometer readings.

v) A drawing (the "Tree Preservation Plan") identifying the trees to be preserved during lot grading and infrastructure construction. This drawing may be a display of the lots and rights-of-way, with a delineation thereon of the areas that will not be disturbed by construction equipment, and within which trees will not be affected by the severing of root structures outside of the delineated area. No Tree Preservation Plan shall be required for lots identified at this stage as lots to be custom-graded by eventual lot purchasers. After submission of the Tree Preservation Plan, the City may require modification thereof if the City's engineer and/or Park and Tree Commission identify individual trees having the following characteristics:

- 1) Tree Sizes (trunk diameter 4.5 feet above grade) greater than 4 inches; and
- 2) Are varieties of oak, sugar maple, paper birch, basswood, black cherry, yellow birch or butternut; and
- 3) Are not within areas needed for building pads, ISTS areas or driveways; or
- 4) Could be preserved by retaining walls, tree wells, temporary bridging or other techniques.

For lots that are identified by the developer as lots to be custom-graded by eventual lot purchasers, a Tree Preservation Plan shall be submitted by the lot owner or builder at the time of application for building permit. Prior to such time, no tree removal shall be permitted on any such lot, except in connection with grading for roads or drainage features of the overall plat, excluding the perimeter drainage easement required around each lot.

**10-205 Final Plat** The Final Plat shall be the mylar version proposed for recording with the Anoka County Recorder. The final plat shall be reviewed by the Planning Commission and acted upon by the City Council. Prior to release of the final plat for recording, the following shall have occurred:

**A.** The City's engineer shall have issued written recommendations regarding the plat, after review of the technical data required under this code, including, without limitation, the following:

- i)** Complete grading, drainage and road construction plans for the plat, including specifications for materials, signage, sewers, curb and gutter, and the like;
- ii)** A report prepared by a designer licensed by the State of Minnesota to design ISTS, which includes, for each lot in the plat, the actual design of one ISTS which meets all requirements for a standard, non-experimental ISTS sufficient to meet applicable requirements for a four bedroom home.
- iii)** Building pad data indicating for each lot the lowest house floor elevation, lowest garage floor elevation, finished floor elevation and elevation of adjacent streets;

**B.** A Development Agreement prepared by the City's Attorney shall have been executed, and all required security posted in accordance with the City's policies on performance and maintenance security. The Development Agreement shall contain the following provisions regarding completion of improvements:

- 1)** A timetable listing a specific date for the completion of roads, drainage features and lot preparation, and requiring that any bituminous road paving be done in two separate lifts, with the second lift taking place when:
  - a)** one winter season has passed after the first lift has been completed; and
  - b)** at least 75% of the lots in the subdivision have occupied homes; but
  - c)** not later than a date certain to be determined by the City and so stated.
- 2)** A provision that only a single building permit for one model home may be issued until final completion of grading on all lots, in accord with the grading plan;
- 3)** A provision that "final completion of grading on all lots: shall not be deemed to have taken place until and unless the City is furnished with an as-built grading plan, certified by a Registered Professional Engineer, demonstrating to the satisfaction of the City's engineer that all lot grading was completed in accord with the original grading plan.
- 4)** A provision that building pad density results and conformance to the Uniform Building Code are to be supplied for each lot with the as-built grading plan submittal.
- 5)** A provision that the following information will be required on all surveys in platted subdivisions:



- a) The primary and secondary ISTS area must be shown per the approved grading plan.
  - b) Show the location and elevations of the four certified borings within the 7500 sq. ft. area as per the approved grading plan.
  - c) Show the location and elevations of the borings that the septic designer used to determine their design
  - d) A boring log referencing the above information and its depth to mottled or unsuitable soils.
- 6) A provision that the Tree Preservation Plan required by Article 10-202 (B) (v) and the tree preservation techniques outlined in Article 10-430 (A) shall be observed at all times.
- C. All required municipal fees and charges have been paid in full;
- D. All required Federal Emergency Management Agency (FEMA) action with regard to any lot has been completed, or is likely to be completed, in the opinion of the City's engineer.
- E. The City shall have received a reduced version of the final plat on an 8.5" by 11" sheet.

**10-300 Livability**

All subdivided lots shall meet basic Livability Standards which are described below. The definitions herein described apply only to Article 10-300 of this code.

**10-301 Definitions**

- A. **Mottled Soil** -Mottled Soil shall be as defined in Section 7080.0020, subpart 23 of the Minnesota Code of Rules.
- B. **Livability** - The area within a residential lot in all single-family residential areas in which space is allocated for dwelling unit, garage, on-site sewage facilities, well and other structural facilities for human habitation.
- C. **Lot** - All single family lots created after February 1, 1997 except lots developed under Article 9-1400 of this code.
- D. **Standard ISTS** - An on-site sewage disposal system meeting all City, County and State codes, of sufficient size to serve a 4-bedroom home.
- E. **Undisturbed Soil** - -Soils that have not been moved, smeared, compacted, nor manipulated with equipment pursuant to

Minnesota Pollution Control Agency Chapter 7080 (Rule 7080). Tilled farmland may be considered undisturbed for the purposes of the septic system if an agent certified to the satisfaction of the City Building Official in the area of Individual Sewage Treatment Systems (ISTS) determines that the soil structure is undisturbed and meets the requirements of Rule 7080.

**F. Unsuitable Soils** – shall be defined in Article 11-450.1(D).

**G. Final Dwelling Elevation** - the elevation at the point where the finished lot grade meets a point on the concrete wall of the basement, at the location closest to the roadway from which the lot takes access to a public road.

**H. Building Pad** - The specific perimeter within the Eligible Building Area where footings for structural foundations are or will be placed, and the area around said perimeter for a distance of thirty feet.

#### **10-302 Livability Standards**

All residential lots shall contain at least 29,500 square feet of land which lies above the 100 year flood contour. Of this 29,500 square feet, the following additional requirements must be present.

**A. ISTS Area** Each lot must contain at least 7,500 square feet of contiguous area which is reserved for both the ISTS originally constructed and a future ISTS. The ISTS Area need not be contiguous to the Eligible Building Area or the Yard Area, but the entire ISTS Area must exist at an elevation at least one foot above Unsuitable Soils, and must contain Undisturbed Soils or soils which meet the requirements of Rule 7080 of the Minnesota Pollution Control Agency for ISTS construction standards. The ISTS Area may be irregular in shape, provided they do not encroach into areas reserved by easement or otherwise for roadway, drainage or utility purposes, and provided that all of the area can be reasonably used for ISTS construction without the need for variances.

**B. Eligible Building Area** Each lot shall contain at least 10,000 square feet of contiguous land which lies at an elevation at least four feet above Unsuitable Soils. The Eligible Building Area may not be irregular in shape, and should be generally rectangular or ovoid, with no panhandles, narrow necks or peninsulas. Eligible Building Areas may not encroach into any areas reserved by easement or otherwise for roadway, drainage or utility purposes. Fill may be used to create Eligible Building Area.

**C. Yard Area** Each lot shall contain at least 12,000 contiguous square feet which:

- i) Lies above the 100 year flood contour, and
- ii) Lies at least one foot above soils unsuitable for the intended usage of the Yard area, and
- iii) Is contiguous to the Eligible Building Area for a distance of at least fifty-percent of the lineal perimeter of the Eligible Building Area.

Yard Areas may encroach into the dedicated easement area which lies at a distance of ten feet from the perimeter of the lot, and may encroach into areas reserved by easement or otherwise for other public utility purposes, but may not encroach into any other area reserved by dedication or otherwise for road or drainage purposes, and may not encroach into any areas within the 100 year flood contour or into designated wetlands. Yard Areas may be irregular in shape except within thirty feet of the locations where the Yard Area is contiguous to the Eligible Building Area, at which locations the Yard Areas shall be a logical extension or expansion of the generally rectangular or ovoid shape of the Eligible Building Area. Fill may be used to create Yard Area.

**D. Building Pad Areas** The entire Building Pad must lie within the Eligible Building Area, and shall meet the separation requirements for the Eligible Building Area.

**E. Low Floor Elevations**

- i) For walkout designs, the low floor elevation shall be at least one foot above the 100 year flood contour, but, notwithstanding the 100 year flood contour, not less than one foot above unsuitable soils, as determined by the City's engineer.
- ii) For other designs, the low floor elevation shall be at least one foot above the 100 year flood contour, but, notwithstanding the 100 year flood contour, not less than one foot above unsuitable soils, as determined by the City's engineer.

**F. Exception to Soils Condition** If the requirements of Article 10-202(B)(iii) cannot be met in regard to the possible usage of a Standard System ISTS for any lot or lots in a proposed subdivision, by reason of the soils having been disturbed or compacted by activities which pre-dated the subdivision application, and which

conditions were not caused by or at the direction of the subdivider, or, if said requirements cannot be met after final plat approval because of unusual mottling conditions which were not ascertained by the developer after doing due diligence in completing and analyzing soil borings during the Preliminary Plat process, and in accord with City requirements for such borings, the City Council may waive the requirement that the ISTS be constructed on Undisturbed Soils, and may allow the usage of "Other Systems" as that term is defined in Article 11-450.1(F) of this Code. Where "Other" systems are so permitted, it shall be the obligation of the lot owner to provide actual field designs for each such proposed system, prepared by a qualified ISTS designer, prior to obtaining a building permit. The design standards shall be as directed by the City's Building Official. Where an "Other" system is allowed, upon recommendation of the City's Building Official, the design must include the concept of "time-dosing", meaning a periodic distribution of effluent which is electronically controlled.

#### **10-400 Administration and General Conditions**

If at any time prior to the issuance of all building permits in a given subdivision, the developer shall be in default of any obligation under any written development agreement with the City, or shall be in violation of any portion of this code, the City may unilaterally withhold the issuance of any new building permits in the subdivision until compliance is met.

#### **10-410 General Conditions**

**A. Plans and Specifications** All plans and specifications shall be prepared by a registered professional engineer, and all surveying work shall be done by a registered land surveyor. All plans shall be signed by the engineer or surveyor, as required by law and as required by professional standards.

**B. Duration of Approval** The approval of a final plat or the approval of a lot split shall expire at the end of one year. For good cause, the City Council may, upon application for re-approval, waive certain submittal and procedural requirements.

**C. Work Prior to Approval** All work done in a subdivision by a developer prior to the time that final plat approval has been given is done at the developer's risk, and shall be done in accord with other sections of the City Code, including, without limitation, requirements pertaining to excavation permits.

**D. Certificate of Survey** At the time that a building permit is requested for any lot, the applicant shall furnish a Certificate of Survey prepared by a

registered land surveyor, which survey shall identify the Eligible Building Area, the proposed location of the building foundation, driveway and sidewalks, well location, all easements, the Yard Area, the ISTS areas, and such other information as may be required by the City's building official, showing appropriate dimensions.

**E. Notification to Lot Purchasers** At the time of issuance of a Certificate of Occupancy, the building permit applicant shall furnish evidence that the end user (occupant) of the dwelling has been notified of the provisions of Article 10-430(H) and (J) pertaining to turf establishment and avoidance of ISTS areas.

**F. Performance and Maintenance Security** All performance and maintenance security shall be in the form of a cash deposit or a Letter of Credit issued in accord with the provisions of policy established by Resolution of the City Council.

**G. Compliance With Tree Preservation Plan** During the construction of any structure on any lot for which a Tree Preservation Plan is in place, pursuant to Article 10-202(B)(v) of the Ham Lake City Code, the Building Official shall have the right to suspend any building permit, and/or to decline to issue a certificate of occupancy for the structure upon the discovery of any violation of the Tree Preservation Plan during the construction process of the structure, and to continue such sanction in force until the violation is cured either by action or by the posting of adequate cash security and agreement to guarantee cure of the violation, to be established by the Building Official.

At the time that any building permit is requested on any lot for which a Tree Preservation Plan is in effect, or on any lot for which such a plan is required, the Building Official shall provide the applicant with a copy of the Tree Preservation Plan and with educational materials concerning tree preservation as may be recommended from time to time by the City Council, upon recommendation from its Park and Tree Commission.

#### **10-420 General Plat Standards**

##### **A. Easements**

The plat shall dedicate a ten foot drainage and utility easement around the entire perimeter of each lot. Other easements shall be dedicated as required by the City Council.

##### **B. Parkland Dedication**

###### **(i) Statement of Policy.**

It is the policy of the City of Ham Lake that one acre of public park or trail space should be created for every ten acres of residential land developed,

in order to create a sufficient supply of public recreational space to accommodate the reasonable needs of the public. Given the large amount of marginal land and wetlands in the City, this acreage goal is difficult to define in terms of taking a percentage of each plat; each plat is different in topography and capacity for development. Not all upland is capable of housing sewage treatment systems, further limiting development. In addition, parks that serve only a single neighborhood have proven costly to maintain, and do not provide for an ideal level of recreational activity in an economic manner. It is for this reason that it is not generally practical to require a dedication of ten per cent of the upland in a given plat, but is generally more practical to require a park dedication fee in lieu of parkland, in order to provide funds for larger parks serving more citizens. It is therefore the policy of the City to take dedicated parkland or trails only where such lands can be a part of a larger network, larger park system or connected to public waters. In all other cases, park dedication fees will be used.

#### **ii) Upland Computation**

At the time that a wetland delineation is made for a given plat, the surveyor preparing the plat work shall notify the City of the acreage of upland in the plat.

#### **iii) Land or Fee**

Each residential plat shall either dedicate up to 10% of the upland therein as a public park or trail, or shall pay a parkland dedication fee, or a combination of both. The determination of how the parkland dedication requirement will be met will be made by motion of the City Council, after recommendation from the Park and Tree Commission, as early in the platting procedure as is practical. If the determination is to dedicate some upland but less than 10% of the upland, then the difference between 10% and the amount dedicated shall be paid via a pro rata fee.

#### **iv) Fee**

If a fee is required for all or part of the parkland obligation, the fee will be based on the average fair market value of the upland as determined by the City Valuation described in Article 10-420 (B) (iv) (a) below, or by appraisal at the time the plat is submitted for Preliminary Plat approval pursuant to Article 10-420(B) (iv) (b) below. The park dedication fee shall be on a per-lot basis, and will be computed on the premise that a reasonable fee per lot is ten percent of the fair market value of one acre of raw land. If the plat contains land that was previously platted and for which a park dedication fee was charged, the area of such land shall be subtracted from the computation of the amount of upland. All such fees

will be dedicated to the purposes required by law. Fair market value shall be determined using one of the following methods:

a) **Annual Establishment** (the "City Valuation"). The City Council shall establish a per-acre value in January of each year by the ordinance which deals with other municipal fees and charges. The City Council may take into account such data and information as they deem appropriate, and may establish different values for different categories of land, such as wooded land, waterfront land or land abutting wetlands or other physical features. The City may also commission an annual appraisal by a licensed fee appraiser to assist in the City Valuation, and may devise a method by which the City is reimbursed for the cost of the City Valuation from parkland dedication fees collected prior to the next annual valuation. The City Council may alter the City Valuation at any time during the year by ordinance. All City Valuations shall remain in effect until altered by ordinance. Until the next City Valuation, the per acre value of undeveloped residential land shall be \$25,000.00. Therefore, the park dedication fee until the next valuation shall be \$2,500 per lot.

b) **Developer Appraisal.** At the time of submission of the Preliminary Plat, the developer may submit an appraisal performed by a licensed fee appraiser that documents a valuation different than the City Valuation, subject to the following conditions:

i) The developer shall have obtained the written approval of the appraiser by the City

Administrator prior to ordering the appraisal; and

ii) The City reserves the right to commission a separate fee appraisal if it deems the developer appraisal inaccurate. If the City's subsequent fee appraisal is higher than the developer's appraisal, the City appraisal shall be binding, and the cost of the City appraisal shall be added to the cost of City platting expenses that must be reimbursed by the developer as a part of the platting process.

**(v) Manner of Payment**

Parkland fees shall be payable at the time of recording the plat, or, at the option of the developer, may be collected pro rata per lot with the next ensuing transfer of title of each lot in the plat. In the event that fees are collected with such subsequent lot sales, at the time of recording of the plat the City shall also record a short form development agreement that establishes a lien against the lot for the park fees. The City's lien shall be superior to any other encumbrance, and any pre-existing mortgages must be subordinated to the City's lien. No building permits shall be issued for

any lot until the City has received evidence satisfactory to its attorney that the short form agreement has been duly recorded and enjoys first priority as a lien. In the event that title to a given lot having a City lien is transferred without satisfying the lien, no building permits or certificates of occupancy shall be issued as to such lot until the lien is paid. All such liens shall bear interest from the date of filing the short form agreement through the date of payment, at a fixed rate of interest equal to the highest published prime rate (as published on the date of filing) in the Wall Street Journal, commonly known as "WSJ Prime". If WSJ Prime ceases to be published, the City may substitute another reasonable index.

**(vi) Wetland as Parks**

In the event that the City requests the dedication of designated wetlands as parkland, it will be assumed that wetlands carry ten per cent of the value of upland, such that the amount of wetland necessary to equate to ten per cent of upland will be ten times the amount of upland that could be required in the plat. For example, if a plat contains 20 acres of upland, and 20 acres of wetland, the City could require the dedication of up to two acres of upland. To equate to this amount would require 20 acres of wetland. Therefore, if all 20 acres of wetland were dedicated as park, that would satisfy the park dedication for that plat.

**(vii) Trails**

In subdivisions where the City requires the dedication of trails, the square footage of the trails that are dedicated may be applied as if it were park dedication, and credited against the park dedication requirement for that subdivision.

**(viii) Waiver and Alteration**

Where special circumstances are present in a given subdivision in which a developer provides services or considerations of special benefit to the public that are not otherwise required by the City Code, the City Council may by motion waive or alter all or any part of the Park Dedication and/or fee requirement for the plat.

**C. Drainage Fund Contribution** If the City Engineer identifies a localized drainage problem which is caused or accelerated by a given plat, a Drainage Fund Contribution on a per-lot basis shall be paid at the time of final plat execution. The contribution amount shall be set by resolution of the City Council from time to time, and may be paid as lots are sold by the establishment of a municipal lien for payment.

**D. Title Evidence** Before plat execution, the developer shall furnish an abstract of title or registered property abstract which demonstrates that all



areas to be dedicated to public use will be free and clear of all encumbrances, excepting other non-exclusive public easements which do not interfere with municipal dedications. Title Insurance commitments or policies shall not be acceptable title evidence.

**E. Uniform Street Names** All streets shall follow the uniform street name grid as maintained from time to time by the Anoka County Surveyor.

**F. Plats Outletting to Unpaved Streets** No plat which outlets on an unpaved street shall be approved unless adequate assurance is obtained that the unpaved street will be paved to City standards within a reasonable period of time, in one of the following two methods:

i) Where it appears that a typical special assessment project is feasible to enable the paving project to occur, the developer shall pay a per-lot fixed fee established by the City Council as a contribution to the paving project, payable as lots are sold. Monies so collected shall be maintained in a special fund and dedicated only to the eventual paving of the particular street for which the funds were reserved;

ii) Where it appears that the revenue generated by a typical special assessment project will be insufficient to enable the paving project to occur, the developer shall be required to pay for the shortfall, and prior to plat execution, shall furnish performance security in accord with the City's policies for security, to guarantee that the developer contribution will in fact be paid.

**G. Maintenance of Improvements** All developer-installed improvements shall be maintained by the developer for at least one year after acceptance by the City, with security posted to guarantee the maintenance. The maintenance period shall generally be set by the development agreement, but the City shall have the right to require a maintenance period in excess of one year, particularly where certain testing results show evidence of substandard or improper construction of improvements.

**H. Development Agreements** If a developer proposes to complete all improvements in a plat prior to recording the plat, the developer shall be required to execute only a maintenance agreement and to post maintenance security. In all other cases, a development agreement shall be prepared for each plat, containing at least the following provisions:

- i) The amount of performance and maintenance security required;
- ii) The treatment of parkland dedication or fees;
- iii) Streetlighting costs and escrow for initial power costs;
- iv) Provisions for dealing with Oak Wilt or other vegetation diseases;

- v) The plans and specifications for improvements, including completion timetable;
- vi) Assurances as to the maintenance of proper insurances and payment of subcontractors;
- vii) Special matters pertaining to ponds;
- viii) Payment of all municipal fees and expenses;
- ix) Such other elements as are deemed necessary by the City's attorney.

**I. Protective Covenants** Lawful protective covenants shall be encouraged, and if requested by the developer to do so, the City shall decline to issue building permits for dwellings that do not meet the standards of recorded protective covenants.

**J. Rain Gardens** Rain Gardens are designed depressions in the topography intended to impound surface water runoff so that it may percolate into the soil. They are compatible with certain types of decorative improvements, such as rock and vegetation, and exterior decorative low-profile fencing or bordering. The developer of any subdivision may incorporate Rain Gardens into new plats upon approval of the City Engineer, subject to the condition that all Rain Gardens shall be located in dedicate public drainage and utility easements. Abutting property owners shall be allowed to, but not required to maintain the Rain Gardens on which their lot abuts, subject to certain limiting conditions:

1. No obstruction to the flow or percolation of surface water may be imposed within or affecting any Rain Garden.
2. The Rain Garden shall not be permitted to fill with silt, debris or decaying or dead vegetation;
3. Decorative bordering, such as stone, commercial paver/landscaping block or decorative mini-fencing may be placed around the Rain Garden, but not to exceed six inches in height, and not to be placed in a manner that hinders the receiving of surface water into the rain garden in accord with the original approved drainage plan for the subdivision.
4. No alteration of the Rain Garden shall be permitted beyond the original footprint.
5. The City reserves the right to supersede any owner maintenance, including, without notice or cause, the removal of items placed in the Rain Garden.

A Short-Form Development Agreement making reference to the lots abutting Rain Gardens shall be recorded at the time of plat recording.

**10-430 Physical Standards** The following general physical standards shall be observed in each plat; however, each plat shall be evaluated on a case-by-case basis, and upon recommendation of its Engineer, Attorney, Park Commission, city staff, consultant, or other appropriate source, the City Council may establish differing degrees of standards for each individual plat. In addition, where the standards relate to surface water management, specific drainage and impoundment measures as detailed in the City's then current Local Surface Water Management Plan shall be observed.

**A. Trees** During construction of roads, other infrastructure, and lot grading, Contractor will mark all trees identified in the Tree Preservation Plan that will not be affected by construction activity. Identification shall be done in a manner that will clearly identify each tree, through delineation of gross lot areas or a perimeter around individual trees with visible tape or temporary fencing that extends either outside of the drip line of all trees within the protected area, or that extends for the entire "critical root zone" of each tree within the protected area, whichever distance is greatest. The critical root zone is that area that lies within a radius obtained when the tree diameter at a height 4.5 feet above ground level is measured in inches, and one foot of lineal distance from the trunk is provided for each inch of diameter. No spikes, nails or other objects shall be driven into the bark or trunk of any tree in the process of delineating the protected area. During construction activity involving the pouring of concrete, care shall be taken to avoid spillage of excess concrete or cement that could affect the health of trees.

**B. Erosion and Sediment Control** All stormwater runoff shall be contained in desiltation ponds prior to discharge into any watershed. Proper erosion control measures shall be taken to insure that stormwater runoff does not carry silt material onto public roads or adjoining properties during or after construction.

**C. Drainage** Each plat shall have a positive drainage discharge into a local watershed, in a manner which is designed according to accepted engineering principals using a 100-year storm event as the guideline for runoff control.

**D. Ponding** Each pond constructed for siltation or stormwater containment shall include signage prohibiting trespassing within the drainage easement area. No such pond shall be represented to lot purchasers as being available to the adjoining landowner for recreational purposes or landscaping.

**E. Driveways**

**1) New Dwellings**

Driveways on all lots containing or proposed for new residential dwellings shall be limited to 30 feet in width on City streets and 24 feet on cul-de-sacs (see Article 11-730, and shall be paved with either concrete or bituminous surfacing, in accord with standards or specifications to be established by the City Engineer. The paving requirements may be reduced by the City's Building Official, after conferring with the City's engineer, to a length of 30 feet from the paved portion of the abutting public street if there is a showing of a special circumstance, such as inordinately long driveway length, which makes literal compliance with this provision unfair or unreasonable.

**2) Existing Dwellings or Structures**

For any remodeling or other project that requires a building permit, a condition of issuance of the building permit shall be the paving of any existing unpaved or inadequately paved driveway serving garages or accessory buildings on the parcel. If the parcel contains an existing driveway having adequate pavement, and the property owner agrees to abandon any other unpaved driveways and take access solely from the paved driveway, then no additional paving shall be required. Notwithstanding the foregoing, the Building Official, after conferring with the City's engineer, may shorten the paving requirement to a length of 30 feet from the paved portion of the abutting public street if there is a showing of a special circumstance, such as inordinately long driveway length, which makes literal compliance with this provision unfair or unreasonable. The Building Official may also eliminate paving needs under the following circumstances:

- a)** Because of particular topographic conditions, the existence of the driveway poses no immediate threat of erosion that could affect the public road, and poses no immediate threat of siltation flowing onto the public road; or
- b)** The driveway is not intended to be used more often than once monthly, and topographic and vegetative conditions are present that are likely to inhibit or preclude erosion or siltation from developing if the limited usage is observed; and
- c)** The property owner consents in writing to a license, in recordable form, as follows:

**Driveway License Agreement**

**Agreement**, made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
between the City of Ham Lake, Minnesota (“City”) and  
\_\_\_\_\_ (“Owner”);

### **Recitals**

Owner is the owner of the property described on hereto attached Exhibit A, which property abuts a public road, namely \_\_\_\_\_ . Owner has applied for a permit for activity regulated by City, and has requested a modification of the City’s normal requirement for driveway paving. City is willing to grant such an exception on certain conditions.

#### **It is therefore agreed as follows:**

##### **1. Surrender of Right of Access**

Except for any existing points of access via adequate paved driveways, Owner hereby surrenders all right of access to \_\_\_\_\_ to City.

##### **2. Grant of License**

City hereby grants a license to Owner for a *driveway access* point to \_\_\_\_\_ in the location noted on hereto attached Exhibit B, subject to the following conditions:

- a) Owner covenants that the *driveway access* shall at all times be maintained by owner to prevent erosion within City right of way and to prevent the flow of silt onto the paved surface of the public road; and
- b) Owner covenants that the *driveway access* shall have limited use, to wit, not more than one round-trip per month.

##### **3. Remedies**

If Owner is found by City to have violated any condition of the License, City shall notify Owner of the violation and shall inform the Owner of what paving requirements City intends to impose, stating a date certain by which the paving must be completed. If owner fails to complete the paving in a timely manner, and of quality satisfactory to City, City shall be entitled to erect and maintain barricades to prohibit access to the public street from any location other than approved driveway locations in existence prior to the date hereof.

***(Signature blocks, acknowledgments and drafting statement)***

**3) Exemptions**

Notwithstanding the foregoing, the City's Building Official may grant an exemption or further modifications to paving requirements for driveways that obtain access to unpaved public roads, taking into account the topographic conditions and likelihood and timeliness of future paving of the public road.

**F. Utilities** All utility lines shall be placed underground.

**G. Streetlighting** Streetlights shall be installed in all subdivisions using the traditional platting process. One streetlight shall be required at each intersection, with intervening placement as established by resolution of the City Council. The cost of initial construction, and power costs for the first three years after platting shall be paid to the City at the time of plat execution, in accord with policy to be established by resolution of the City Council. The developer may propose the maintenance of a streetlighting system and power costs through an owner's association, as approved in the discretion of the City Council. In all other subdivisions, the ongoing power costs shall be billed pro rata to the individual lot owners.

**H. Turf Establishment** All boulevard areas shall be seeded or sodded to the specifications of the City Engineer. For private homes and businesses, turf establishment shall be completed or guaranteed at the time that a Certificate of Occupancy is requested, and the following standards and procedures shall be observed:

- i)** Suitable topsoil of not less than four inches in thickness shall be installed in portions of the Yard Area which are not heavily vegetated or landscaped;
- ii)** All such areas shall be sodded or seeded with commonly used residential grass varieties of a perennial nature;
- iii)** At the time of final inspection of the building for Certificate of Occupancy, the establishment of turf shall be inspected. If turf establishment has not taken place to the satisfaction of the building official, the property owner shall be required to post financial security in the form of a cash deposit to insure turf establishment by a date certain (not to exceed one growing season) in an amount to be established by Resolution of the City Council. The owner shall also be required to execute a right of trespass authorizing the City to come upon the property to complete turf establishment if the owner fails to do so within the required time.

## **I. Lot Standards**

All lots shall meet the dimensional, setback and frontage requirements as found in Table 10-1, and shall have frontage upon and access to a paved public road. No construction or grading shall take place on any portion of a lot where a gradient of 12 percent or more is found. Monumentation irons shall be placed at all lot corners. Density in a plat shall not be less than one acre per lot. For lots that are 1.5 acres or more in size, lot configurations shall not contain “panhandles” or create driveway conditions that could impede the ability of emergency vehicles to access the dwelling. Lots that are smaller than 1.5 acres in size shall meet the following standards:

### **1) Definitions:**

- a) “Front Lot Line”** - the side of a lot containing road frontage on which the lot will take access to a public road. If such road frontage includes a straight portion and a curve or curves, the entire road frontage shall be deemed to be a single “side”. If the lot is on a cul-de-sac, the portion of the cul-de-sac and any straight line connected to the arc of the cul-de-sac, but containing road frontage, shall be deemed to be a single “side”.
- b) “Rear Lot Line”** – the side of a lot that most closely parallels the general direction of the Front Lot Line.
- c) “Side Lot Line”** - any lot lines that are not either a Front Lot Line or a Rear Lot Line.
- d) “Lot Depth”** – the greatest distance between any point on a Front Lot Line and any point on a Rear Lot Line.
- e) “Lot Width”** - the length of road frontage on the Front Lot Line.
- f) “Deflected Lot Line”** – a Side Lot Line that consists of two connected lines that meet the following: Starting from the point at which the Side Lot Line intersects with the Front Lot Line, the bearing of the line from that point may not deflect more than fifteen degrees at the point where the bearing changes course. A Deflected Lot Line meeting this requirement shall be deemed to be single “side”.
- g) “Side”** – a Front Lot Line, a Rear Lot Line, or a Side Lot Line (including a single Deflected Lot Line).
- h) “Triangle Lot”** – a lot having three sides, but one of the sides cannot be a Deflected Lot Line.

### **2) Standards**

- a) Rectangular Lots** - Lots shall be generally rectangular in shape, having no more than four sides, unless the Front Lot Line contains a portion of the arc of a cul-de-sac. In such case, the lot may have five sides, but none of the sides may be a Deflected Lot Line. No other lot shall have more than one Deflected Lot Line, and the interior angle of any two intersecting sides shall not be less than

sixty degrees. If the Front Lot Line contains a curvilinear portion that is convex from the lot, the interior angles of the Front Lot Line and the Side Lot Lines shall be computed using a hypothetical Front Lot Line extending in a straight line between the two points of intersection of the Side Lot Lines and the Front Lot Line.

**b) Triangle Lots** - Triangle lots shall be permitted where topography or other physical conditions dictate, but no triangle lot shall contain an interior angle of less than forty-five degrees nor more than ninety degrees, and shall contain one interior angle that is not less than eighty degrees. A triangle lot shall not contain a Rear Lot Line, and the two lines that do not constitute the Front Lot Line shall be considered Side Lot Lines. If the Front Lot Line contains a curvilinear portion that is convex from the lot, the interior angles of the Front Lot Line and the Side Lot Lines shall be computed using a hypothetical Front Lot Line extending in a straight line between the two points of intersection of the Side Lot Lines and the Front Lot Line.

**c) Concave Lots** - If any lot has a Front Lot Line that is concave to the lot, (except lots that have all of their road frontage on the arc of a cul-de-sac) there shall be at least ten feet of tangency from the intersections of the Side Lot Lines with the Front Lot Line, running in the direction of the other Side Lot Line. The interior angles of the corners on the Front Lot Line shall be measured using these tangent sections and the Side Lot Lines. For lots having all of their road frontage on a cul-de-sac (a minimum of 60 feet), for the purposes of measuring interior angles, the Front Lot Line shall be deemed to run in a straight line between the two points of intersection of the Side Lot Lines and the right-of-way line, but the two interior angles on the corners at the right-of-way line must total at least 180 degrees.

**d) Depth to Width Ratio** - Lot Depth shall be no greater than twice the distance of the Lot Width. For Triangle Lots, there is no "Lot Depth" under the definition of that term, but the interior angle limitations for Triangle Lots dictate the limits of length that can be achieved.

**e) Rear Lot Lines** - Rear Lot Lines shall be at least sixty feet in length.

**f) Computation of Lot Size** In calculating the square footage of any lot in any existing subdivision, any future subdivision, or any lot that has been or will be subdivided by means other than traditional platting, the computation shall include the square footage of the



land lying between the centerline of any adjacent public road and the nearest lot line of the lot in question, up to a maximum 33 feet width of such road right of way or easement.

**J. Avoidance of ISTS Areas** At the earliest practical time in the platting process, the developer shall stake and fence the ISTS area for each lot, posting each such area with appropriate signage to warn the operators of motor vehicles or construction equipment to avoid driving over the ISTS area. The staking, fencing and signage may be of such quality as the developer deems appropriate, but in the event that any subsequent inspection by the City reveals that a portion of the ISTS area has been disturbed or compacted, the City may decline to issue a building permit or a Certificate of Occupancy for such lot. Following occupancy, the lot owner shall refrain from compacting or disturbing that portion of the ISTS area which is reserved for the backup ISTS.

**K. Streets** Specific design standards for streets and roads shall be established from time to time by Resolution of the City Council, upon recommendation of the City Engineer. The following general conditions will be met:

- i) All streets will be paved with concrete or bituminous surfacing, and shall have concrete curb and gutter;
- ii) Where it is likely that a street will extend into adjacent lands, the street will be paved to the property line and temporary cul-de-sacs established; at the time that the temporary cul-de-sac is vacated, the responsibility for removal of paving and restoration of the vacated area shall not be that of the City.
- iii) Cul-de-sac or "dead end" streets shall not exceed 1,100 feet in length unless a substantial probability exists that the street will someday be extended to provide a second outlet for the subdivision.
- iv) Street signs will be erected to the specifications of the City Engineer.
- v) The minimum allowable cul-de-sac will be 175 feet. If a subdivision contains a temporary cul-de-sac or other street that is intended to be extended in the future, a sign reading as follows shall be posted in a conspicuous place at the temporary terminus of the street:

**NOTICE**

**THIS STREET MAY BE EXTENDED BEYOND THIS POINT IN THE FUTURE. FURTHER INFORMATION MAY BE OBTAINED BY CONTACTING THE ZONING OFFICER AT HAM LAKE CITY HALL.**

**TEL: 763-434-9555**

The sign shall be furnished, installed and maintained by the City. The City Council shall by resolution establish, from time to time, a fee to be paid by the Developer to defray the cost of producing, erecting and maintaining the sign.

#### **L. Structure Heights**

No residential or commercial building shall exceed 45 feet in height, as measured from the lowest ground elevation abutting the foundation of the building to the highest point of the building. Notwithstanding the foregoing, the following appendages, structures or ancillary features may exceed 45 feet in height, but height may be otherwise limited by the City Council as a part of approval of any site plan or building permit, after review and recommendation of the Planning Commission:

- a) Spires, turrets or belfries attached to a building;
- b) Freestanding flag poles, monuments, water towers, or wind energy generating towers;
- c) Features of industrial operations, such as conveyors, chutes, smokestacks

#### **10-500 Commercial Condominiums**

Commercial Condominiums are subdivisions of land created under the Minnesota Uniform Condominium Act, and which are located in zoning districts other than residential districts.

#### **10-510 Provisions of State Law Adopted by Reference**

The proponent of any Commercial Condominium shall strictly observe all requirements of Minnesota Statutes Chapter 515B, commonly known as the Minnesota Uniform Condominium Act, in establishing and constructing any Commercial Condominium. The terms of that act are hereby adopted and incorporated herein by reference, as modified by this Code.

#### **10-520 Condominium Plat Process**

Commercial Condominium Plats shall be submitted under the same procedures followed for Subdivision by traditional platting as found in Article 10-200 of the Ham Lake City Code, with the following modifications:

- a) The following sentence shall be added to the Notice to Developers as found in Article 10-201:  
“For Commercial Condominiums, no occupancy shall be permitted in any condominium unit unless that particular use is a permitted use in the zoning district in which the condominium is located, or which is a conditional use in that district, and has obtained a conditional use permit.”

- b)** The Sketch Plan shall identify the proposed footprint of all structures, a site plan identifying the location of all common area parking and drives, as well as the area in which ISTS will be constructed. In addition, the Sketch Plan shall depict a projected floor plan for each floor in each structure.
- c)** At the Preliminary Plat stage, in lieu of the materials required under Article 10-202 (B), the proponent shall furnish to the City's engineer the ISTS design and Mitigation Plan described in Article 10-530 below. In addition, at the Preliminary Plat stage, the proponent shall submit a detailed landscaping plan, a preliminary Grading and Drainage plan, and a rendering of the outside appearance of all structures to be constructed. Building materials and standards shall conform to requirements for other commercial buildings in the zoning district.
- d)** At the Final Plat stage, in lieu of the materials required under Article 10-203 (A), the proponent shall furnish to the City's engineer the items and elements required by Minnesota Statutes Chapter 515B.2-110(c) together with a complete Grading and Drainage plan. The Final Plat shall be submitted in accord with Minnesota Statutes Chapter 515B.2-101. All declarations and owners association documents shall be submitted for approval by the City's attorney.
- e)** In lieu of the Development Agreement format in Article 10-203(B), a Development Agreement shall be prepared and executed in recordable form, and recorded at the time of recording the Final Plat, embodying the following conditions:

  - i. A time frame shall be established for completion of all improvements;
  - ii. Security for completion of all unfinished improvements shall be established and posted as in the case of other subdivisions;
  - iii. The overall parking stall requirements shall be stated, and notification given to future unit purchasers that no usage of any unit will be approved or permitted if the usage generates the need for parking that exceeds the overall parking stall requirements.
  - iv. The overall ISTS capacity shall be stated, and notification given to future unit purchasers that no usage of any unit will be approved or permitted if the usage generates effluent that exceeds the overall ISTS capacity.

- v. Any other conditions imposed by the City, particularly if tree removal is a part of the project.

**10-530 Livability Standards**

Article 10-300 of the Ham Lake City Code shall not apply to Commercial Condominium developments. The usage of Standard or “Other” ISTS is permitted in Commercial Condominium developments, subject to the following conditions:

- a) The proponent of the project shall present a design for the ISTS system intended to serve the project, prepared by a state-licensed or certified ISTS designer. The design shall include estimates of water usage shall using United States Geological Survey statistics, University of Minnesota Onsite Treatment Manual or other comparable data as approved by the City’s building official. The design shall include a Mitigation Plan that describes the alternative replacement or corrective action to be taken if an ISTS fails. The design may include multiple occupant usage of the drainfield or treatment portion of the ISTS.
- b) ISTS designs shall be evaluated on a case-by-case basis by the City’s Building Official, Engineer, and such consultants as the City may from time to time determine to utilize.
- c) No certificate of occupancy shall be issued for any unit until the drainfield area for that unit has been constructed and approved by the City’s Building Official. In addition, all changes in occupancy in a commercial condominium must be reviewed by the City’s Building Official to verify that no increase in effluent will occur that threatens the capacity of the ISTS. No change in occupancy shall be permitted unless a new certificate of occupancy has been issued by the City’s Building Official.

**10-540 Parking Requirements**

All parking lots shall be common areas. The number of parking stalls to be installed shall be determined by reference to a parking space chart to be maintained by the City’s Building Official, as approved by resolution of the City Council, and amended as needed by resolution of the City Council. The parking space chart shall reference various land uses and contain corresponding parking stall requirements. If the proponent imposes restrictive covenants by recording, limiting the usage of units to particular land uses that, in the sole judgment of the City, will generate less parking needs than would occur at one stall per 350 square feet, the City may reduce the number of parking stalls accordingly. notwithstanding the foregoing, if any unit is used or proposed for use as a restaurant, theater or other use generating high traffic volumes, the City shall have the right to increase the parking requirements to accommodate such uses.

**10-550 General Conditions**

All other conditions of the City's subdivision code as found in Article 10-400 shall be observed in every Commercial Condominium development, excepting the following Articles: 10-410 (D) and (E); 10-410 (A), except that the easement shall be dedicated around the perimeter of the Condominium Plat itself; 10-420 (B) and (H); 10-430 (E), (G) (H) and (I). The following additional or modified general conditions shall apply to all Commercial Condominium projects.

**A) Driveways and Parking Areas**

Driveways, walkways and parking areas will be paved with bituminous or concrete, bounded by concrete curb and gutter, in accord with standards for other commercial developments in the City.

**B) Streetlighting**

A streetlight meeting the standards for residential streetlights in the City shall be placed at every entrance to a public road, and one streetlight shall be placed in the parking areas for every 20 parking stalls.

**C) Landscaping**

All landscaping shall be in accord with the landscape plan, and shall be located in common areas, to be maintained by an owner's association. At a minimum, all areas not covered by paved surfaces, installed landscaping features or structures shall be covered in mown sod.

**D) Setbacks**

All building structures and curblines in any Commercial Condominium shall observe the setback requirements for such items as found in Table 10-1 of Article 10 and/or elsewhere in the Ham Lake City Code, except that the minimum rear yard setback shall be 10 feet.

**E) Density**

No Commercial Condominium shall be permitted on any lot having an area of less than one acre. There is no limit on the number of units that may be placed in a Commercial Condominium, so long as parking, livability and height requirements are met.

**10-560 Certificates of Occupancy and Change in Unit Ownership**

Upon completion of construction of a condominium building, the owner or unit owners thereof shall not be entitled to Certificates of Occupancy unless the particular usage of each individual unit has been reviewed and approved under the provisions of Article 9-140 of the Ham Lake City

Code. If there is a change in ownership of a condominium unit after a Certificate of Occupancy is issued for that unit, the provisions of Article 9-150 of this Code shall apply.

**10-570 Office Condominiums**

An Office Condominium is a condominium project in which all of the units are intended exclusively for usage as business offices, staffed by professional or clerical staff, with no retail sales, showrooms containing inventory, warehousing, or equipment other than office equipment. If the proponent of a Commercial Condominium designates the project as an Office Condominium at the time of Preliminary Plat review, and subsequently implements the designation through declarations that limit uses to office uses, and records the declaration, after review and approval thereof by the City's attorney, then the following shall apply:

- A)** The project shall be entitled to the assumption that all units are Low Volume Units for determination of ISTS requirements;
- B)** The project shall be entitled to the assumption that one parking stall per 350 square feet of condominium space shall be sufficient in determining parking requirements;
- C)** The units shall be entitled to certificates of occupancy without the need for site plan review under Article 9-140.

**10-580 Declarations**

If the Declarations or other documents for any commercial condominium contain land use restrictions limiting the usage of one or more units in the condominium to specific land uses, the documents containing such restrictions shall include the following language, or language similar thereto if approved by the City's Attorney:

*No change in this instrument or in any land use restriction imposed herein shall be permitted without the consent, by resolution, of the Ham Lake City Council. Further, if the land use restrictions imposed herein have a termination date stated herein or a termination date that results from Minnesota statutory provisions, no such termination shall affect the right of the City to enforce restrictions on the land uses that are intended to observe the City's codes and ordinances relative to parking requirements and Individual Sewage Treatment System requirements.*

The purpose of the foregoing clause is to prevent unilateral changes in land use restrictions that may affect parking and ISTS requirements, it being the intention of the City to premise its initial parking and ISTS requirements on the uses being dictated by the land use restrictions as stated by the operative documents. The City's review of any requested

change in the land use restrictions imposed shall not be limited to compliance with parking and ISTS issues.

**10-600 Variances**

The City Council shall have the power to authorize variances from the requirements of Article 10, and to attach such conditions to the variance as it deems necessary to assure compliance with the purpose of this Code. A variance may be permitted if the following requirements are met:

- a) There is an unusual physical hardship to the land that would prevent the reasonable usage of the land without a variance, and all the conditions of sub-paragraph b), c) and d) below are met.
- b) The variance is in harmony with the general purpose and intent of the Code and is consistent with the Comprehensive Plan.
- c) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- d) The variance, if granted, will not alter the essential character of the locality.

Table 10-1: Lot Standards

Standards	I-P (Industrial Park) CD-1,CD-2, CD-3,CD-4 (Commercial Development)	I-1 (Light Industry)	GF (Government Facilities)
Lot Size	1 acre	1 acre	1 acre
Lot Width **	200 ft.	200 ft.	200 ft.
Front Yard Setbacks *	30 ft.	30 ft.	30 ft.
Side Yard Setbacks	10 ft.	30 ft.	10 ft.
Rear Yard Setbacks ***	20 ft.	20 ft.	10 ft.

*All setbacks refer to the minimum distance between a given lot line and any building, other structure, or curb line or pavement edge of any driveway, aisle, sidewalk or parking lot.*

EXCEPTION: Non-residential structures or uses shall not be located or conducted closer to any lot line of any other lot in any “R” or “PUD” District than the distances specified in the following schedule:

- Twenty Feet Off-street parking spaces and access drives for non-residential uses, churches, schools, and public or semi-public functions, recreational facilities, entertainment facilities, motels, all business uses, and all industrial uses.

*\*\*For lots wholly abutting the turnaround circle portion of a cul-de-sac street, the Lot Width may be 60 feet as measured at the right-of-way line. For lots partially abutting the turnaround circle portion of a cul-de-sac street, the total of that frontage plus the remaining frontage on the street must total 200 or more feet.*

*\*\*\*Commercial Condominiums under Article 10-550(D) of this Code may have a Rear Yard Setback of 10 feet.*

<b>Standards</b>	<b>R-A (Rural Res)</b>	<b>R-1 (Single-Family Res)</b>	<b>RS-1 &amp; RS-2 (Shoreland Res.)</b>
<b>Lot Size</b>	1 acre	1 acre	1 acre
<b>Lot Width **</b>	200 ft.	200 ft.	200 ft.
<b>Front Yard Setbacks *</b>	30 ft.	30 ft.	30 ft.
<b>Side Yard Setbacks *****</b>	10 ft.	10 ft.	10 ft.
<b>Rear Yard Setbacks *****</b>	10 ft. – Accessory Buildings, 50 ft. for All other structures	10 ft. – Accessory Buildings, 50 ft. for All other structures	10 ft. – Accessory Buildings, 50 ft. for All other structures
<b>Standards</b>	<b>PUD (Planned Unit Dev.)</b>		
<b>Lot Size</b>	1 acre		
<b>Lot Width **</b>	200 ft.		
<b>Front Yard Setbacks *</b>	30 ft.		
<b>Side Yard Setbacks</b>	10 ft.		
<b>Rear Yard Setbacks</b>	50 ft.		
<b>Standards</b>	<b>R-AH (Aff. Housing)</b>	<b>Townhomes</b>	<b>Other</b>
<b>Lot Size</b>	Sufficient for Sewerage	50'x 50'*****or 1 A.	***
<b>Lot Width</b>	***	***	***
<b>Front Setback *</b>	***	***	***
<b>Side Setback</b>	***	***	***
<b>Rear Setback</b>	***	***	***



<b>Standards</b>	<b>R-2 (Multiple Family Residential)</b>
<b>Lot Size</b>	3 acres or more for two unit buildings; four acres or more for three unit buildings; five acres or more for four unit buildings. For buildings having more than four units, five acres plus one acre for every unit in excess of four units.
<b>Lot Width</b>	300 ft.
<b>Front Yard Setbacks *</b>	30 ft.
<b>Side Yard Setbacks</b>	10 ft.
<b>Rear Yard Setbacks</b>	50 ft.

\* 50 Ft. when abutting any State or County Highway

\*\* For lots located on cul-de-sacs the width may be 60 feet at the right-of-way line.

\*\*\* As approved by the City Council

\*\*\*\* If used in connection with Common Areas owned by Association

\*\*\*\*\* For corner lots, the lot owner, at the time of application for the first building permit on the lot, may choose which of the non-road frontage lot lines shall be considered the side yard and which shall be the rear yard, regardless of which road provides the driveway access. Once this selection is made, this choice shall apply to all future building permits on this lot.

Physical Standards for RS-1 and RS-2 lands shall be identical with CD-1 or CD-2 Standards for Commercial Uses, I-1 Standards for Industrial Uses, R-A Standards for Residential Agricultural Uses, PUD Standards for planned Unit Development Uses, all subject to any modification imposed by Article 12 of this Code.

Updated through Ordinance 16-03