

# **FILLMORE COUNTY**

# **SUBDIVISION ORDINANCE**

ADOPTED 1972  
AMENDED 1989  
AMENDED 1996  
AMENDED 1999  
AMENDED 2004

# **SUBDIVISION ORDINANCE OF FILLMORE COUNTY, MINNESOTA**

AN ORDINANCE PROVIDING FOR THE ORDERLY, ECONOMIC, AND SAFE  
DEVELOPMENT OF LAND IN FILLMORE COUNTY.

## **SECTION 1.0 Purpose and Intent**

This ordinance is enacted for the purpose of safeguarding the best interest of Fillmore County, the homeowner, the Subdivider, the township, and local municipalities within the county; encouraging well planned subdivisions by the establishment of design and construction criteria; to improve land records by establishing standards for surveys and plats; and protecting the environmentally sensitive areas of the county.

It is the intent of this ordinance to regulate subdivisions within Fillmore County in accordance with the authority and policies as declared in Minnesota Statutes Chapter 394 and Chapter 505.

## **SECTION 2.0 Short Title**

This ordinance shall be known, cited, and referred to as the “Fillmore County Subdivision Ordinance”, when referred to herein it shall be known as “this Ordinance”.

## **SECTION 3.00 Scope and Authority**

### **3.01. Scope and Legal Authority**

The rules and regulations governing plats and subdivision of land contained herein shall apply to all lands within the County lying outside the incorporated limits of municipalities except those municipalities that have adopted the Fillmore County Zoning Ordinance and other lands as permitted by State Statute.

### **3.02. Amendments**

The Fillmore County Board may amend the provisions of this Ordinance.

### **3.03. Administration**

The Fillmore County Zoning Administrator shall administer this Ordinance.

### **3.04. Compliance**

No plat of any subdivision shall be entitled to be recorded in the Fillmore County Recorder's office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed in this Ordinance.

#### **SECTION 4.00 RULES**

- 4.01 No building permit shall be issued for construction until all requirements of this Ordinance are fully complied with and a Final Plat is approved and recorded.
- 4.02. These regulations shall apply to the division of land in those areas of Fillmore County that are governed by the provisions of the Fillmore County Zoning Ordinance.
- 4.03. All subdivisions as defined under the jurisdiction of this Ordinance are subject to the provision of this Ordinance and to the Minnesota Statutes which regulate subdivision of land (Chapter 505).
- 4.04. Unless approved as a final plat as provided herein, no subdivision shall be entitled to be recorded with the Fillmore County Recorder or have any validity.
- 4.05. No public improvements are to be installed and no services shall be provided until the Final Plat is approved by the County Board and duly recorded.
- 4.06. All plats lawfully recorded prior to the effective date of this Ordinance shall not be subject to the provisions contained herein.
- 4.07. The Fillmore County Zoning Administrator or his designee must approve all property divisions or splits in the unincorporated areas of Fillmore County. Such written approval shall be filed with the Fillmore County Treasurer before the split will be allowed.
- 4.08. All property divisions in Fillmore County must be accompanied by a Certificate of Survey attached to the e document that divides or splits a whole parcel or multiple parcels and conveys land described by metes and bounds description. If a split occurs within a recorded subdivision or by rectangular survey, a survey is not required. The Certificate of Survey shall state the total number of acres being split out on the conveyance document and also the number of acres split out of each parcel, each section and quarter of a quarter section if applicable

#### **SECTION 5.0 Definitions**

For the purpose of these regulations, the following terms, phrases, words, and their definitions shall have the meaning given in this Section. When inconsistent with the context, words used in the present shall include the future tense; words used in the singular shall include the plural; and words in the plural shall include the singular.

- 1) **Administrative Officer:** The Fillmore County Zoning Administrator.
- 2) **Attorney:** The Fillmore County Attorney.
- 3) **Block:** An area of land within a subdivision that is entirely bounded by streets, or a combination of streets, exterior boundary lines of the subdivision, and /or bodies of water.
- 4) **Board of Adjustment:** The duly appointed Fillmore County Board of Adjustment as established within the Fillmore County Zoning Ordinance.
- 5) **Bond:** Any form of security including cash deposit, surety bond, collateral, property, or instrument of credit in the amount and form satisfactory to the County Board. The County Board shall approve all bonds wherever the bond is required by these regulations.
- 6) **Building:** Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or material of any kind.
- 7) **Building Setback Line:** A line parallel to the street right-of-way or property line and representing the minimum distance which all or any part of the building is set back from said property line.
- 8) **Clear Cutting:** The removal of all or substantially all trees and shrubs from a parcel of land.
- 9) **Comprehensive Plan:** The Fillmore County Comprehensive Plan as adopted by the Fillmore County Board including the goals and objectives of the County for the future development thereof; in the form of plans, maps, charts, and text material.
- 10) **Contour Map:** A map on which irregularities of land surface is shown by lines connecting points of equal elevations. Contour interval is the vertical height between contour lines. Also referred to as a topographic map.
- 11) **Corner Lot:** A lot bordered on at least two sides by streets.
- 12) **County Board:** The Fillmore County Board of Commissioners.
- 13) **Cul-de-sac:** A street having one open end and being permanently terminated at the other end by a vehicular turnaround.
- 14) **Easement:** Authorization by a property owner for the use by another, and for a specific purpose, of any designated part of his property.
- 15) **Engineer:** The Counties Registered Professional Engineer, whether a county employee or retained by the County for the necessary functions herein defined.
- 16) **Final Plat:** A drawing in final form, showing a proposed subdivision containing all information and details as required by Minnesota State Statute and the County Board, and which if approved, must be duly filed with the Fillmore County Recorder.

- 17) Grade:** The slope of a road, street, or other public way, specified in percentage (%) terms.
- 18) Highway:** Any public road, thoroughfare or vehicular right-of-way with a Federal, State, or County numerical route designation.
- 19) Improvements:** Any onsite sewage system, water system, drainage system, streets, or other facility that constitutes a physical betterment to the property.
- 20) Lot:** A parcel, piece, or portion of land abutting a private or public street, designated by metes and bounds, registered land survey, auditors plat, or other means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof.
- 21) Marginal Access Road (Frontage Road):** A street that is parallel and adjacent to an arterial road, which provides access to abutting properties and protection from through traffic.
- 22) Minimum Subdivision Design Standards:** The guides, principles, and specifications for the preparation of subdivision plans indicating, among other things, the minimum and maximum dimensions of the various elements set forth in the plan.
- 23) Owner:** Any individual, firm, association, syndicate, co-partnership, trust, or any other legal entity having sufficient propriety interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.
- 24) Pedestrian Way:** A public right of way across or within a block to be used by pedestrians.
- 25) Person:** An individual, to include both male and female, and shall also extend and be applied to political and corporate bodies, and to partnerships and other unincorporated associations or any other legal entity.
- 26) Planned Unit Development:** A development whereby buildings are grouped or clustered in and around common open space in accordance with a prearranged site plan by an owner, developer, or homeowners association.
- 27) Plat:** A map or drawing that conforms to requirements found in State Statutes 505; which graphically delineates the boundary of land parcels for the purpose of identification.
- 28) Preliminary Plat:** The preliminary map or drawing indicting the proposed layout of the subdivision to be submitted to the Fillmore County Planning Commission and the County Board.
- 29) Protective Covenants:** Contracts entered into by private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

- 30) Primary Structure:** For the purposes of this ordinance, a primary structure shall be a permanent dwelling.
- 31) Private Road:** A road serving as vehicular access to two (2) or more parcels of land which is not dedicated to the public but is owned by one or more private parties.
- 32) Public Land:** Land owned or operated by a governmental unit.
- 33) Right-of-Way:** The land covered by a public road or other land dedicated for public use or for certain private use such as land over which power lines pass.
- 34) Street:** A public right-of-way, which affords a primary means of access to abutting property owners.
- 35) Subdivider:** Any person, firm, corporation, partnership, or association who shall lay out any subdivision or part thereof as defined herein, either for himself or for others.
- 36) Subdivision:** A described tract of land which is to be or has been subdivided into three (3) or more lots or parcels, for the purpose of transfer of ownership or building development, or, if a new street or road is involved, any division of a parcel of land. The term includes resubdivision and where it is appropriate to the context, relates either to the process of subdividing or the land subdivided.
- 37) Surveyor:** A person duly registered as a land surveyor by the state of Minnesota.

## **SECTION 6.0**

### **Platting Procedures**

- 6.01. Whenever any subdivision of land is proposed to be made, and before any contract for the sale of, or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the Subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.
- 6.02. Preapplication meeting: Prior to the preparation of a preliminary plat, the owners of land proposed to be subdivided in Fillmore County should meet with the Fillmore County Planning Commission and any other agency that may have applicable ordinances, regulations, and plans in the area to be subdivided. The Subdivider or owners must meet with the Zoning Administrator to review plans and sketches of the proposed subdivision as well as review procedures and requirements of this Ordinance.
- 6.03. Preliminary Plat:
- a. Prior to subdividing of land, the owner of the land shall file with the Zoning Administrator at least 30 days prior to the next regularly scheduled Planning Commission meeting, 8 copies of the Preliminary Plat which has been prepared in accordance with the regulations set forth in this Ordinance and State Statutes. At the time of submission of the Preliminary Plat to the Zoning Administrator, the owner shall pay an application fee as set by the Fillmore County Board of Commissioners.

- b. The Zoning Administrator shall place the proposal on the agenda of the next regular meeting of the Fillmore County Planning Commission.
- c. One copy of the Preliminary Plat shall be given to each of the following for their review and comments:
  - County Engineer
  - Planning Commission
  - Any Municipality within 2 miles of the proposed project
  - Township Board
  - County Recorder
  - Any other appropriate agency
- d. A public hearing shall be set up to take testimony on the Preliminary Plat.
- e. The Planning Commission may make a favorable or unfavorable recommendation to the County Board.
- f. The Planning Commission shall also recommend the type and amount of Financial Assurances or Bond required to receive approval of Final Plat based on an estimate of 125% of the cost of completion of the Subdivision as provided by the County Engineer to ensure project completion.
- g. In the case of all subdivisions, the Planning Commission shall recommend denial of, and the County Board shall deny, approval of a preliminary plat if it makes any of the following findings:
  1. That the proposed subdivision is in conflict with adopted applicable general and specific plans of Fillmore County.
  2. That the design or improvement of the proposed subdivision is in conflict with any adopted component of the Comprehensive Plan of Fillmore County.
  3. That the physical characteristics of the site, including but not limited to topography, vegetation, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage and retention, are such that the site is not suitable for the type of development desired.
  4. That the site is not physically suitable for the proposed improvements and is likely to cause serious public health problems.
  5. That the design of the subdivision or the type of improvements will conflict with easements of record or with easements established by judgment of a court.
  6. That the Subdivision being proposed is viewed as detrimental to surrounding property values.

#### 6.04. Final Plat:

- a. The full amount of Bond must be paid by the landowner or developer to the County Treasurer before the Final Plat is brought to the Planning Commission for consideration.
- b. The County Engineer must approve all road plans before the Planning Commission considers the Final Plat. A letter of approval must be procured from the County Engineer before the Final Plat is submitted for review.
- c. Eight (8) copies of the Final Plat must be submitted to the Zoning Administrator 14 days before the scheduled date the Planning Commission is to take up the issue of approving the Plat.
- d. The Planning Commission shall make a recommendation to the County Board whether to approve or disapprove the Final Plat.

- e. The County Board shall approve or disapprove the final plat and shall sign the Plat to be recorded.
- f. The owner or developer shall record the Final Plat with the Fillmore County Recorder within 30 days of the approval of all necessary parties at which time lots may be sold to perspective buyers. Failure to record the plat in the allotted time will be a violation of this Ordinance.

## **SECTION 7.0**

### **Requirements for Preliminary and Final Plats**

#### **7.01. Data for Preliminary Plats**

The following items must be on the Preliminary Plat:

- 1) Name of Subdivision. Name shall not be similar in spelling or pronunciation to any other plat previously recorded. The name must be approved by the Zoning Administrator and County Planning Commission.
- 2) Location by section, township, range and by legal description.
- 3) Name of Municipality or Township.
- 4) Names and addresses of the record owner and any agent having control of the land, Subdivider, land surveyor, engineer, and designer of the plan.
- 5) Graphic scale not less than one inch to 100 feet.
- 6) North Point.
- 7) Date of preparation.
- 8) Surveyed boundary line of Subdivision.
- 9) Acreage's and dimensions of lots.
- 10) Location, right of way width, and names of existing or platted streets, or other public lands, permanent buildings and structures, easements and section and corporate lines within the plat.
- 11) Boundary lines of adjoining un-subdivided or subdivided land, within 150 feet, identified by name and ownership, including all contiguous land owned and controlled by the Subdivider.
- 12) A copy of the contour map of the Subdivision site and all lands within 1/2 mile.
- 13) Each lot shall show the site where an onsite sewer system shall be located. This site shall be shown to be acceptable by soil borings and or other data acceptable to the Zoning Administrator that shows each lot does have a site that can be used for an onsite sewer system.
- 14) Layout of proposed streets showing right of way widths, centerline gradients, and names of streets.
- 15) Layout, numbers, and dimensions of lots and blocks.
- 16) Building setback lines.
- 17) Utility easements.
- 18) Any other areas intended for public use.

#### **7.02. Final Plat**

The following items must be on or attached to the Final Plat.

- 1) The Final Plat shall be prepared by a land surveyor who is registered with the State of Minnesota and shall comply with the provisions of Minnesota State Statute 505 and this Ordinance.
- 2) Title opinion by a licensed attorney at law based upon an examination of an abstract of the records of the Fillmore County Recorder for the lands included in the plat and showing the title to be in the name of the owner or Subdivider.
- 3) The Final Plat may be on several sheets provided they are numbered and a key map is provided on the sheets showing the entire subdivision.
- 4) The Final Plat will have incorporated all changes and modifications required and in all other respects conform to the approved Preliminary Plat which the Subdivider proposed to record and develop. The Final Plat shall have the official form required for the granting of approval.

## **SECTION 8.0**

### **Regulations**

The following rules and regulations must be adhered to before a Preliminary and Final Plat may be approved. Failure to comply with these rules and regulations will be grounds for rejection of the Subdivision.

- 8.01. All lots must be 2.5 acres or more.
- 8.02. All roads in the Subdivision must meet current state and local regulations for road construction.
- 8.03. All Subdivisions shall have one road as an ingress and the same road as an egress at the same location unless lots in the Subdivision abut an existing public road.
- 8.04. All lots must have a 150-foot frontage to a public or private road or as an alternative an easement of 66 feet from the public or private road to the lot line. Where a front lot line abuts the turn around of a cul-de-sac, the lot must have a frontage of no less than 66 feet.
- 8.05. All roads shall be designed by a registered engineer licensed with the State of Minnesota and approved by the County Engineer.
- 8.06. Roads in a Subdivision may be public or private.
- 8.07. All private roads in a Subdivision must be constructed for the eventuality that they are someday made public roads.
- 8.08. No subdivision shall be located in an area classified as a wetland, floodplain, shoreland, or other area of poor drainage.
- 8.09. An erosion control plan shall be submitted for those lots where the slope is 12% or greater.
- 8.10. All structures in a Subdivision shall be a minimum of 10 feet from all side and rear lot lines and 30 feet from all front property lines.
- 8.11. The primary structure or home must be the first structure placed on each lot.
- 8.12. All primary structures or homes must be at least 20 feet wide and the length must exceed the width.
- 8.13. All water wells and sewer systems must be constructed in accordance with the rules and regulations as established by the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- 8.14. All lots must maintain as much vegetation as possible. Clear cutting is prohibited.

- 8.15. No more than 40% of a subdivision may be A or B soils as classified by the Fillmore County Assessors Office. Any A or B classified soils that have been covered by trees and not tilled for 20 years or more may be used in a subdivision as non A or B classified soils.
- 8.16. No Subdivision may have more than 12 lots.
- 8.17. There shall be no more than one Subdivision per section of land and no Subdivision shall be within 300 feet of another Subdivision unless adjacent to a municipality boundary.
- 8.18. All utilities must be brought to the lot line of each lot at the expense of the landowner or developer.
- 8.19. The developer must obtain all state and local storm water permits.
- 8.20. Before construction of the primary structure, no Recreational Camping Vehicle or Manufactured Home may be placed on the lot as a temporary or permanent dwelling. During construction of the primary structure, a Recreational Camping Vehicle or Manufactured Home may be used as a temporary dwelling only if a permit has been obtained. Within 30 days after completion of construction or the occupancy of the primary structure, the Recreational Camping Vehicle or Manufactured Home must no longer be used as a temporary dwelling. Any Manufactured Home used as a temporary dwelling must be removed from the lot.
- 8.21. All Subdivisions must have solid waste pickup plan and all homeowners must dispose of their solid waste in a legal manner.
- 8.22. No burn barrel or burning of solid waste is allowed in a Subdivision.
- 8.23. All Subdivisions must abut a blacktop or concrete road with the inhabitants of the subdivision entering into and leaving from the subdivision without passing over a public road that is not blacktop or concrete.

**SECTION 9.0**  
**Recovery of Financial Assurances**

In order to recover the financial assurances or Bond deposited with the Fillmore County Treasurer, all of the following must be met:

- 9.01. All roads must be installed according to approved plans.
- 9.02. All wells must be constructed as planned.
- 9.03. All utilities must be installed to lot lines.
- 9.04. All improvements must be made in the Subdivision before any financial assurances may be returned to the owner or developer.

**SECTION 10.0**  
**Fees**

Fees for subdividing shall be established by the County Board. The County Board may review and revise the fee schedule periodically by resolution. The Subdivider shall pay the required fee to the Zoning Administrator, which shall be deposited with the County Treasurer, at the time of submission of the materials required by this Ordinance.

## **SECTION 11.0**

### **Penalties**

Any subdivider who violates, omits, neglects or refuses to comply with the provisions or the enforcement of this Ordinance, or who sells, offers for sale or lease any lot or block of land which is in violation of this Ordinance, shall be guilty of a misdemeanor and subject to a fine not to exceed \$700.00 plus costs and/or be sentenced to jail for a period not to exceed 90 days; each lot in violation shall be deemed a separate offense.

## **SECTION 12.0**

### **Effectuation**

It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following: (1) If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance and not specifically included in said judgment; (2) if any court of competent jurisdiction shall adjudge invalid the application of any provisions of this Ordinance to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

## **SECTION 13.0**

### **Repeal**

All previously recorded Subdivision Ordinances or references to Subdivision Ordinances are hereby repealed.

## **SECTION 14.0**

### **Effective Date**

This Ordinance was adopted on December 21, 1999 and all subsequent amendments are contained herein.

Amended this 23<sup>rd</sup> day of November, 2004 by the County of Fillmore.

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Chairman, Fillmore County Board of Commissioners

ATTEST:

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County Coordinator