

## **Chapter 17.05**

### **Subdivision Regulations**

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#### **SECTION 05-01. GENERAL SUBDIVISION PROVISIONS**

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**Section 05-01-01. Purpose.** Pursuant to the authority contained in Minnesota Statutes, Section 462.358, as may be amended, this Ordinance is adopted for the following purposes:

- A. Assure that new additions will harmonize with overall development objectives of the community.
- B. Encourage well-planned, efficient and attractive subdivisions by establishing optimum and impartial standards for design and construction.
- C. Improve land records by establishing standards for surveys and plats.
- D. Place the cost of improvements upon those benefiting therefrom.

- E. Assure that public improvements such as streets, utilities and drainage are designed and constructed to satisfactory standards.
- F. Provide common grounds of understanding between prospective subdividers and municipal officials.
- G. Establish the minimum requirements necessary to protect the public health, safety, comfort, convenience and general welfare.

**Section 05-01-02. Scope of Legal Authority.** The rules and regulations governing plats and subdivision of land contained herein shall apply within the boundaries of the City of Howard Lake. 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provisions of other laws, ordinances or with restrictive covenants running with the land except those specifically repealed by or in conflict with this Ordinance.

**Section 05-01-03. Administration.** Administration of this Ordinance shall be the responsibility of the City Zoning Official. Unless otherwise designated by the City Council, the City Administrator shall act as the City Zoning Official.

**Section 05-01-04. Amendments.** For the purpose of providing the public health, safety, and general welfare, the Planning Commission and City Council may, from time to time, amend the provisions imposed by these subdivisions regulations. A legally advertised public hearing on all proposed amendments shall be held by the Planning Commission in accordance with the law, including the rules and regulations of any applicable state or federal agency. Upon recommendation from the Planning Commission, the City Council shall take final action on all proposed amendments.

**Section 05-01-05. Approvals Necessary for Acceptance of Subdivision Plats.** Before any plat or subdivision of land shall be recorded or be of any validity, it shall be referred to the Planning Commission and approved by the City Council of Howard Lake as having fulfilled the requirements of this Ordinance.

**Section 05-01-06. Conditions for Recording.** No plat or subdivision shall be entitled to be recorded in the Wright County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this Ordinance.

**Section 05-01-07. Building Permits.** No building permit shall be issued for the construction, alteration, enlargement, repair, demolition, or movement of any building, structure, or improvement on any lot or parcel henceforth subdivided until all requirements of this Ordinance have been fully complied with. No public improvements are to be installed and/or service shall not be provided until approval of the final plat is granted and same has been duly recorded.

**Section 05-01-08. Flood Prone Lands.**

- A. Warning and Disclaimer of Liability for Flooding: This Ordinance does not imply that areas outside floodplain areas or land uses permitted within such

districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Howard Lake or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made thereunder. No responsibility or liability shall arise from the design or operation of subdivision drainage facilities dedicated to the City of Howard Lake until the City has accepted such dedication.

- B. Subdivision Flooding and Flood Control: No land shall be subdivided if the City Council finds the land unsuitable for subdividing due to flooding, inadequate drainage, water supply, or sewage treatment facilities in accordance with this Ordinance and the Zoning Ordinance. Any building sites on lots within the floodplain district shall be at or above the regulatory flood protection elevation in accordance with this Ordinance and the Zoning Ordinance. All subdivisions shall have water supply and sewer disposal facilities that comply with the provisions of this Ordinance, and any applicable building, health or safety codes, including the Minnesota State Building Code, as may be amended. All subdivisions shall have road access both to the subdivision and to the individual building sites no lower than two (2) feet below the regulatory flood protection elevation. Each of the above requirements shall take into consideration the 100-year flood profile and other supporting technical data in the Flood Insurance Study and the Flood Insurance Rate Map.
- C. Public Utilities: All public utilities and facilities such as gas, electrical, telephone, sewer, and water supply systems to be located in the floodplain shall be elevated or floodproofed in accordance with the Minnesota State Building Code, as may be amended, to an elevation no lower than the regulatory flood protection elevation, in accordance with state and federal agency regulations and the City's Zoning Ordinance, as may be amended.
- D. Public Transportation Facilities: Railroad tracks, roads and bridges to be located within Floodway areas shall comply with this Ordinance and the Zoning Ordinance. Elevation to the regulatory flood protection elevation shall be provided where failure and interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary railroad tracks, roads, or bridges may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety and as long as such construction is in accordance with the rules and regulations of the Department of Natural Resources, State of Minnesota, the Federal Emergency Management Agency, and the City Zoning Ordinance, as may be amended.

**Section 05-01-09. Separability.** Should any section, sub-section, provision, clause or phrase of this Ordinance be found to be invalid, such decision shall not affect the validity of the remaining

portions of this Ordinance.

**Section 05-01-10. Interpretation.** The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and the future tenses, and the future the present.
- C. The word “shall” is mandatory while the word “may” is permissive.
- D. Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, code, statute, resolution or regulation, the regulations which are more restrictive or impose higher standards or requirements shall prevail.
- E. All measured distances shall be expressed in feet and decimals of feet.

**Section 05-01-11. Definitions.** The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

- A. Alley: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant: The owner, their agent, or other person having legal control, ownership and/or interest in the land proposed to be subdivided.

- B. Block: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or subdivision boundary lines.

Boulevard: The portion of the street right-of-way between the roadway shoulder or curb line and the property line.

Buffer: The use of land, topography (difference in elevation), space, fences or landscape plantings to screen or partially screen a use or property from another use or property.

Building: Any structure built for the support, shelter or enclosure of persons, animals, chattel or movable property of any kind, and includes any structure.

- C. Certificate of Survey: A document prepared by a Registered Engineer or

Registered Land Surveyor which precisely describes area, dimensions and location of a parcel or parcels of land.

City: The City of Howard Lake.

City Administrator: The person employed by the City Council to be the City Administrator for the City of Howard Lake.

City Attorney: The attorney employed or retained by the City, unless otherwise stated.

City Building Official: The person designated by the City Council to be the City Building Official for the City of Howard Lake.

City Council: The governing body for the City of Howard Lake.

City Engineer: The person employed or retained by the City Council to be the City Engineer for the City of Howard Lake.

City Planner: The person employed or retained by the City Council to be the City Planner for the City of Howard Lake.

Clerk: The Howard Lake City Clerk.

Comprehensive Plan: A comprehensive plan prepared and approved by the City, including a compilation of policy statements, goals, standards, fiscal guidelines, and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Contour Map: A map on which irregularities of land surface are shown by lines connecting points of equal elevations. "Contour interval" shall mean the vertical height between contour lines.

Copy: A print or reproduction made from a tracing.

County: Wright County, Minnesota.

- D. Design Standards: The specifications to landowners or those proposing to subdivide land for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as rights-of-way, blocks, easements and lots.

Development: Acts relating to subdividing land, platting land, building structures and installing lot improvements.

Drainage Course: A water course or surface area for the drainage or conveyance of surface water.

E. Easement: A grant by an owner of land for a specific use by persons other than the owner.

F. Flood Related:

Accessory Use or Accessory Structure: A use or structure in the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Equal Degree of Encroachment: Method of determining the location of encroachment lines so that the hydraulic capacity of flood plain lands on each side of a stream are reduced by an equal amount when calculating the increases in flood stages due to flood plain encroachments.

FEMA: Federal Emergency Management Agency.

Flood: A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

Flood Frequency: The average frequency, statistically determined, for which it is expected that a  
Specific flood stage or discharge may be equaled or exceeded.

Flood Fringe: That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for the City.

Flood Hazard Areas: The areas included in the floodway and flood fringe as indicated on the official zoning map and the Flood Insurance Study and Flood Insurance Rate Map which have been officially adopted by the City.

Flood Insurance Rate Map: The most recent Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for the City, and as applicable and allowed by law, the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for the County of Wright, as may be amended.

Flood Insurance Study: The most recent Flood Insurance Study prepared for the City by the Federal Emergency Management Agency and, as applicable and allowed by law, the Flood Insurance Study prepared by the Federal Emergency Management Agency for the County of Wright, as may be amended.

**Floodplain:** The areas adjoining a watercourse which have been or hereafter may be covered by the 100-year flood as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study, or in any other officially adopted City flood study.

**Floodproofing:** A combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area in accordance with the Minnesota State Building Code, as may be amended.

**Floodway:** The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study, or in any other officially adopted City flood study.

**Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**100-Year Flood:** A flood which is representative of large regional floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study, or in any other officially adopted City flood study.

**Reach:** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by the natural or manmade obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would be typical of a reach.

**Regulatory Flood Protection Elevation:** A point not less than one (1) foot above the water surface profile associated with the 100-year flood as determined by the use of the 100-year flood profile and supporting technical data in the Flood Insurance Study plus any increase in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Chapter are required to be elevated or floodproofed.

G. Governing Body: The Howard Lake City Council.

Grade: The slope of a road, street, or other public way, specified in percentage terms.

K. Key Map: A small scale map which definitively shows the area proposed to be platted in relation to known geographical features (e.g., regional feature, community centers, lakes and streets)

L. Lot: A parcel or portion of land in a subdivision or plat of land separated from other parcels or portions by description, as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

Lot, Area: The total land area of a horizontal plane within the lot lines.

Lot, Area Minimum: Except as may be otherwise expressly allowed in this Ordinance or the Zoning Ordinance, the area of a horizontal plan within the lot lines excluding major drainageways, wetlands, waterbodies, road rights-of-way, utility/pipeline easements, and slopes steeper than three to one (3:1).

Lot, Base: Lots meeting all specifications in the zoning district prior to being subdivided into a two family dwelling, townhome, or quadraminium unit lot subdivision.

Lot, Corner: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees.

Lot, Depth: The distance between the mid points of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot lines in the rear.

Lot, Double Frontage: An interior lot having frontage on two streets.

Lot Improvement: Any building, structure, work of art, or other object, or improvement including grading of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

Lot, Interior: A lot, other than a corner lot, including through or double frontage lots.

Lot Line: A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting Street or alley, the lot line shall be deemed to be the street or alley right-of-way.



Lot Line, Rear: That boundary of a lot which is opposite the front lot line.

Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

Lot of Record: A platted lot, metes and bounds parcel, which has been recorded in the office of the Wright County Recorder prior to the adoption of this Ordinance.

Lot, Reversed Frontage: A lot in which the frontage is at right angles, or approximately right angles, to the general pattern in the area involved. A reversed frontage lot may be a corner lot or an interior lot.

Lot, Unit: Lots created from the subdivisions of a base lot for two family dwelling, townhome, or quadraminium dwelling having different minimum lot size requirements than the conventional base lots within the zoning district.

Lot, Width: The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line. If no setback line is established, the distance between the side lot lines measured along the public right-of-way.

- M. Metes and Bounds Description: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.
- N. Natural Water Way: A natural passageway on the surface of the earth, so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area. The term also shall include all drainage structures that have been constructed or placed for the purpose of conducting water from one place to another.
- O. Outlot: A lot remnant or parcel of land left over after platting, which is intended as open space or other future use, for which no building permit shall be issued.

Owner: An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable or legal ownership interest in the land sought to be subdivided.

- P. Parcel: An individual lot or tract of land.

Parks and Playgrounds: Public land and open space in the City dedicated or reserved for recreational purposes.

Pedestrian Way: A public right-of-way or easement across a block or within a block to provide access for pedestrians and which may be used for the installation of paths or trails,

Percentage of Grade: Along a center line of a street, the change in vertical elevation in feet and tenths of a foot for each one hundred feet (100) of horizontal distance, expressed as a percentage.

Person: Any individual or legal entity.

Planning Commission: The Howard Lake Planning Commission.

Plat: A map, drawing or chart on which the subdivider's plan of subdivision is presented to the Planning Commission and City Council for approval, and is ultimately recorded in the Office of the County Recorder.

Plat, Final: A drawing, in final form, showing a proposed subdivision containing all information and detail required by State Statute and by this Ordinance, to be presented to the Planning Commission and City Council for approval and which, if approved, may be duly filed with the Wright County Recorder.

Plat, Preliminary: A detailed drawing or map of a proposed subdivision meeting the requirements herein enumerated submitted to the Planning Commission and governing body for their consideration, in compliance with the Comprehensive Plan, along with the required supporting data.

Protective Covenants: Contracts entered into between all owners and holders of mortgage constituting a restriction on the use of property within a subdivision for the benefit of the property owners.

Public Improvement: Any drainage ditch, roadway, parkway, street, sanitary sewer, storm sewer, water system, sidewalk, tree, lawn, off-street parking area, lot improvement or other facility for which the City may ultimately assume ownership, responsibility for maintenance and operation, or which may affect an improvement, for which local government responsibility is or may be established.

Publication: An official notice, as prescribed by State Statutes.

- Q. Quadraminiums: Single structures which contain four (4) subdivided dwelling units all of which have individually separate entrances from the exterior of the structure.

- R. Replat: The subdivision of land in accordance with this Ordinance which has previously been platted and which is on file with Wright County pursuant to State Statutes.

Reserve Strips: A narrow strip of land placed between lot lines and streets to control access.

Right-of-Way: Land acquired by reservation or dedication intended for public use, and intended to be occupied or which is occupied by a street, trail, utility lines, oil or gas pipeline, storm sewer or other similar uses.

Roadway: The portion of street right-of-way improved for vehicular travel.

- S. Setback: The distance between a building and the property line nearest thereto.

Single family detached dwelling: A dwelling which is designed and constructed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

Sketch Plan: A drawing showing the proposed subdivision of property. This plan shall be drawn to scale and dimensioned, however, exact accuracy is not a requirement.

Steep Slope: Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction technique and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

Streets, Arterial: Those streets carrying larger volumes of traffic and serving as links between various sub-areas of the City. Arterial streets are intended to provide for collection and distribution of traffic between highways and collector streets; hence regulation of direct access to property is critical.

Streets, Collector: Those streets which carry traffic from local streets to the major system of arterials and highways. Collector streets primarily provide principal access to residential neighborhoods, including, to a lesser degree direct land access.

Streets, Cul-De-Sac: A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Streets, Half: A street designated to provide access to only one side of the right-of-way.

Streets, Local: A street whose primary function is to provide direct access to abutting property containing single-family dwellings and which, by design, is usually a two-lane road with parking permitted within the roadway.

Streets, Private: A street serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public and is owned by one or more private parties.

Streets, Public: A public right-of-way for vehicular traffic, whether designated as a highway, thoroughfare, arterial, parkway, collector, throughway, road, avenue, boulevard, lane, place, drive, court or otherwise designated, which has been or is proposed to be dedicated or deeded to the public for public use and which affords principal means of access to abutting property.

Streets, Right-of-Way Width: The shortest distance between the lines delineating the right-of-way of a street.

Structure: Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character. Among other things, structures including but not limited to buildings, gazebos, decks, retaining walls, fences, and swimming pools.

Subdividing: The process of effecting subdivision.

Subdivision: The separation of an area, parcel or tract of land under single ownership into two (2) or more parcels, tracts, lots or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets or roads for residential or other use. This term includes resubdivision and, where appropriate to the context, shall relate to the process of subdividing or to the land subdivided, except in the case of;

1. Cemetery Lots
2. Court Orders.

Surveyor: A land surveyor registered under Minnesota State laws.

T. Townhouse: A structure with three (3) or more dwelling units contiguous to

each other by the sharing of one (1) common wall, all of which have individually separate entrances from the exterior of the structure, such structures to be of the town or row house type as contrasted to multiple apartment structures.

Tracing: A plat or map drawn on transparent paper, film, or cloth which can be reproduced by using regular reproduction procedure.

Tree Preservation Related:

Diameter: The measurement of a tree's trunk measured at a point four and one-half (4.5) feet above the ground.

Drip-line: The farthest distance away from the trunk of a tree that rain or dew will fall directly to the ground from the leaves or branches of the trees.

Significant Tree: Any tree measuring six (6) inches or more in diameter measured at a point four and one-half (4.5) feet above the ground, and which is not diseased, dead, or dying.

Tree Protection: Snow fencing or polyethylene laminar safety netting placed at the dripline of the significant trees to be preserved. The tree protection measures shall remain in place until all grading and construction activity is terminated.

Two-Family Dwelling: A dwelling designed exclusively for occupancy by two (2) families living independent of each other.

- V. Variance: A variance is a relaxation of the terms of this Ordinance where such deviation will not be contrary to the spirit and intent of the Comprehensive Plan and this Ordinance, the public interest and where, owing to physical conditions unique to the individual property under consideration and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.
- W. Waterbody: A body of water (lake or pond) or a depression of land or expanded part of a river, or an enclosed basin that retains water and is surrounded by land.

Watercourse: A stream of water including rivers, brooks, creeks, etc.

Wetland Related:

- 1. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this Ordinance, wetlands must:
  - i. Have a predominance of hydric soils.

- ii. Be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
    - iii. Under normal circumstances, support a prevalence of hydrophytic vegetation.
  - 2. A distinct hydrologic feature with characteristics of item (1), surrounded by non-wetland and including all wetland types, except those connected solely by riverine wetlands. "Wetland area" means a portion of "a wetland" or "the wetland".
  - 3. Wetlands does not include public waters wetlands and public waters that are designated on the public waters inventory maps prepared under Minnesota Statutes, Section 103G.201, as may be amended.
- Z. Zero Lot Line: The reduction of side yard setback requirements to zero, permitting the placement of a structure near or adjacent to the side yard lot line. With zero lot line, no portion of the structure or accessory appurtenance shall project over the lot line.

Zoning Official: The duly appointed officer charged with the administration and enforcement of the Zoning Ordinance.

Zoning Ordinance: The Zoning Ordinance or resolution controlling the use of land as adopted by the City, including the Official City Zoning Map.