

## 10.25 SUBDIVISION CONTROLS ORDINANCE

### 10.25.1 General Provisions

**A. Title**

This ordinance from the date of its passage shall be entitled: SUBDIVISION CONTROLS ORDINANCE, POPE COUNTY, MINNESOTA.

**B. Purpose**

The purpose of the ordinance is to regulate the subdividing of land in Pope County lying outside the incorporated limits of any city so that new subdivisions will be integrated with the development objectives of Pope County and contribute to an attractive, stable and wholesome environment, adequate public services and an integrated and safe system of roads.

**C. Legal Authority**

This ordinance is enacted pursuant to the authorization and policies contained in Minnesota Statutes, Chapters 394, 505, 508 and 515B; or successor statutes.

**D. Jurisdiction and Compliance**

This Ordinance shall apply to all subdivisions of land, as defined in Section 10.25.2, located within the unincorporated areas of Pope County, Minnesota, except as otherwise provided by law.

1. In conformance with Minnesota Statute 272.162, no land as described in this section shall be recorded, subdivided or sold, leased, transferred or developed until each of the following conditions has occurred in accordance with these regulations:
  - a. The subdivider or their agent has submitted a conforming sketch plan of the subdivision to the Administrator;
  - b. The subdivider or their agent has received approval of the subdivision plan from the Administrator or has received a recommendation of approval from the Planning Advisory Commission and approval of the Board of County Commissioners; and
  - c. The subdivider or their agent files the approved subdivision plat (or survey document) at the Office of the County Recorder.
2. No permit for development shall be issued nor shall there be a right to occupy for any parcel or plat of land created by subdivision after the effective date of, and not in substantial conformity with these regulations.

**E. Exceptions**

The preceding requirements shall not apply to the following subdivisions of land:

1. The subdivision of a lot where all resulting parcels can be described as a full Government Lot, a full Quarter section, a full Half section or a full Quarter-Quarter Section as described by the Public Land Survey System (PLSS).

2. A subdivision of a lot pursuant to court order.
3. Subdivisions creating or rearranging of lots within a cemetery or mausoleum in accordance with MN Statutes 306, 307 or other applicable state law (subdivisions of a parcel to create the external boundaries of a cemetery is not excepted).
4. Transfers of small parcels to governmental units in case of encroachments or for the purpose of adding to existing road or other rights-of-way or for public or private easements.

**F. Interpretation**

In their interpretation and application, the provisions of this Ordinance, or successor ordinance, shall be held to be minimum requirements and shall be liberally construed in accord with the underlying policies of the County and shall not be deemed a limitation or repeal of any other powers granted by State Statute.

**G. Enactment**

In order that land may be subdivided in accordance with these purposes and policies, these subdivision regulations are hereby adopted and made effective as of [REDACTED]. All applications for subdivision approval, including final plat, pending the effective date of these regulations shall be reviewed under these regulations.

**H. Severability**

If any section, subsection, sentence, clause or phrase of this ordinance, or successor ordinance, is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance, or successor ordinance, shall not be affected thereby.

**I. Repeal**

All ordinances and amendments thereof relating to the subdivision of land within Pope County which were adopted prior to these regulations by the County Board are hereby declared null and void.

**J. Administration**

1. **Adoption of Plat Manuals by Reference:** The Minnesota Society of Professional Surveyors (MSPS) and the Minnesota Association of County Surveyors (MACS) "Manual of Guidelines for Platting in Minnesota" and "Common Interest Community Plat Manual of Minimum Guidelines"; or successor manuals, are hereby adopted by reference as though a part of this Ordinance, or successor ordinance.
2. **Dedications**
  - a. The Board of County Commissioners may require that suitable sites in the subdivision be dedicated or reserved for future public use, in accordance with the authorization of Minnesota Statutes, chapter 394.25 or other applicable law.

- b. The Board of County Commissioners may require that easements for drainage ways of widths sufficient to accommodate anticipated storm water runoff, or easements for public utilities be provided.
- c. The Board of County Commissioners, or their designated representative, may require deed restrictions as may be necessary.

3. **Environmental Review Procedures**

- a. **Purpose:** Minnesota Law requires that projects that have the potential to cause significant environmental impacts must undergo special environmental review procedures prior to obtaining approvals and other needed permits. The function of the Minnesota Environmental Review Program is to avoid and minimize damage to Minnesota's environmental resources caused by public and private actions.
- b. **When Required:** The mandatory and exemption categories are established in Minnesota Rules, Parts 4410.4300, 4410.4400 and 4410.4600, or as amended by the State of Minnesota. Subdivision proposals that exceed the stated thresholds must complete the required environmental review process prior to the approval of the subdivision by the County.
- c. **Costs Incurred:** In the event that an environmental assessment worksheet or an environmental impact statement is required for a subdivision, the County Board may require the applicant to pay a fee equal to the actual cost incurred by the County, including the cost of County staff time including direct salary and fringe benefit costs, the cost of consultant or other professional fees incurred in completing any portion of the review process, the cost of printing and distributing documents, the cost of any public hearings or public meetings held in conjunction with the application, and other direct costs of the County in the review process. The County Board shall provide the applicant with an itemized listing of the costs incurred if requested by the applicant within 30 calendar days of the date of the billing.

4. **Variances**

Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this ordinance, the Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of this ordinance, so that substantial justice may be done and the public interest secured; provided, however, that such variance shall not have the effect of nullifying the intent and purpose of these Subdivision Regulations, further provided that Board of Adjustment shall not approve variances unless it shall make findings based upon evidence presented to it in each specific case that the variance meets the criteria in Minnesota Statutes 394.27, subd. 7, or successor statute.

## 5. Appeals

- a. **General:** An appeal from any order, requirement, decision, or determination of any administrative official charged with enforcing this ordinance may be made to the Board of Adjustment. An appeal must be filed within thirty (30) days after the time the administrative determination is made. The appeal stops all proceedings on the action appealed from unless the Board of Adjustment certifies that the stay would cause imminent threat to life and property. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may direct the issuance of a permit.
- b. **Procedure:**
  - i. Appeals shall be filed with the Administrator who shall refer the appeal to the Board of Adjustment.
  - ii. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal. Due notice of the hearing shall be given to the appellant, the officer from whom the appeal is taken, and the public.
  - iii. Within thirty (30) days after the hearing the Board of Adjustment shall make a decision on the appeal and notify the appellant. The reasons for the Board's decision shall be stated in writing. A certified copy of any order resulting from the Board's decision on an appeal shall be filed with the County Recorder along with a legal description of the property involved if applicable.
- c. **Final Appeal:** All decisions by the Board of Adjustment in granting variances or in hearing appeals shall be final except any aggrieved person(s) shall have the right to appeal within thirty (30) days, after receipt of notice of decision, to the district court in the county in which the land is located.

## 6. Enforcement

- a. Any violation of the provisions of Pope County Subdivision Controls Ordinance shall be a misdemeanor.
- b. In the event of a violation or a threatened violation of this ordinance, the County Board, or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such action.
- c. Any taxpayer or taxpayers of the County may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by the ordinance.

## 7. Amendments

This ordinance may be amended in whole or in part by the Board of County Commissioners after proper public hearing conducted by the Planning Advisory Commission and as provided in Minnesota Statutes 394.

## 10.25.2 Definitions

- A. For the purpose of this ordinance the following terms shall have the meaning hereinafter indicated in this section unless specifically stated otherwise: The word "shall" is mandatory, not permissive. All distances, unless otherwise specified, shall be measured horizontally. Words used in the present tense shall include the future and words used in the singular number shall include the plural number.
1. **Administrator:** The Administrator is the Director of the Pope County Land & Resource Management department and unless otherwise indicated, the word "Administrator" as it appears in this ordinance means the Director of the Pope County Land & Resource Management department.
  2. **Aliquot Subdivision or Aliquot Part:** A method of describing large parcels of lands as being entire sections, or regular fractions (e.g. half or quarter) of sections, using the U.S. Public Land Survey System (PLSS).
  3. **Alley:** A public way less than twenty-four feet in width used primarily as a service access to the rear or side of a property, which abuts a public road.
  4. **Applicant:** The owner of real estate proposed to be subdivided or its representative who shall have express written authority to act on behalf of the owner.
  5. **Block:** An area of land within a subdivision that is entirely bounded by roads, walkways, parks and outlots or by roads and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.
  6. **Board or County Board:** The Pope County Board of Commissioners.
  7. **Buffer:** Any combination of mounds, fencing, landscaped plantings and similar measures intended to separate one land use or activity from another.
  8. **Certificate of Survey:** An official document prepared and signed by a professional land surveyor which depicts property dimensions and may include the location of improvements on the property and their distances to property lines, easements, rights-of-way, or other features on the property.
  9. **Contiguous:** Tracts that are geometrically touching by legal description. Tracts that cross political boundaries but are geometrically touching at any one point are contiguous. Parcels or lots that are divided by a public road or other easement, but where the boundaries of the parcel or lot are touching, shall be considered contiguous; parcels of land separated by a dedicated (fee title) public right-of-way or by other lots are not considered contiguous.
  10. **Common Interest Community (CIC):** A common interest community shall have the meaning given in Minnesota Statutes, chapter 515B; or successor statutes.
  11. **Deed:** A written document for the transfer of land or other real property from one person to another. A quitclaim deed conveys only such rights as the grantor has. A warranty deed conveys specifically described rights which together comprise good title.

12. **Development Objectives:** Those goals determined from time to time in plan or policy form as part of the County's Comprehensive planning program which indicate how the County wishes to develop itself in line with orderly and logical direction.
13. **Easement:** A grant by an owner of land for the specific use of said land by the public, generally or to a person or persons.
14. **Enforcement Measures:** Enforcement measures may consist of, but are not limited to: fines, stop work orders, revocation of permits or approvals, forfeiture of funds or sureties, use of sureties, moratorium on permits, plat recall, road vacation, liens on property or tax assessments, etc.
15. **Floodplain (100-year):** See "Special Flood Hazard Area (SFHA)".
16. **Frontage:** The side of a lot abutting on a road and ordinarily regarded as the front of the lot.
17. **Government Lot:** The fractional part of a section described in the Public Land Survey System protracted by office procedures from field notes and designated by boundary limits, area and number (not always) on the township plat. An example description would read "Government Lot 1, Section 2, Township 124, Range 33 of the 5th Principal Meridian".
18. **Improvements:** Any constructed or created alteration of the natural state of the land which increases its utility or value, including but not limited to: roads, stormwater management features, individual wastewater treatment systems, and water wells.
19. **Legal Description:** Legally acceptable identification of Real Estate by one of the following: the government rectangular survey; metes and bounds or recorded Plat (lot and block number).
20. **Licensed Land Surveyor:** A land surveyor licensed in the State of Minnesota.
21. **Lot:** A piece, parcel or plot of land intended for building development or as a unit for transfer of ownership.
22. **Lot Line Adjustment:** Legal adjustment of an existing lot line without creating a new, buildable lot.
23. **Lot Split:** The division of an existing parcel into two or more separate lots.
24. **Metes and Bounds Subdivision:** A subdivision of land where the boundaries or limits of a tract of land are described by reference to lines and distances between points on the land, whether natural landmarks or by human-placed structures such as stakes, roads or other markers.
25. **Owner:** Any individual, firm, association, syndicated, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this ordinance.

26. **Planned Unit Development:** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.
- a. **Commercial planned unit developments.** Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
  - b. **Residential planned unit development.** A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.
27. **Plat (or Final Plat):** A delineation of one or more existing parcels of land drawn to scale showing all data as required by Minnesota Statutes, Chapter 505, or successor statutes, depicting the location and boundaries of lots, blocks, outlots, parks, and public ways and any other information required by statute or Pope County Subdivision Controls Ordinance.
28. **Preliminary Plat:** The preliminary map, drawing or chart indicating the proposed layout of the subdivision and any other information as required by this ordinance.
29. **Preliminary Plan:** Drawings, plans and materials representing a proposed subdivision or other development in accordance with these Regulations; does not constitute a subdivision plat application (see Sketch plan).
30. **Public Land Survey System (PLSS):** The surveying method developed and used in the United States in the Land Ordinance of 1785 to plat, or divide, real property for sale and settling. Also known as the Rectangular Survey System.
31. **Registered Land Survey:** Registered Land Surveys are surveys performed for the identification of registered (Torrens) lands in accordance with the requirements of Minnesota Statutes, chapter 508; or successor statutes. Registered Land Surveys are not plats, are not signed by landowners and may not dedicate public rights.
32. **Regulations:** Subdivision Regulations for unincorporated areas of Pope County.
33. **Road, Arterial:** A road or highway of considerable continuity, which is used primarily for heavy through traffic between major traffic generation areas.

34. **Road, Collector:** A road that serves as a traffic connection between multiple local roads and arterial highways or small communities and residential developments.
35. **Road, Cul de Sac:** A comparatively short road having one end open to traffic and the other being permanently terminated by a vehicular turnaround. A cul-de-sac may also be a temporary termination for a road which will ultimately extend beyond the instant subdivision.
36. **Road, Local:** A road that serves primarily as access to abutting properties and connects to another local, collector, or arterial road.
37. **Road, Marginal Access:** A road which is parallel and adjacent to an arterial road or collector road and provides access to abutting properties and protection from through traffic by limiting access to the arterial or collector road. Marginal Access Roads are commonly referred to as a frontage roads.
38. **Road, Private or Ingress/Egress Easement Area, Private:** A road, way, or strip of land reserved for the use of a limited numbers or persons or purposes as distinguished from a public road. Private roads are by definition not maintained by a public road authority.
39. **Road, Public:** A way or thoroughfare for vehicular traffic having permanent location on the ground which provides ingress and egress to the public by dedication, easement, donation or law, whether or not owned or maintained by a public road authority.
40. **Road, Rural:** A road that includes ditches and is located in an area that is not presently, nor will it be in the foreseeable future, sufficiently developed to warrant use of an urban design.
41. **Road, Urban:** A road that includes curb and gutter and is or will be in the foreseeable future, located in an area that is sufficiently developed to warrant an urban design.
42. **Shoreland:** Land located within the following distances from public waters;
  - a. 1,000 feet from the ordinary high water mark of a lake, pond or flowage; and
  - b. 500 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater.
43. **Sketch Plan:** means a map of a proposed subdivision, drawn and submitted in accordance with the requirements of the adopted regulations, to evaluate feasibility and design characteristics at an early state in the planning (see “Preliminary Plan”).



44. **Special Flood Hazard Area (Also known as “Areas of Special Flood Hazard”):** The land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special flood hazard areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.
45. **Subdivider:** Any person commencing proceedings under this ordinance to effect a subdivision of land hereunder for themselves or for another.
46. **Subdivision:** The division or redivision of a lot, tract, or parcel of land regardless of how it is to be used, into two or more lots, parcels or tracts either by plat, by aliquot description or by metes and bounds description for the purpose of offer, sale or lease; or the division or redivision of land involving dedication of a new park, playground, road or other public right-of-way or facility; or the vacation, realignment or any other changes in existing roads, alley, easements, recreation areas, water, or other public improvements or facilities.
47. **Variance:** A modification or variation of the provisions of this ordinance where it is determined that varying from the strict enforcement of any provision of this ordinance would meet the criteria required by Section 10.25.1 J 4 of this ordinance.

### 10.25.3 Subdivision Application and Approval Process

#### A. General Provisions for Submittal of Applications

1. **Form of Application.** Applications required under these Subdivision Regulations must be submitted in a form and in such numbers as required by these Regulations and determined by the Administrator to be complete prior to commencement of review.
2. **Application Fees.** Applications must be accompanied by the fee amount that has been established by the Board of County Commissioners. Application fees are nonrefundable.
3. **Paper Copies.** For Standard subdivisions and final plats one paper copy at a minimum of 22 x 34 inch and one copy at a size of 11 x 17 inch. For Minor subdivisions, one paper copy in a size acceptable to the Administrator of the preliminary plat, scaled site plan or Certificate of Survey (as appropriate to the required method of subdivision).
4. **Electronic Copies.** One electronic copy of the proposed preliminary plat, sketch plan or Certificate of Survey (as appropriate to the required method of subdivision) and final plat in PDF format.
5. **Spatial Data.** One electronic copy of the spatial data of the preliminary and final plat required to display the plat in the Pope County Geographic Information System (GIS). Specific format to be as determined by the County.

**B. Presentation Requirements (Preliminary Plat, Sketch Plan or Certificate of Survey)**

For preliminary review by the Administrator and/or Planning Commission, the following information shall be shown on the plat map, sketch plan or Certificate of Survey (as appropriate to the required form of application) or in a form otherwise approved by the Administrator. The Administrator may waive certain of these requirements for minor subdivision sketch plans or Certificates of Survey when such information is determined to be unnecessary.

**1. General Information**

- a. The proposed name of the plat, which shall not duplicate or be similar in pronunciation or spelling to the name of any plat already recorded in Pope County;
- b. Location by section, township and range;
- c. Names and addresses of the owners, developer and surveyor;
- d. Graphic scale between one (1) inch = fifty (50) feet and one (1) inch = two hundred (200) feet depending on the size of the plat and the detail of the information to be shown, unless otherwise approved by the Administrator;
- e. North point and vicinity map;
- f. Total acreage of the land to be subdivided;
- g. Boundary line survey and legal description. Identify any property within the subdivision that is registered (torrens);
- h. Proof of ownership;
- i. Date of preparation;
- j. Any additional information as may be requested by the Administrator.

**2. Existing Features** (including surrounding area within a distance of 300 feet)

- a. Existing public and private roads, showing width of roads, and any associated easements;
- b. Existing property lines;
- c. Site improvements, and structures on the proposed parcel(s), and to a distance of ten (10) feet beyond the proposed property lines, and distances from structures to property lines;
- d. Delineated wetland boundaries for all wetlands located within the plat boundaries, except where approximate boundaries are deemed sufficient by the Administrator;
- e. In the shoreland district the toe and top of any bluffs present;
- f. In the shoreland district the ordinary high water level and highest known water level;
- g. Topographic contours with a maximum distance between contours of 2 feet, unless otherwise required or allowed by the Administrator;
- h. Any additional information as may be requested by the Administrator.

**3. Proposed Features**

- a. Proposed lot lines, dimensions, gross square footage or acreage of each lot;
- b. Proposed lot and block numbers;
- c. For Standard subdivisions, proposed layout and width of public roads and utility easements, showing proposed road names. The name of any road already used in the County shall not be used, unless the proposed road is an extension of an already named road, in which even the name shall be used.
- d. The minimum setback requirements with resulting building envelope, including any required setbacks from waterbodies or wetlands;
- e. Proposed easements or right-of-way for utilities and drainage;
- f. Location of at least two suitable sites for a septic drainfield, from a licensed septic system designer;
- g. Proposed use of all parcels, and if zoning change is contemplated, proposed rezoning;
- h. Statement of source of proposed water supply;
- i. Statement of provisions for sewage disposal, drainage and flood control;
- j. Preliminary road grades and drainage plan;
- k. Proposed deed restrictions if there are any intended, shall be submitted with the preliminary plat;
- l. Such other information as may be requested by the Administrator.

**4. Presentation Requirements (Final Plat).**

- a. All final plat applications shall be prepared by a land surveyor who is licensed in the State of Minnesota and shall conform to all requirements of Minnesota State Statutes, Chapter 505 and 515 B, as may be amended.
- b. The final plat application shall have incorporated all the conditions of the County Board and Administrator in the approval of the preliminary plat. In all other respects, the final plat shall conform to the approved preliminary plat.
- c. Certifications Required.
  - i. Certification of the adoption of the plat notarized by the owner and by any mortgage holder of record of the adoption of the plat and the dedication of roads and other public areas. The mortgage holder of record may record a notarized consent to file a plat form with the final plat in lieu of the certification;
  - ii. Certification notarized by a licensed land surveyor to the effect that the plat represents a survey made by themselves and that monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct;
  - iii. Certification by the County Recorder (per County Board Resolution No. 201311) showing that current and delinquent taxes and special assessments currently due on the property have been paid in full;
  - iv. Certification by the Administrator that the plat is in compliance with the provisions of this ordinance;

- v. Certification by the applicant's attorney that the proper evidence of title has been presented and that all parties with an interest in said property have been included in the execution of the final plat;
- vi. Certification by the County Recorder indicating the filing date, folder number, and document number of the final plat;  
Form for approval by the County Board: Approved by the Board of County Commissioners of Pope County, Minnesota this \_\_\_ day of \_\_\_\_\_, 20\_\_.  
Chairman \_\_\_\_\_  
County Auditor \_\_\_\_\_
- d. Title Opinion by a practicing attorney at law based upon an examination of an abstract or the records of the County Recorder for the lands included within the plat showing the title to be in the ownership of the subdivider. The date of continuation of the abstract examined, or the date of the examination of the records shall be within thirty (30) days prior to the date the final plat is filed with the County Recorder. The owner or subdivider shown in the title opinion shall be the owner of record of the platted lands on the date of recording of the plat with the County Recorder.  
Form for approval by the County Attorney: I hereby certify that proper evidence of title has been presented to and examined by me, and I hereby approve this plat as to form and execution.  
Attorney for Pope County \_\_\_\_\_  
Form for approval by the County Surveyor: I hereby certify that I have reviewed this plat and found it to be in compliance with the surveying requirements of the Subdivision Controls Ordinance of Pope County and Chapter 505; Minnesota Statutes.  
Surveyor for Pope County \_\_\_\_\_

**C. Application Completeness, Accuracy and Sufficiency**

1. An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required information and is accompanied by the required filing fee.
2. The Administrator will make a determination of application completeness.
3. If an application is determined to be incomplete, the Administrator shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application will occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within sixty (60) days, the application will be considered withdrawn.
4. No further processing of incomplete applications will occur and incomplete applications will be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next processing cycle.
5. Applications deemed complete will be considered to be in the processing cycle and will be reviewed by staff as well as other review and decision-making bodies in accordance with applicable review and approval procedures of these Subdivision Regulations.

6. The application(s) or plan(s) may need to be revised before being placed on an agenda if the Administrator determines that:
  - a. The application or plan contains one (1) or more significant inaccuracies or omissions that hinders timely or competent evaluation of the application's/plan's compliance with subdivision regulation standards; or
  - b. The application contains multiple minor inaccuracies or omissions that hinders timely or competent evaluation of the application's/plan's compliance with subdivision regulations standards.
7. **Classification of Subdivision:** Prior to the subdivision of land which results in buildable lots or parcels, the owner of such property, or their authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the procedures set forth in this Ordinance. All proposed subdivisions of land which are not specifically exempted from the requirements of this Ordinance shall be processed and reviewed as either a Minor Subdivision or Standard Subdivision.
8. **Platting Requirement:** Except for those subdivisions of land which conform to the specific standards in this ordinance allowing for subdivision by Registered Land Survey, PLSS Description or a Certificate of Survey all subdivisions of land shall be platted in accordance with MN Statutes 505 or 515B. All subdivisions of land located in the Residential zone or in Shoreland that are intended for non-agricultural development and where any lot will be less than five (5) acres in size shall be by plat.

The following tables depict the process for subdivision application and approval:

Figure 1: Minor Subdivision Flowchart

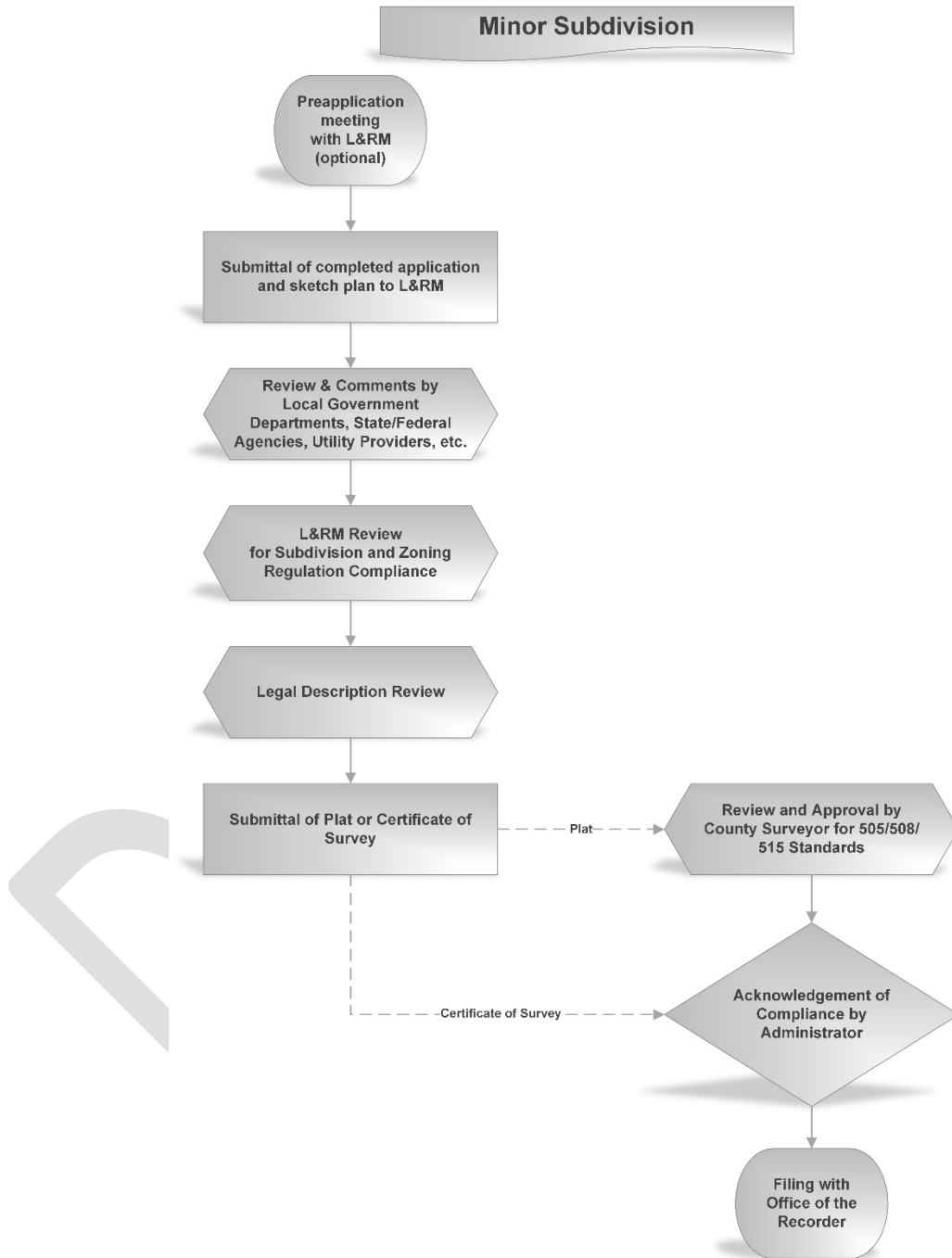
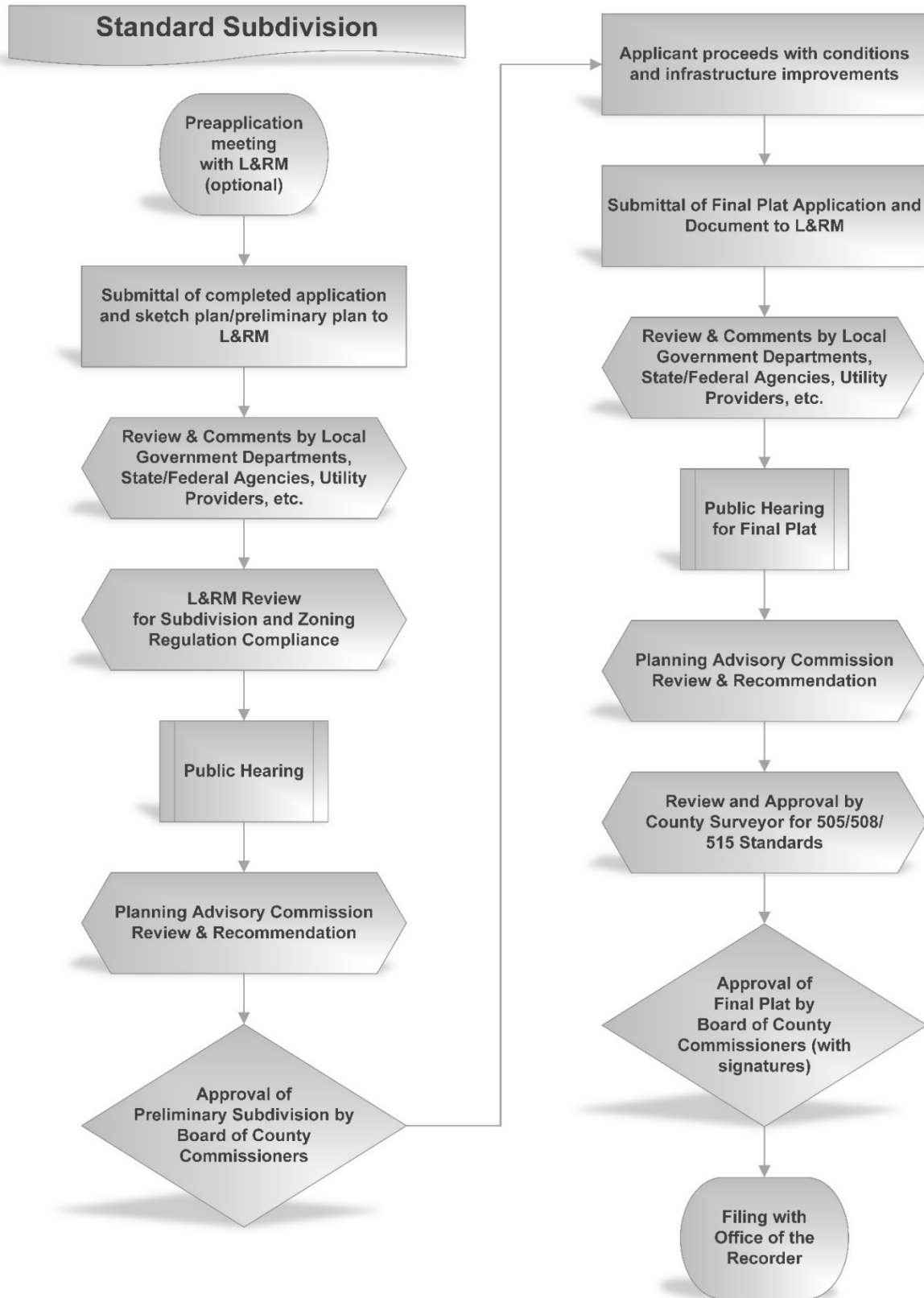


Figure 2: Standard Subdivision Flowchart



#### D. Minor Subdivision Option

The purpose of a Minor subdivision is to allow for simple subdivisions of land that may be approved administratively and do not require a public hearing. The Pope County Land & Resource Management Director is authorized to approve all Minor subdivisions that are in compliance with the provisions of this Ordinance and other applicable requirements. The provisions of this section are not intended for the subdivision of land that may be further subdivided in succession in order to avoid the standard platting requirements. A Minor subdivision shall be allowed at the discretion of the Administrator but generally may be utilized if all of the following conditions are met:

1. The division of property must include the entire property, including provision of a legal description for any remainder parcels within the same Government Lot or Quarter-Quarter section;
2. The division(s) must meet all applicable requirements of the Pope County Land Use Controls Ordinance, including minimum lot dimensions, requirement for minimum buildable area, and must be suitable for its intended use;
3. The division(s) must not involve or require the dedication of any interests to the public such as easements or roads, except where specifically exempted under this Ordinance;
4. In the case of divisions intended to adjust existing lot lines or to attach divided parcels to adjacent parcels such that no net increase in the number of parcels or lots is achieved, no non-conforming parcel may be created or left over except by variance or with the recording of a deed restriction, administrative order or other legal document restricting the use of such parcel;
5. The Minor Subdivision, if approved, shall be documented by an approved and recordable plat meeting the requirements of Minnesota Statutes 505, except that the Administrator may allow for the following alternative means of description subject to the standards listed:
  - a. PLSS Description: A PLSS description (with a sketch plan or Certificate of Survey) may be allowed for any division which can be described in halves or quarters of a section, down to a quarter quarter quarter section (approximately 10 acres).
  - b. Certificate of Survey: A metes and bounds description with a Certificate of Survey may be allowed for divisions that cannot be described in halves or quarters of a section, down to a quarter quarter quarter section, provided monuments are placed by a licensed land surveyor at corners and significant points of inflection as deemed appropriate by the Administrator.
6. The subdivider may, at any point, opt out of the Minor subdivision process and apply instead for a Standard subdivision under the terms and procedures of this ordinance.



**E. Procedure for Minor Subdivisions**

1. An application shall be considered to be officially filed when the Administrator has received and examined the application and has determined that the application is complete;
2. Pursuant to Minnesota Statute, Chapter 505.03 subdivision 1; or successor statute, a public hearing pursuant to Minnesota Statute, Chapter 394 or successor statutes will not be required for a minor subdivision;
3. The Administrator shall review the preliminary subdivision proposal for compliance with this subdivision ordinance, as well as compliance with other sections of the Land Use Controls Ordinance (i.e zoning, floodplain, stormwater, etc.);
4. Upon receipt of the complete preliminary subdivision application, the Administrator may forward a copy of same to one or more of the following parties as deemed appropriate: County Engineer, Surveyor, Auditor, Assessor, Recorder, and the Soil and Water Conservation District (SWCD); also to the Clerk of the Township wherein the proposed plat is located, the Clerk of any municipality within two (2) miles of the proposed subdivision and to the Commissioner of the MN DNR. This notice shall be sent at least 30 days prior to the Administrator taking final action on the minor subdivision application. Comments or reaction of these same individuals or their Boards shall be considered by the Administrator in the review of the proposal;
5. The Administrator shall forward one copy of the preliminary subdivision proposal to the state Commissioner of Transportation when the property to be subdivided abuts upon state rail bank property or upon any existing or established trunk highway or proposed highway which has been designated by a centerline order filed in the office of the county recorder. This notice shall be sent at least 30 days prior to the Administrator taking final action on the minor subdivision application;
6. The Administrator shall, taking into consideration comments received, review the preliminary subdivision for compliance with this ordinance and shall notify the applicant whether the preliminary subdivision is approved or denied within twenty (20) days of the application being determined to be complete. If denied, the Administrator shall provide written reasons for the decision;
7. Approval of a preliminary subdivision proposal by the Administrator is an acceptance of the general layout, as submitted, and indicates to the developer that he may proceed toward final plat/Certificate of Survey approval in accordance with the Administrators approval of the preliminary subdivision proposal, including any conditions imposed by the Administrator.

**F. Final Approval Procedure and Recording**

1. The applicant shall file a final subdivision application to the Administrator within twelve (12) months of the date the preliminary subdivision was approved.
2. If the Final Plat, Certificate of Survey or other document as appropriate is approved by the Administrator, the final document shall be filed with the County Recorder by the owner or subdivider within ninety (90) days of the approval. Any approval of the final subdivision by the Administrator may be null and void if the appropriate document (Plat, Certificate of Survey, etc..) has not been recorded with the County Recorder of the County within ninety (90) days after the date of approval unless application for an extension of time is made, in writing, during said ninety (90) day period, to the Administrator and for good cause granted by the Administrator.

**G. Standard Subdivision**

The purpose of a Standard subdivision is to allow for subdivisions of land that are not eligible for processing as a Minor subdivision or which may be eligible but for which the Administrator determines that the additional review and public hearing that occurs with a Standard subdivision is advised or necessary due to unique or special circumstances.

**1. Preliminary Plat; Approval Procedures**

- a. The preliminary plat application shall be considered to be officially filed when the Administrator has received and examined the application and has determined that the application is complete.
- b. The Administrator shall review the preliminary plat for compliance with this ordinance.
- c. At the time of filing the preliminary plat, the owner or owners of the land covered by such plat shall submit to the Administrator a petition for rezoning to the precise proposed future use of said land if the land is not already so zoned.
- d. Upon receipt of the preliminary plat, the Administrator shall forward one copy of same to the following individuals: County Engineer, Surveyor, Auditor, Assessor, Recorder, and the Soil and Water Conservation District (SWCD); also to the Clerk of the Township wherein the proposed plat is located, and to the Clerk of any municipality within two (2) miles of the proposed subdivision. Comments or reaction of these same individuals or their Boards are to be presented at the hearing before the Planning Advisory Commission.
- e. The Administrator shall forward one copy of the preliminary plat to the state Commissioner of Transportation when the property to be subdivided abuts upon state rail bank property or upon any existing or established trunk highway or proposed highway which has been designated by a centerline order filed in the office of the County Recorder. This notice shall be sent at least 30 days prior to the County Board taking final action on the preliminary plat application.

- f. The Planning Advisory Commission shall hold a public hearing on the preliminary plat. The Administrator shall prepare the hearing notice indicating the date, time and location of the public hearing. Copies of the hearing notice shall be sent to the Commissioner of Natural Resources when the proposed plat is located within Shoreland, to property owners of record within one-half (1/2) mile of the affected property and to other agencies as required by law. Failure of any property owner to receive such notification shall not invalidate the proceedings. The subdivider shall also be given written notice of the hearing and shall be present, or be adequately represented, in order to explain the proposal and answer questions relating thereto. Notice of the time, place and purpose of the public hearing shall be given in the official newspaper of the County, at least ten days before the hearing.
- g. The Planning Advisory Commission shall review the preliminary plat considering the requirements of this ordinance, input and comments gained from the above agencies, individuals, boards and the public at the hearing.
- h. The Planning Advisory Commission shall make a recommendation of approval or denial of the preliminary plat to the County Board of Commissioners. Any recommended conditions of approval or recommendation of denial shall be in writing in the minutes of such Commission. If the Planning Commission feels that approval or denial cannot be made at this time, and that further investigation is necessary to determine compliance with these subdivision regulations, as pertaining to engineering proposals, water supply, sewage disposal, storm drainage, utility services, roads, or other pertinent items, the Planning Advisory Commission may table the request to a future meeting date.
- i. Upon receiving the recommendations of the Planning Advisory Commission at the next regularly scheduled meeting, the County Board may give the subdivider their approval or denial of the proposed plat with conditions or changes to be made as necessary. The County Board may also refer the application back to the Planning Advisory Commission for further study if this is deemed necessary.
- j. Upon receiving an approval recommendation from the County Board of Commissioners, the subdivider may then prepare the final plat which shall conform substantially to the preliminary plat as approved. Approval shall mean the acceptance of the design as a basis for preparation of the final plat and its submittal to the County Board for approval. Violation of any condition of approval as stated in writing on the instrument under which these proceedings are recorded shall be considered a violation of this ordinance as if the conditions were fully a part thereof.

## 2. Final Plat; Approval Procedures

- a. The final plat application shall be considered to be officially filed when the Administrator has received and examined the application and has determined that the application is complete.
- b. The Administrator shall review the final plat for compliance with this ordinance.
- c. Before submittal of the final plat to the County Board, and before recordable copies are created, the Administrator shall review the submitted final plat for conformity with the approved preliminary plat and other applicable requirements. Additionally, the final plat will be distributed to the County Surveyor or other licensed land surveyor to be checked for conformance to Minnesota Statutes Chapter 505 and/or other applicable statute requirements, and to all other signatories of the final plat for review of applicable requirements and regulations.
- d. The proposed final plat shall be presented for review within 12 months of preliminary plat approval, unless a request for extension has been submitted by the subdivider and approved by the County Board for good cause. Upon satisfactory review and approval of the proposed final plat by the Administrator, County Engineer (if appropriate), County Surveyor and other signatories, it shall be presented to the County Board for final approval by the County.
- e. The subdivider may file a final plat limited to such portion of the preliminary plat which they propose to record and develop at the present time, provided that such portion must conform to all requirements of this ordinance. As future phases of the preliminary plat are anticipated for development, the subdivider shall file a separate final plat application for each phase.
- f. If there are required improvements, including but not limited to utilities, drainage, ~~roads~~ and roads, they shall be satisfactorily installed or completed as per the requirements of Section 10.25.6 of this ordinance. The County Engineer (if improvement involves or impacts a designated county road or highway), or other applicable road authority, shall inspect for the satisfactory completion of the above.
- g. Following final plat approval or disapproval by the County Board, the Administrator shall notify the owner or subdivider of the Board's action and within ninety (90) days thereafter the final plat, if approved, shall be filed with the County Recorder. Any approval of the final plat by the Board shall be null and void if the plat is not recorded with the County Recorder of the County within ninety (90) days after the date of approval unless application for an extension of time is made, in writing, during said ninety (90) day period, to the County Board and for good cause granted by the Board.

#### 10.25.4 Subdivision Review Criteria/Required Improvements

The Administrator (Minor Subdivisions) and the Planning Advisory Commission (Standard Subdivisions) shall consider, but not be limited to, the following criteria when considering approval of a subdivision application:

**A. Compliance with Official Map, Official Controls and Comprehensive Plan**

No subdivision of land shall conflict with applicable state and federal laws, any official map of Pope County, or any provisions of the Pope County Land Use Controls Ordinance or other applicable official controls; or successor ordinances, or with the goals and policies of the Pope County Comprehensive Plan.

**B. Minimum Lot Size**

The minimum lot size for proposed lots, parcels or tracts to be created shall be as required by the Pope County Land Use Controls Ordinance for the applicable zoning district(s). No part of any lot less than thirty (30) feet wide, or which is below the ordinary high water level of a public water body, or on which there is easement or right-of-way for public or private travel, or which is set aside by easement or otherwise for a permanent stormwater control improvement or facility, or which the Administrator otherwise determines does not meet the intent of the minimum lot area requirement shall be used in computing minimum lot area.

**C. Floodplain**

No subdivision proposal shall be approved which does not conform to the Pope County Flood Plain Ordinance (Ordinance #5 or successor ordinance) or any applicable floodplain overlay district standards contained in the Pope County Land Use Controls Ordinance; or successor ordinances.

**D. Land Suitability**

No land shall be subdivided which is held unsuitable for the proposed use by the County Board of Commissioners for reasons of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of the future residents of the proposed subdivision or of the community.

**E. Sewage Treatment/Water Supply**

In the areas where there is an existing public water supply or sanitary sewer collection system on or near the proposed subdivision, the Board of Commissioners may require the subdivider to join such system, in such a manner as prescribed by the County and/or other local bodies of jurisdiction.

1. In areas that are not to be served by public sewer systems, on site sewage treatment systems will be permitted only where soil borings and percolation tests indicate the systems will function adequately and can meet the requirements of state and local law, including the requirements of Minnesota Rules 7082.0100, Subp. 3.F (as amended) for a minimum of two soil treatment and dispersal areas that support the required types of sewage treatment systems. It shall be the duty of the subdivider to provide verification of soil characteristics and ground water levels as may be required by the Administrator.

2. In areas that are not to be served by public water supply, private wells shall be provided. It shall be the duty of the subdivider to provide verification of safe and adequate water supply as may be required by the Administrator.

**F. Adequate Access to Public Road**

All lots created by subdivision shall provide adequate access to a public road or right-of-way. Adequate access shall mean a minimum 33-foot wide permanent ingress/egress easement if the lot it provides access to can be legally subdivided into no more than two buildable parcels. Where a proposed lot could be legally subdivided into three or more buildable parcels, adequate access shall mean the proposed lot has at least 66-feet of public road frontage leading to the lot's buildable area. No more than three buildable parcels may be allowed to be accessed via an easement; when four or more buildable parcels are created all lots shall be served by a dedicated public right-of-way meeting the requirements of this ordinance.

**G. Stormwater Runoff**

No subdivision proposal shall be approved that does not contain adequate provisions for storm water runoff, including permanent maintenance of any constructed stormwater ponds or other stormwater-related improvements. If required, no plat shall be approved without a storm water management plan reviewed and approved by the Administrator. Such facilities and easements shall be installed as will adequately provide for the drainage of surface waters.

**H. Buildable Area**

Each lot shall have sufficient buildable lot area which, for the purposes of this Ordinance or successor ordinance, shall be defined as the contiguous area of a lot which is sufficient in area to accommodate the construction of water supply systems, sewage treatment systems, buildings and driveways, while still providing for adequate setbacks. Areas which are floodways, wetlands, right-of-ways, bluffs or which have soils that are unsuitable for individual sewage treatment systems or which are set aside for storm water control improvements or facilities cannot be included in calculating the buildable area of a lot.

**I. Vegetative Wetland Buffer**

When deemed appropriate, the subdivider shall provide a vegetative buffer adjacent to delineated wetlands and/or wetlands identified on the National Wetland Inventory Map.

**J. Adequate Services**

The Administrator (Minor Subdivision) and Planning Advisory Commission (Standard Subdivision) shall consider whether the subdivision as proposed adequately protects the health, safety and welfare of the residents of the County by providing for a healthy and adequate drinking water supply, adequate sewage treatment capacity, safe road access, proper road alignment and proper setbacks and buffering from conflicting land uses.

**K. Monuments**

Iron monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shown on the Final Plat. All U.S., State, County or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

**L. Variances**

A subdivision shall not be approved where a variance will subsequently be required in order to use the lots for their intended use.

**10.25.5 Design Standards**

The following design standards are intended to ensure that the layout of the subdivision harmonizes with existing plans affecting the development and its surroundings and that it be in conformity with the development objectives of the County:

**A. General Road Provisions**

1. All newly constructed roads that serve more than three (3) buildable lots shall be dedicated public roads and shall meet the minimum road standards of this section.
2. The Board of Adjustment may grant exceptions to the road standards provided they take into consideration the recommendations from appropriate professional staff before granting the exception as well as approval by the road authority who may be charged with jurisdiction or maintenance of said road.
3. Public Roads need not be maintained by or under the jurisdiction of a public road authority. For all public roads not accepted by a public road authority, the developer must submit a plan outlining the ownership and maintenance responsibility of the road(s) and this plan must be recorded against the parcel for which the road(s) lie as well as any adjoining parcels which utilize said road(s) as the primary access to those parcels.
4. Any and all required road signage and markings shall be the responsibility of the subdivider in compliance with the Minnesota Manual or Uniform Traffic Control Devices (MMUTCD) at the directive of the Road Authority and/or the County Engineer.

**B. Rights-of-Way**

1. All public roads within a subdivision shall have a minimum of a sixty-six (66) foot right-of-way. The finished turn around radius of a cul-de-sac shall not be less than forty (40) feet. The right-of-way boundary of a cul-de-sac shall have a minimum radius of fifty (50) feet. The County Board, after consultation with the County Engineer, may require greater dimensions when necessitated by topographic or other condition and needs.
2. Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it such as at corners for safe sight distances, for excessive cuts or fills in areas to meet established design standards, or to accommodate environmental protection features, such as sediment basins.

3. When a subdivision adjoins an arterial road, it shall provide for a minimum right-of-way of 100 feet on each side of the existing road centerline.
4. When a subdivision adjoins a collector road, it shall provide for a minimum right-of-way of 60 feet on each side of the existing road centerline.
5. Private roads serving less than three (3) lots and alleys shall have a minimum right-of-way width of 33 feet.

**C. Road Layout Requirements**

1. Roads shall be laid out such that access is provided to all lots and portions of the tract in the subdivision and to adjacent unsubdivided land unless the topography clearly indicated that such connection is not feasible. When a new subdivision adjoins unsubdivided land susceptible to being subdivided, roads giving such access shall be improved to the limits of the subdivision. As an alternative, roads providing access only to adjacent unsubdivided land may be terminated with a cul-de-sac as long as the projection of the road is dedicated for future extension and improvement to the limits of the subdivision, when required by the County.
2. Road Intersections shall be as nearly at right angles as is possible. In no case, should an intersection be at less than 75 degrees.
3. Marginal Access Roads shall be used when the subdivision adjoins and is accessing arterial and collector roads in order to limit accesses onto arterial and collector roads and to discourage use of roads within the subdivision by through traffic.
4. Half Roads or Partial Roads shall be prohibited, except where essential to reasonable subdivisions of a tract in conformance with other requirements and standards and where, in addition, satisfactory assurance for dedication of the remaining part of the road can be secured or wherever a tract to be subdivided borders an existing half or partial road.
5. Dead end roads shall be prohibited, except when designed as a cul-de-sac road or to permit future road extension into adjoining tracts.
6. Cul-de-sac roads may be no longer than 500 feet measured from the intersection of the origin to the end of the right-of-way, unless the County Board approves a longer distance due to topographic or other concerns.
7. Alleys shall be provided to the rear or side of all lots to be used for commercial or industrial use when required necessary or beneficial by the County Board. When provided, alleys shall be open at both ends.
8. Road jogs with centerline offsets of less than 150 feet shall not be allowed.
9. All roads proposed in subdivisions within shoreland zones shall be laid out such that centerlines are no closer than 200 feet from the ordinary high water level of any DNR-protected stream or lake. Stream crossings shall be made at right angles to drainage ways unless proved impractical.
10. Roads shall not be laid out as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.



**D. Road Design Standards**

1. All public roads shall be designed by and constructed under the direction and oversight of a licensed professional engineer. A complete set of construction plans and specifications shall be provided to the County Engineer and Township Board for review and approval prior to commencing construction on any public road proposed to be accepted by the County or Township.
2. The design of all roads shall be considered in their relation to existing and planned roads, to reasonable circulation of traffic, to topographical conditions, to runoff of storm waters, and to proposed uses of the areas to be served.
3. Where new roads extend existing, adjoining roads; their projections shall be at the same or greater width, but in no case less than the minimum standards.
4. The minimum design standards for all new public roads and bridges shall be defined by the current version of Minnesota Rule 8820, specifically 8820.9920 for rural roads and 8820.9936 for urban roads unless otherwise dictated by the subdivision ordinance.
5. The minimum design speed shall be 30 mph. The maximum road grade shall be 8%, except under special circumstances where natural topography and road construction impacts warrant, a maximum grade of 10% may be allowed.
6. All roads proposed to be constructed with an aggregate driving surface shall be so constructed as to allow for the addition of a paved driving surface no less than three (3) inches in depth in the future in order to achieve a designed structural strength no less than 9-ton axle strength while maintaining minimum lane and shoulder widths as well as minimum in-slopes. All roads proposed to be constructed with a paved driving surface shall be constructed to a 9-ton axle design strength, except all roads anticipated to serve commercial or industrial use or serve more than \_\_ lots shall be designed to achieve a 10-ton axle strength.
7. All drainage structures, storm sewer systems, and ditches shall be designed for a minimum 50-year flood frequency, unless otherwise approved or required by the County Board after consultation with the County Engineer. All culverts shall have a minimum diameter of 15 inches.
8. The minimum ditch grade shall be 0.2% and the minimum paved gutter grade shall be 0.5%.

**E. Road Construction Standards**

1. For all public roads to be accepted by the Township or County, the Developer/Contractor shall furnish the County Engineer and Township Board with a proposed construction schedule, list of subcontractors, material suppliers at least 48 hours prior to beginning construction and subsequent phases of construction.
2. As appropriate and applicable, the construction of all public roads shall be performed under the current version of the Minnesota Department of Transportation's Standard Specification for Construction. These specifications may be modified, as appropriate, by special provision under direction of a licensed professional engineer charged with supervision of the road construction project.
3. As applicable, the construction of all roads shall follow the requirements of the National Pollution Discharge Elimination System (NPDES) Permit as regulated by the Minnesota Pollution Control Agency (MPCA). This includes adherence to any required Storm Water Pollution Prevention Plan (SWPPP) as part of the development or road construction.
4. No proposed roads shall be constructed until approval of the preliminary plat.

**F. Easements****1. Utility Easements**

- a. Utility easements shall be addressed on an individual basis through consultation with the affected utility; however unless otherwise provided, easements of at least fifteen (15) feet in total width shall be provided between all back to back lots. In the case of lakeshore lots, the utilities easement will be considered to be included in the road right-of-way. If necessary for the connection of utilities to adjoining properties, and as part of the overall distribution plan, easements of greater width may be required along lot lines or across lots. In all cases, an easement of no less than fifteen (15) feet in width shall be provided around the terrestrial perimeter of all subdivisions.
- b. The use of below ground utilities distribution is encouraged, and may be required by the County Board when deemed necessary. Power lines in excess of 34.5 KVA may be constructed above ground in special corridors.

**2. Drainage Easements:**

- a. Where a subdivision is traversed by a drainage way, watercourse, channel or stream, an easement adequate to protect the feature and provide structural separation shall be shown on the final subdivision plat.
- b. Drainage easements shall be of sufficient width to provide for: adequate storm water run-off, the area subject to flooding in heavy run-off events, and any future maintenance or construction of said drainage way.
- c. Where determined to be in public interest, the County may require that drainage ways be dedicated to the public.

**G. Blocks**

1. **Arrangement:** A block shall be so designed as to provide two tiers of lots of appropriate depth unless it adjoins a railroad or limited access highway, and unless the rear lot line abuts a different land use, or topographic conditions necessitate a single tier of lots.

**H. Lots**

1. **Layout:** Where possible, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Each lot shall have access to a public street or highway. Lots with frontage on two (2) parallel streets shall be permitted only under unusual circumstances.
2. **Lot Size:** Minimum lot sizes within the County shall in all cases conform to zoning regulations in force.
3. **Lots Along Thoroughfares:** There shall be no direct vehicular access from residential lots to an arterial street unless otherwise approved by the County Board, and residential lots shall be separated from major arterial streets and railroad rights-of-way by a twenty five (25) foot buffer strip, which may be in the form of added depth or width of lots backing on or siding on the street or railroad right-of-way.
4. **Lot Remnants:** Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans acceptable to the County Board for the future use of such remnants.

**I. Natural Features**

In the subdivision of land, due regard shall be shown for all natural features which, if preserved, will add attractiveness and stability to the proposed development.

**J. Planned Unit Developments**

Preliminary plans for subdivisions designed as a planned unit development must meet the requirements of the Pope County Land Use Controls Ordinance and Minnesota Rules 6120, or successor rule, if any part of the development is within shoreland.

**K. Water Access**

Unless adequate public access is available, shoreland subdivisions may be required to provide a controlled access lot consistent with the requirements of Minnesota Rules 6120 and available to all non-riparian property owners within the subdivision.

### 10.25.6 Assurance for Completion and Maintenance of Improvements

The following design standards are intended to ensure that the layout of the subdivision harmonizes with existing plans affecting the development and its surroundings and that it be in conformity with the development objectives of the County:

**A. Improvements and Developer's Agreement:**

1. **Completion of Improvements Prior to Final Plat Approval:** Except as provided in Section 10.25.6 B, before the final plat is signed by the County Board Chair, all applicants shall be required to complete at their expense, without reimbursement by the County or any improvement district, all public improvements as required in these regulations, specified in the final plat and as approved by the County Board, and to dedicate those public improvements to the County or other appropriate governmental entity, free and clear of all liens, mortgages and encumbrances on the dedicated property and public improvements.
2. **Completion of Improvements After Final Plat Approval:**
  - a. **Developer's Agreement:** The County Board in its sole discretion may waive the requirement that the applicant complete all public improvements prior to approval of the final plat and, as an alternative, the County may permit the applicant to enter into a Developer's Agreement by which the subdivider agrees to complete all required public improvements no later than two (2) years following the date of approval of the final plat. The Developer's Agreement shall contain the terms and conditions agreed to by the applicant and the County Board in approving the standard subdivision, including all applicable provisions for maintenance, warranties, construction or placement of structures or other improvements, and other terms and conditions of subdivision approval. The Developer's Agreement shall also include any self-imposed restrictions proposed by the developer, such as the locations of any structures, if agreed to by the County Board.
  - b. **Financial Security.** Whenever the County Board permits an applicant to enter into a Developer's Agreement, it shall require the applicant to provide a financial security for the promises contained in the Developer's Agreement. The security shall be in an amount equal to one hundred twenty five percent (125%) of the estimated cost of completion of the required public improvements, including lot improvements. Whenever it is deemed necessary by the County to defer the construction of any improvement required under these regulations **beyond 2 years**, the subdivider shall either pay its share of the costs of the future improvements to the County prior to signing of the final subdivision plat by the Chair of the County Board or the subdivider may guarantee completion of the deferred improvements in the Developer's Agreement upon demand of the County and secured by financial security. The following methods of financial security maybe used:

- i. **Letter of Credit.** If the applicant posts a letter of credit as security for its promises contained in the Developer's agreement, the credit shall (1) be irrevocable; (2) be for a term sufficient to cover the completion, maintenance and warranty periods in this Section; and (3) require only that the County present the issuing bank with a sight draft and an affidavit signed by the County Attorney attesting to the County's right to draw funds under the credit.
- ii. **Cash Escrow.** If the applicant posts a cash escrow as security for its promises contained in the Developer's agreement, the escrow instructions shall provide: (1) that the subdivider will have no right to a return of any of the funds except as provided in this Section; and (2) that the escrow agent shall have a legal duty to deliver the funds to the County after following the procedure set forth in Section 4.1(2)(c). If and when the County accepts the offer of dedication for the last completed required public improvement, the County shall execute a waiver of its right to receive all but twenty-five percent (25%) of the funds represented by the letter of credit or cash escrow if the subdivider is not in breach of the Developer's agreement. The residual funds shall be security for the subdivider's covenant to maintain the required public improvements and its warranty that the improvements are free from defect.
- iii. **Performance Bond.** A performance bond may be provided as a financial security in a form as approved by the County Board.
- c. **Failure to Complete Improvements.** In those cases where a Developer's Agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the County may then:
  - i. Provide thirty (30) calendar days notice for the developer to meet with the County Board to review the status of the improvements and resolve the problems;
  - ii. Declare the agreement to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the agreement is declared to be in default;
  - iii. Obtain funds under the security and complete improvements itself or through a third party;
  - iv. Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete improvements in the subdivision; or
  - v. Exercise any other rights available under the law.

- d. **Maintenance.** The developer shall agree to maintain the required public improvements for a period of one (1) year following the acceptance of the completed public improvements. The developer may organize a homeowner's association and assign responsibility to maintain public improvements to the homeowners association but the ultimate responsibility rests with the developer.
- e. **Warranty.** The developer shall warrant that all required public improvements will be free from defect for a period of two (2) years following the acceptance by the County of the last completed public improvement.
- f. **Snow Removal and Emergency Repairs.** The developer shall be required, in accordance with any applicable County ordinances or regulations, to provide snow removal on all streets, and pedestrian facilities if applicable, in the subdivision until all of the streets and pedestrian facilities in the subdivision are accepted by the road authority. The developer may organize a homeowner's association and assign responsibility to maintain public improvements to the homeowners association but the ultimate responsibility rests with the developer. The developer shall be responsible to make emergency repairs until the improvements are accepted. The road authority, after twenty-four (24) hours notice with no action by the developer, may plow the streets or make emergency repairs and charge those costs to the developer.
- g. **Adequate Access.** The County Engineer shall determine the extent of street improvements necessary for adequate vehicular access by the prospective occupant(s) and by police and fire equipment prior to the construction or placement of structures or other improvements.

**B. Inspection of Improvements.**

**1. General Procedure and Fees.**

- a. **Procedure.** All required improvements to be installed under the provisions of this ordinance may be subject to approval by and subject to the inspection of the County Engineer or other person assigned by the County Board. Such inspections may take place at any or all points of the construction process. If the County finds upon inspection that any one or more of the required improvements have not been constructed in accordance with the required construction standards and specifications, the applicant shall be responsible for properly completing the improvements.
- b. **Fees.** The applicant shall pay to the County an inspection fee based on the estimated cost of inspection, when required by the County. The subdivision plat shall not be signed by County officials unless the applicable inspection fee has been paid. These fees shall be due and payable upon demand of the County. No construction or placement of structures or other improvements may occur until all fees are paid unless financial security is provided to the County pursuant to this Section.

**C. Release or Reduction of Security.**

1. **Satisfactory Completion.** The County will not release nor reduce the amount of any security posted by the subdivider until the required improvements have been satisfactorily completed and until:
  - a. The developer's engineer has certified that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision; and
  - b. That monuments are currently in place on the ground as shown on the final plat; and
  - c. Documentation has been furnished to and approved by the County Land & Resource Management Director indicating that the improvements have been completed. Upon such approval and recommendation by the County Land & Resource Management Director, the County Board shall accept the improvements following the established procedure.
2. **Reduction of Financial Security.**
  - a. If the security posted by the subdivider was a cash escrow, the amount of that escrow shall be reduced upon inspection and approval of the public improvements and then only to the ratio that the cost of the public improvement for which approval was given bears to the total cost of public improvements for the subdivision. In no event shall a cash escrow be reduced below twenty-five percent (25%) of the principal amount until the maintenance and warranty periods have expired. Funds held in the escrow account shall not be released to the subdivider, in whole or in part, except upon express written instructions of the Land & Resource Management Director. At the end of the maintenance and warranty periods, all escrowed funds, if any, shall be released to the subdivider.
  - b. If the security provided by the subdivider was a letter of credit, the County Attorney shall execute waivers of the County's right to draw funds under the credit upon inspection and acceptance of the public improvements and then only to the ratio that the cost of the public improvement for which approval was given bears to the total cost of public improvements for the subdivision. In no event shall waivers be executed that would reduce the security below twenty-five percent (25%) of its original amount.