

# **PLATTING AND LAND SUBDIVISION REGULATIONS FOR CASS COUNTY**

Regulations establishing standards and guidelines for the subdivision and platting of land within Cass County, defining certain terms used herein, establishing procedures for the approval and recording of plats and providing penalties for violation of these regulations.

## **SECTION 1 - GENERAL PROVISIONS**

### **Part 1.1 - Title**

These regulations shall be known as the "Platting and Land Subdivision Regulations for Cass County".

### **Part 1.2 - Authority**

These regulations are adopted under the authority granted by Chapter 11-33.2 of the North Dakota Century Code and shall in no way affect subdivision within the corporate limits, or within the area of application of extraterritorial zoning jurisdiction, of any municipality within Cass County. Additionally, these regulations shall in no way prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming.

### **Part 1.3 - Purpose**

These regulations are enacted for the following purposes: To protect and provide for the public health, safety, and general welfare of Cass County; to provide for adequate and convenient open spaces for traffic, utilities, access of emergency vehicles, and for the avoidance of undue congestion of population; to prohibit land subdivision of such character where the land cannot be used safely for building purposes without danger to health or peril from fire, flood, or other menace; to require that adequate public facilities and necessary public improvements are available and will have sufficient capacity to serve the subdivision; to encourage the wise use and management of natural resources throughout the County in order to preserve the integrity, stability, and beauty of the County and the value of its land; to establish reasonable standards, designs, and procedures for land subdivision in order to further beneficial planning in the County and to insure proper legal descriptions of the land.

### **Part 1.4 - Rules of Interpretation**

**1.4.1** Definitions. For the purpose of these regulations, certain terms and words are hereby defined as follows:

**Abutting:** To physically touch or border upon; or to share a common property line.

**Access:** A way or means of approach to provide physical entrance to a property.

Alley: A public right-of-way which affords a secondary means of access to abutting property.

Applicant: The person(s) submitting the application to subdivide or his agents.

Application to Subdivide: The application form and all documents and exhibits required of an applicant by the County Planner, Planning Commission or Board of County Commissioners for subdivision review purposes.

Area Sketch: An area sketch is a rough map of a proposed subdivision and the surrounding land to be used for the purpose of discussion and clarification of proposed land divisions.

Block: An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a stream or lake.

Central Sewerage System: A community sewer system including collection and treatment facilities established to serve a new subdivision.

County: The County of Cass, North Dakota.

County Board: Board of County Commissioners of Cass County.

County Planning Commission: Cass County Planning Commission.

Cul-de-sac: A minor street or road with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Design Standards: The specifications to land owners or subdividers for the preparation of plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as rights of ways, blocks, easements and lots.

Drainage Plan: The plan of the subdivision showing the direction of surface water runoff and the removal of surface water or groundwater by drains, grading runoff controls, or other means.

Easement: A grant by one or more of the property rights by the property owner to and or for the use by the public, a corporation or entity.

Flood plain: The areas adjoining a water course which have been or hereafter may be covered by the 100 year flood.

Final Plat: A drawing or map of a subdivision meeting all the requirements of the County and in such form as required by Cass County for the purpose of recording.

Grading: Any stripping, cutting, filling, stockpiling of earth or land, including the land in its cut or

filled condition.

**Highway:** Any public road, including public dedications to townships and cities, thoroughfare or vehicular right of way with a Federal or State numerical route designation or with a Cass County numerical route designation.

**Individual Sewerage System:** A privately owned and maintained system for the disposal of sanitary sewage.

**Land Use:** A description of how land is occupied or utilized.

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

**Lot Split:** Division of a lot created by a previous subdivision into two parts in which at least one part will not be a buildable lot according to applicable zoning regulations and in which no existing easements or accesses are affected, and no new easements or accesses are required.

**Parks and Playgrounds:** Public lands and open spaces in Cass County dedicated or reserved for recreational purposes.

**Pedestrian Way:** Public or private right-of-way across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

**Percentage of Grade:** The distance vertically (up and down) from the horizontal in feet and tenths of a foot for each one hundred feet of horizontal distance.

**Planning Commission:** Cass County Planning Commission.

**Plat:** A map of a subdivision showing the boundaries, dimensions, and locations of individual properties and streets.

**Preliminary Plat:** a tentative drawing or map of a proposed subdivision meeting the requirements herein enumerated.

**Public Improvement:** Any improvement or other facility for which a governmental unit may ultimately assume responsibility for maintenance and operation.

**Restrictive Covenant:** A restriction on the use of land usually set forth in the deed.

**Resubdivision:** A change in an approved and recorded subdivision plat, but not including conveyances made so as to combine existing lots by deed or other instrument.

**Right-of-Way:** The dedicated land for public use to be occupied by a street, crosswalk, railroad,

electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for other special use.

Street: A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road avenue, boulevard place or however otherwise designated.

Subdivision: a division of a lot, tract, or parcel of land, creating one or more lots, tracts, or parcels for the purpose, either immediate or future, of sale or of building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or from any such lot, tract, or parcel, and the creation of new or enlarged parks, playgrounds, plazas, or open spaces. The following shall not be considered a subdivision and shall be exempt from the requirements of these regulations:

- a. a division of land which may be ordered or approved court or affected by testamentary or intestate provisions;
- b. a division of land for use as right-of-way for public facilities which do not involve any new streets or easements of access;
- c. a division of land made to correct errors in prior divisions pursuant to Chapter 40-50.1 N.D.C.C.;
- d. a division of land into lots, tracts, or parcels of ten (10) acres or more in size for the purpose of agricultural use which does not involve any new streets or easements.
- e. a division of land into lots, tracts, parcels in which one lot, tract, or parcel has existing a single family residential dwelling and the other lot(s), tract(s), or parcel(s) is/are also exempt by the previous stated exemptions.
- f. a lot split as defined in these regulations

The term "subdivision" shall be further defined into two classifications, which are as follows:

- a. Minor Subdivision: a division of land into lots, tracts, or parcels of which less than five lots are created for the purpose of sale or development.
- b. Major Subdivision: A division of land into lots, tracts, or parcels not classified as a Minor Subdivision.

Variance: Permission to depart from the literal requirements of these regulations.

**1.4.2** Constructions. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; the word "shall" is mandatory, and words "should" and "may" are permissive.

#### **Part 1.5 - Severability**

If any section, sub-section, sentence, clause or phrase of these regulations are for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of the regulations.

## **SECTION 2- PLATTING REQUIREMENTS**

### **Part 2.1 - Applicability**

**2.1.1** No subdivision of any lot, tract, or parcel of land shall be made; no street, sanitary sewer, water main, or other improvements in connection therewith shall be laid out, constructed, opened, or dedicated for public use or travel, or for the common use of occupants of buildings abutting thereon, except in accordance with a plat as finally approved as per these regulations.

**2.1.2** A county auditor's plat made pursuant to N.D.C.C. 57-02-39 is for taxation purposes for convenience of tax officials in describing property on tax rolls and does not confer rights in or transfer title to land. Therefore, this "platting" of Auditor's Lots is not "platting" pursuant to these regulations. Thus, an Auditor's Lot is not approved by the County for sale or development.

**2.1.3** For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or vacates any portion of said plat, such parcel shall follow the same procedures, rules, and regulations as an original subdivision plat. When necessary, when any change in a map of a subdivision plat effects any street layout shown, in conjunction with the process identified in these regulations, the appropriate provisions of Chapter 24-07 of the North Dakota Century Code shall be followed.

**2.1.4** Whenever these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances of the State of North Dakota, or Cass County, or the townships in Cass County, the most restrictive or that which imposes the higher standards shall govern.

**2.1.5** Before any subdivision plat shall be recorded or be of any validity, it shall be approved by the Board of Cass County Commissioners as having made appropriate provisions for the public health, safety and general welfare and for such open spaces, drainage ways, streets, parks, playgrounds sites for schools and school grounds, and that the public use and interest will be served by the platting of said subdivision, and that the proposed plat complies with these regulations. The Board may place conditions of approval as may be deemed necessary. The applicant has the duty of compliance with the conditions placed by the County.

### **Part 2.2 - Administration**

**2.2.1** Planning Commission. The Cass County Planning Commission shall approve, approve conditionally, or deny all subdivision plats, and shall make recommendations for all subdivision plats in Cass County's jurisdiction to the Cass County Board of Commissioners. The Planning Commission shall adopt rules and by-laws to govern its membership, membership terms, meetings,

and officers not inconsistent with these regulations and the North Dakota Century Code.

**2.2.2 Board of County Commissioners.** The Board of County Commissioners shall grant final approval of all subdivision plats as provided in the North Dakota Century Code. It shall further serve as the Board of Review for appeals on Planning Commission decisions for variances, subdivision regulation amendments, and other regulatory matters. The Board of County Commissioners shall also hear and adopt Comprehensive Plan amendments, Zoning Regulations, and Zoning and Subdivision Regulation amendments in accordance with the North Dakota Century Code.

**2.2.3 County Planning Office.** The County Planning Office shall serve as the administrative officer of the Planning Commission.

### **Part 2.3 - Document and Submission Requirements**

**2.3.1** All proposed subdivisions in Cass County must meet final plat requirements as specified in these regulations prior to final plat approval by the County Board of Commissioners. Additionally, proposed major subdivisions must first obtain a preliminary plat approval and final plat approval from the Planning Commission. The preliminary plat shall meet preliminary plat requirements as specified in these regulations prior to submission for review by the Planning Commission. Additionally, all applicants for proposed subdivisions must submit area sketches prior to submission of final plats (or preliminary plats in the case of major subdivisions) for review by the Planning Commission.

**2.3.2** All information required for final plats must be included on the final plat prior to review and approval by the County Board.

**2.3.3 FINAL PLAT INFORMATION.** The final plat shall contain the following information:

- a. Subdivision title.
- b. Geographic scale.
- c. North arrow.
- d. Date of plat.
- e. Name and signature of owner, applicant, land surveyor, and engineer.
- f. Dimensions and bearings of boundary lines of property.
- g. Location by section, township, range, county.
- h. Location, right-of-way widths and names of existing and proposed streets and railways.
- I. Location, right-of-way, and names of all dedicated roads.
10. Location and widths of existing and proposed \*utility and drainage easements.
- k. Location and names of existing and proposed parks and other open space.
1. Location, description, and size of all monuments.
- m. Lot lines with dimensions to hundredth of a foot.
- n. Identification system for lots and blocks.

- o. Outlot numbers or designations.
- p. Names of all adjacent subdivisions.
- q. Exact radii and arc length of all curves.
- r. Location of rivers, lakes, streams, and 100 year Flood plain elevation as required by the North Dakota Century Code.
- s. Restrictive covenants noted on the plat.
- t. Legal certifications by county and local officials.
- u. Statement dedicating all easements as follows: easements for installation and maintenance of utilities and drainage facilities are reserved over, under, and along the strips marked "utility or drainage easements."
- v. Statement dedicating all highways, streets, roads, alleys, and other public areas not previously dedicated as follows: Roads, alleys, and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated.
- w. Location and widths of all proposed access easements.

\*Proposed utility easements - Letter of Approval from utility companies must be submitted as proof that agreement has been reached for placement of various utilities.

**2.3.4** All information required for preliminary plats must be included on the preliminary plat prior to submission for review and approval by the Planning Commission.

**2.3.5 PRELIMINARY PLAT INFORMATION.** The preliminary plat shall contain the following information:

- a. Except where different standards are listed below, all information required for final plats.
- b. Abstract of Title or registered property certificate.
- c. Date of preparation.
- d. Name and address of all abutting land owners must be attached to plat.
- e. Total acreage.
- f. Location and dimensions of existing and approximate proposed utilities and utility easements.
- g. Location, approximate size, and purpose for all dedicated land.
- h. Location and approximate size of all parks, playgrounds and school sites.
- I. Locations and preliminary plans for safe and potable water, sewage disposal, drainage and flood control.
- j. Preliminary street grades and drainage plan to be shown on a contour map. (Contours 2' interval maximum or spot elevations to be shown on a 50' grid.)
- k. Location of prominent natural features, (i.e. rock outcropping, woodlands, steep slopes).
- l. Existing and proposed zoning (if re-zoning is necessary).
- m. Proposed restrictive covenants must be attached to the plat. (n.-o. to be provided as needed)
- n. Soil erosion and sediment control plan including gradient of waterways and design of erosion control.

- o. Vegetation preservation and protection plan.

**2.3.6** A brief description of any proposed deed restrictions which would be recorded on the plat shall be submitted with the preliminary plat.

**2.3.7** A description and proposed time schedule of improvements such as streets, alleys, installation of utilities, tree planting, etc., shall be submitted with the preliminary plat.

**2.3.8** All information required for area sketches must be included on the area sketch prior to submission of final plat for minor subdivisions for review and approval by the Planning Commission. All information required for area sketches must be included on the area sketch prior to submission of preliminary plats for major subdivisions for review and approval by the Planning Commission. While reviewing the proposed subdivision, the following items shall be considered: (a) the arrangement, location, and width of streets and their relation to the topography of the land; (b) sewage and drainage plans; (c) lot size and arrangement; (d) further development of adjoining land as yet unsubdivided; (e) the intent of the county land use plan; (f) conformity with township zoning; (9) and conformity with all other applicable plans, regulations, codes, and laws.

**2.3.7 AREA SKETCH INFORMATION.** The following information is required on the area sketch:

- a. Adjoining land use zoning and significant natural features, within 1320' (1/4 mile) of boundary.
- b. General layout of existing and proposed lots, buildings, and streets in the section where development is proposed.
- c. Where Flood Insurance Rate Maps (FIRM) exist, 100 year Flood plain, and major drainage patterns.
- d. General topography.
- e. Preliminary sewage and potable water plans.
- f. Additional written data shall include approximate number of lots, typical lot width and depth, availability of services, and what zoning changes would be required.

## **Part 2.4 - Design Standards**

**2.4.1** In addition to the requirements stated herein, all subdivision plats shall comply with the applicable provisions of the North Dakota Century Code; city, county, or township plans as they may apply; city, county, or township zoning ordinances, building codes, housing codes, flood proofing codes, fire codes, and all other applicable laws of the applicable jurisdiction.

**2.4.2** Block length - In general, intersecting streets and roads, determining block lengths, shall be provided at such intervals as will serve cross-traffic adequately and to meet existing streets and roads. Where no existing plats control, the blocks in subdivisions shall normally not exceed thirteen hundred twenty (1,320) feet in length, except where topography or other conditions justify a departure from this maximum.

**2.4.3 Block Width** - The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

**2.4.4** The minimum lot area, lot width and lot depth shall conform to the requirements of the zoning district in which the plat is situated as required by the zoning ordinance having jurisdiction.

**2.4.5** Corner lots for residential use shall have sufficient width to permit appropriate building setback from both roads as required by the zoning ordinance having jurisdiction.

**2.4.6** Side lines of lots shall be approximately at right angles to road or street lines or radial to curved road or street lines.

**2.4.7** Double frontage lots shall be avoided except where lots back on a highway or other arterial road, or where topographic or other conditions make it desirable. Such double frontage lots shall have an additional depth of at least ten (10) feet, where feasible, in order to allow space for screen planting along the back lot line.

**2.4.8** Every lot shall have frontage on a public dedicated road, or on a private road. In the case that the road is a proposed public dedicated or proposed private road, it shall meet minimum county standards for a local street. For existing private roads, in the case of minor subdivisions, a lesser standard may be allowed, when approved by the County Engineer.

**2.4.9** No structure shall be constructed, erected, or moved such that it will be located within one hundred (100) feet of any public dedicated road surface or street classified as a collector or arterial by the County Engineer.

**2.4.10** When a subdivision has a direct impact on a public road, the County Engineer shall make a recommendation about the plat.

**2.4.11** Streets, except for cul-de-sacs, normally shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of the street network shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.

**2.4.12** Local streets should be so planned as to discourage their use by non-local traffic. Dead end streets shall be prohibited except where they occur temporarily at the edge of a subdivision and adequate provisions are made for turning around. Except where they occur temporarily, cul-de-sacs shall not be allowed where there is a reasonable opportunity to provide for future connections to adjoining streets. If allowed, cul-de-sacs shall normally not be longer than eight hundred (800) feet

as measured from the radius point of the turn around at the inner end of the cul-de-sac. The cul-de-sac shall have a minimum surface radius of 60 feet. The cul-de-sac shall have a minimum right-of-way radius of seventy (70) feet. A transition from the turn around shall be either a straight line or a curve tangent to the turn around and one hundred (100) feet minimum in length or radius. (See Diagram #1, page 11)

**2.4.13** Where the final plat to be submitted includes only part of the tract owned or intended for development by the applicant, a preliminary plan of a proposed future street and road system for the unsubdivided portion shall be prepared and submitted by the applicant when the area sketch is submitted.

**2.4.14** When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings for future roads and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.

**2.4.15** Roads shall be designed so as to intersect at right angles, except where topography or other conditions justify variations. Where such conditions may justify the variations, a variance will be required for the proposed subdivision, and the applicant shall be required to give compelling reason why such variation is justified.

**2.4.16** Wherever the proposed subdivision contains or is adjacent to the right-of-way of a State, County, Township, or Federal Highway which is classified as a collector or arterial by the County Engineer, provision shall be made for reverse frontage so that lots do not need direct access unto said roads. For such cases, it is recommended that said lots be provided with screen planting contained in a non-access reservation along the rear property line. Lot depth for reverse frontage lots shall be determined with due consideration for the minimum distances required for approach connections to future grade separations. There shall be only one access per quarter mile on section line roads or roads classified as collectors or arterials by the County Engineer, except where it may result in real practical difficulties, unnecessary hardship or injustice.

**2.4.17** Alleys shall be provided in commercial and industrial districts, except that this requirement may be waived where other definite and assured provision is made for service access, such as on-site loading, unloading and parking consistent with and adequate for the uses proposed. Except where justified by special conditions, such as the continuation of an existing alley in the same block, alleys will not be approved in residential districts. Alleys, where provided, shall not be less than twenty (20) feet wide. Dead end alleys shall be avoided whenever possible, but if unavoidable, such dead end alleys may be approved if adequate turn-around facilities are provided at the closed end.

**2.4.18** Dedication of half streets or roads will not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so that it may be improved in the public interest.

**2.4.19 Minimum Right-of-Way Widths.** All public ways shall be classified based upon (1) the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day; or (2) the number of dwelling units to be served by the street.

Whenever a street continues an existing street that formerly terminated outside the subdivision or it is expected that a street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision. The classifications and the minimum right-of-way width for streets, roads, and highways shall be as follows:

Arterial	
Principal .....	150 feet
Minor.....	150 feet
Collector.....	150 feet
Local Street	
Road in rural design section (ditch along side) .....	120 feet
Road with gutter and storm sewer.....	70 feet
Alleys.....	20 feet
Pedestrian Ways .....	20 feet

**2.4.20 Minimum Road Surface Widths:**

Arterial .....	40 feet
Collector.....	36 feet
Local Streets	
Road in rural design section (ditch along side) .....	32 feet
Road with gutter and storm sewer.....	40 feet
Alleys.....	20 feet

**2.4.21 Road and Highway Grades -** The grades of all streets, roads, highways, and alleys in any subdivision shall not be greater than the maximum grades for each classification as follows:

Arterial .....	6 percent
Collector.....	8 percent
Local Streets.....	8 percent
Alley.....	8 percent

In addition, on all streets for rural design there shall be a minimum ditch grade of not less than one-tenth of one percent (0.1%).

**2.4.22 Roadway Cross Sections -** Roads shall be crowned to provide drainage. In slopes shall be a minimum of 5 to 1.

**2.4.23** All proposed streets or roads shall be offered for dedication as public roads or streets

to the appropriate jurisdiction. But where said jurisdiction indicates it does not intend to accept such dedication, the road may be allowed as a private road.

**2.4.24** The preliminary plat may indicate suggested names upon proposed streets. But the Planning Commission shall name all streets using the County's rural addressing system. A street which is or is planned as a continuation of an existing street shall bear the same name.

**2.4.25** The applicant shall deposit with the County at the time of final subdivision approval the sum for each road sign required.

**2.4.26** Where a subdivision is proposed adjacent rivers, creeks, or other bodies of water, an easement of a minimum of 20 feet shall be made from the bank of said river, creek, or other body of water and access from a roadway shall also be made at a minimum of 20 feet easement.

**2.4.27** If required by the appropriate school district, a school bus stop shall be designated within the proposed subdivision and shelter(s) to protect students from the elements shall be built by the applicant and dedicated to the appropriate school district which upon acceptance of the dedication shall maintain such shelter(s).

**2.4.28** A sewage disposal system that is adequate to prevent serious health risks shall be provided within any proposed subdivision. This system shall be detailed in a sewage disposal plan that is approved in accordance with the rules, regulations, and standards of the Environmental Health Office of the Community Health Department of the City of Fargo, North Dakota, and all other applicable health regulations, including Cass County on-site sewage regulations adopted March 4, 1993 and all subsequent amendments to said regulations.

**2.4.29** Before any permits for sewage disposal can be obtained from said office, the tract of land shall be approved by the Board of County Commissioners as per these regulations.

**2.4.30** Any water supply system that is adequate to provide potable water shall be provided within any subdivision. This system shall be detailed in a water supply system plan that complies with all applicable health regulations.

**2.4.31** A private or on-site water supply system shall not be less than one hundred (100) feet from any sewage drain field, unless specific approval is obtained from the Environmental Health Office of the Community Health Department of the City of Fargo, North Dakota.

**2.4.32** Any private or on-site water supply system serving three or more residential structures shall not be less than one hundred (100) feet from any sewage drain field.

**2.4.33** All utility facilities intended for distribution within a subdivision shall be placed underground in accordance with the specifications and policies of the respective utility service providers except where it may result in real practical difficulties, unnecessary hardship or injustice. The applicant shall submit a Letter of Approval as proof that agreement has been reached for

placement of the various utilities.

**2.4.34** Whenever it can be reasonably anticipated that utility facilities constructed in one subdivision will be extended to serve other subdivisions, such utility facilities shall be located and constructed so that extensions can be made conveniently and without undue burden or expense or unnecessary duplication of service.

**2.4.35** A minimum of ten (10) feet wide utilities easements shall be provided where necessary. The easements shall be centered on rear and other lot lines or within alley right-of-way. They shall have continuity of alignment from block to block. At deflection points, easement for pole line anchors shall be provided where necessary. However, other placements may be allowed for minor subdivisions.

**2.4.36** A drainage system that is adequate to prevent the undue retention of surface water shall be provided. This system shall be detailed in a drainage plan that must be approved by the appropriate water resource district(s). The drainage plan may be required by the Planning Office to be shown on a contour map. If applicable, the plan must show the one hundred year flood fringe and flood way.

**2.4.37** Whenever practicable, the drainage system shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or streets. Where a subdivision is traversed by a water course drainage way, there shall be provided a storm water easement or drainage right-of-way substantially within the lines of such water source together with such further width or construction or both, as will be adequate for storm water runoff. The easement shall include not only the stream channel, but also adjoining areas that have been subject to flooding in years of heavy runoff.

**2.4.38** All drainage systems shall be constructed and maintained so that nearby properties are not unreasonably burdened with surface waters as a result of such systems. More specifically: (1) no system may be constructed or maintained so that such system unreasonably impedes the natural flow of water from higher nearby properties across such system, thereby unreasonably causing substantial damage to such higher nearby properties; and (2) no system may be constructed or maintained so that surface waters from such system are unreasonably collected and channeled onto lower nearby properties at such locations or at such volumes as to cause substantial damage to such lower nearby properties.

**2.4.39** To the extent practicable, all systems shall conform to the natural contours of the land and natural and pre-existing man-made drainage ways and features shall remain undisturbed.

**2.4.40** To the extent practicable, lot boundaries shall be made to coincide with natural and preexisting man-made drainage ways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainage ways and minimize soil erosion.

**2.4.41** No surface water may be channeled or directed into a sanitary sewer system.

**2.4.42** All rural design sections shall have a minimum of 18" culverts.

**2.4.43** Urban Water Standards District and Associated Standards. The Urban Water Standards District includes the following areas:

Stanley Township	Entire Township
Reed Township	Entire Township
Raymond Township	Eastern 6 sections. 23, 24, 25, 26, 35, and 36
Mapleton Township	Eastern 6 sections. 11, 12, 13, 14, 23, and 24

In addition to requirements stated elsewhere in this regulation, the area within the Urban Water Standards District will be subject to the below listed requirements. These requirements apply only to those subdivisions platted after April 1, 1997 in which the density resulting from the combination of existing development and proposed development will result in 4 or more residential lots (or residences) on the quarter section (= 160 acres) of land in which the development is located.

1. The minimum size of lines within the subdivision plat boundaries shall be 8-inch diameter. Branches less than 250 feet in cul-de-sacs may be 6-inch diameter if for domestic feed only.
2. Provisions for installation of fire hydrants shall be provided at a maximum spacing of 400 feet. No resident structure shall be more than 250 feet from the nearest fire hydrant. Hydrant installation shall occur when sufficient water volume is available for fire protection requirements.
3. The distribution system within the boundaries of the subdivision plat shall be designed to provide a minimum flow of 1000 gallons per minute with a 20 psi residual pressure.
4. The Water Distribution system within the subdivision shall be constructed in accordance with the City of Fargo Specification for Construction of Water Mains in place at the time of construction. The requirements for service lines made of copper shall not apply.
5. For the safety and protection of residents, rural subdivisions are encouraged to install water systems capable of providing fire flow capacity to include the following:
  1. Installation of volume water supply or reservoir facilities.
  1. Installation of fire hydrants.

## **Part 2.5 - Public Land Dedications**

**2.5.1** Because new residential development increases population and therefore demand upon public services, it may be required that an original subdivision plat of residential property dedicate land, in accordance with these regulations, for the purpose of providing public uses and facilities for the future residents of such subdivision.

**2.5.2** The provisions of this requirement shall apply to all original plats of residential zoned subdivisions, and shall include replats if the replat changes the use of the lots to residential.

**2.5.3** The amount of land required to be dedicated by the applicant pursuant to these regulations shall be based upon the type of development and the required open space per dwelling unit, determined by the following formula:

One or Two Family .....	700 sq. ft. per unit
Multi-Family .....	470 sq. ft. per unit

**2.5.4** Where no proposed use is given for lots in a residential zoned subdivision, the Planning Commission shall determine the amount of additional square feet to be calculated into the land dedication formula. This amount shall be consistent with the highest density residential uses permitted in the proposed subdivision.

**2.5.5** Any land to be dedicated as a requirement of this section shall be reasonably suitable for public use and shall be at a location convenient to the people to be served. Land to be dedicated shall normally form a unified parcel, be shaped for sufficient public activities, shall have public access either through easements or by frontage on an improved street, shall have sufficient topography and geology to be used for the particular public use, and shall be of such character as to be safely used by the residents of that subdivision. Land that does not meet these criteria shall not be accepted for dedication.

**2.5.6** Prior to Final Plat approval by the County Board, the applicant shall tender a deed of the dedicated land to the public entity that is to receive the land. If the plat is not approved, the deed shall be returned to the applicant. The transfer of deed is only final upon final approval of plat. The public entity that receives the dedicated land shall be required to maintain such land.

**2.5.7** Where private open space for park and recreational purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, such areas may be credited against the requirement of dedication for land for public use provided the County finds it is in the public interest to do so and that the following standards are met:

- a. That yards, court areas, setbacks and other open areas required to be maintained by the zoning and building regulations shall not be included in the computation of such private open space; and
- b. That the use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of property within the tract. In addition these must be a separate agreement between the applicant and the County which restricts the use of such open space to park and recreational purposes. This written agreement shall also provide the County with the ability to enforce the provisions of the agreement and will further state that such an agreement cannot be defeated or eliminated without the consent of the County Board; and
- c. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location of the private open space land.

**2.5.8** Where the proposed subdivision does not contain land consistent with the requirements of Paragraph 2.5.5 of these regulations, or where the applicant can demonstrate a compelling reason why, cash may be offered in lieu of the land required for public dedication. The cash shall be used for land for public parks or other public land uses such as schools and must be used for land in the vicinity of the proposed subdivision. Amount of the cash offered shall be determined by the Cass County Board of Commissioners and shall be consistent with the value of the land which would otherwise be offered for public dedication.

## **Part 2.6 - Fees**

**2.6.1** The applicant for subdivision approval shall pay to the County fees to be determined by the Cass County Board of Commissioners prior to submission of the final plat for approval by the County Board.

**2.6.2** The fees so collected shall be credited to the general fund of the County.

## **Part 2.7 - Improvement Guarantees**

**2.7.1** At the discretion of the Planning Commission or Board of Commissioners, improvement guarantees may be required. In such cases, prior to a plat being signed by the Chairman of the Cass County Board of Commissioners, the applicant, at his own expense, shall be required to make and install such public improvements as provided in these regulations. The applicant shall make an offer of irrevocable dedication for the public improvements to the public free and clear of all liens and encumbrances on the property and public improvements thus offered.

**2.7.2** The Board of County Commissioners may, at its discretion, waive the requirement that the applicant complete and dedicate all public improvements prior to the signing of the plat, and may allow the applicant to post a surety bond at the time of submitting the final plat. The surety bond, or other security, shall secure the satisfactory construction, installation, and dedication of the required public improvements. The applicant shall post a surety bond, or other security, in an amount determined by the Board of County Commissioners as sufficient to ensure those public improvements are installed with such time as the Board of County Commissioners shall set.

**2.7.3** Acceptance of dedication of public improvements shall be by resolution of the local government governing body. The approval of the plat by the Board of County Commissioners shall not be deemed to constitute or imply the acceptance by the local government of any public improvement shown on the plat. The Board of County Commissioners may require the plat to be endorsed with the appropriate notes to this effect. When a local government other than the County will be the recipient of the dedication of public improvements, a duly certified resolution of acceptance from said local government shall be included in the final plat.

**2.7.4** The Board of County Commissioners shall release the surety bond, or other security, upon the submission of the applicant's registered engineer certification, through submission of detailed "as-built" survey plat of the subdivision, indicating location, dimensions, materials, and

other pertinent information that the regulations are in accordance with the plat as finally approved, and that a title insurance policy has been furnished that the public improvements shall have been completed, are ready for dedication to the local government and are free and clear of any and all liens and encumbrances. Upon such approval and recommendation, the governing body should thereafter accept the improvements for dedication in accordance with the established procedure.

**2.7.5** The surety bond, or other security, may be reduced upon actual acceptance of dedication of part of the total public improvements only to the ratio those public improvements bear to the total public improvements. In no event shall a surety bond, of other security, be reduced below twenty-five per cent (25 %) of the principal amount.

**2.7.6** In the event that any public improvements which may be required to be installed by the applicant have not been installed as provided in these regulations or in accordance with the plat as finally approved, the Board of County Commissioners has the power to enforce any surety bond, or other security, required of said applicant by appropriate legal and equitable remedies.

## **SECTION 3- PROCEDURES**

### **Part 3.1 - Classification of Land Developments and General Subdivision Application Procedure**

**3.1.1** Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in the proposed subdivision shall be granted, the applicant or his representative shall apply for and secure plat approval by the Cass County Board of Commissioners. The subdivision application shall be classified and reviewed in accordance with the following procedures:

#### Minor Subdivision

- a. Discussion of Requirements
- b. Application meeting
- c. Final Plat Approval by Planning Commission
- d. Final Plat Approval by Board of Commissioners

#### Major Subdivision

- a. Discussion of Requirements
- b. Application meeting
- c. Preliminary Plat Approval by Planning Commission
- d. Final Plat Approval by Planning Commission
- e. Final Plat Approval by Board of Commissioners

**3.1.2** Where warranting circumstances exist, the County Planner may add or relieve the applicant of certain submission requirements of these regulations. The County Planner shall notify the Planning Commission of any addition to or relief from the requirements.

### **Part 3.2 - Discussion of Requirements**

**3.2.1** Before preparing an area sketch or plats of any proposed subdivision, the applicant is requested to discuss with the County Planner the appropriate procedure for approval of the proposed subdivision, including all applicable ordinances, regulations, and plans in the area to be subdivided. If the proposal is located within a city's extraterritorial jurisdiction, the request shall be referred to that City.

### **Part 3.3 - Application Meeting**

**3.3.1** Prior to the preparation of any plats, including preliminary plats and final plats, the applicant shall have determined the applicable zoning requirements and shall meet with the County Planner. The applicant shall submit an application including an area sketch for the proposed subdivision at this time.

### **Part 3.4 - General Plat Submission Requirements**

**3.4.1** After the application meeting the applicant shall prepare and submit a preliminary plat together with improvement plans and other supplemental material as required. In the case of minor subdivisions where no preliminary plat is required, the applicant shall prepare and submit a final plat together with improvement plans and other supplemental material as required.

**3.4.2** The Planner may require the applicant to submit whatever additional information is necessary for review.

**3.4.3** The County Planner shall, by registered mail, notify the appropriate chairman of the board(s) of township supervisors that an application for subdivision approval has been submitted to the County and that the board of township supervisors is requested to make a recommendation on the application. Prior to submission of a final plat for subdivision approval by the Board of Commissioners, the Township Board having jurisdiction shall have transmitted a registered letter to the County Planner certifying that the proposed subdivision is consistent with all Township zoning regulations, and providing additional comments when warranted. If the County Planner has not received, by registered mail, a recommendation by the board of township supervisors within sixty days of notification, the planner shall forward his recommendations to the Board of County Commissioners for final action.

### **Part 3.5 - Preliminary Plat**

**3.5.1** After the application meeting the applicant shall prepare a preliminary plat together with improvement plans and other supplemental material as required. In the case of minor subdivisions where no preliminary plat is required, platting and application procedures shall be those specified in Parts 3.4 and 3.6.

**3.5.2** Upon receipt of a preliminary plat from the applicant, the County Planner shall, by registered mail, notify the appropriate chairman of the board(s) of township supervisors that an application for subdivision approval has been submitted before the County and that the board of

township supervisors is requested to make a recommendation on the application. If the County Planner has not received, by registered mail, a recommendation by the board of township supervisors within sixty days of notification, the Planner shall forward the Planning Commission's recommendations on the final plat to the Board of County Commissioners within a reasonable time.

**3.5.3** The applicant shall submit at least eight (8) full-size and twenty (20) 11x17" reduced copies of the preliminary plat at least twenty-one (21) days prior to the next regularly scheduled Planning Commission meeting.

**3.5.4** The County Planner shall distribute copies of the preliminary plat to appropriate officials, as determined necessary for review and comments.

**3.5.5** Within a reasonable time after comments have been requested, the Planning Commission shall review the preliminary plat, whereupon the Planning Commission shall conditionally approve or disapprove the preliminary plat. If approved, the Planning Commission shall state in writing the conditions of approval, if any, and if disapproved, the Planning Commission shall state its disapproval and reasons.

**3.5.6** Approval of a preliminary plat, with or without conditions, shall not constitute approval of the final plat. All conditions stated must be completed or included in the final plat prior to final plat review by the Planning Commission. Conditional approval of a preliminary plat is limited to a period of six (6) months, after which time the applicant must resubmit a preliminary plat.

**3.5.7** The action of the Planning Commission shall be reported to the applicant, to the Township Board(s) in which the subdivision is to be located, and to the Community Health Center.

### **Part 3.6 - Final Plat**

**3.6.1** The applicant shall pay the fee prior to the time the final plat is submitted to the Board of Commissioners for final plat approval.

**3.6.2** Prior to approval of a final plat, the Township Board having jurisdiction shall have transmitted a registered letter to the County Planner certifying that the proposed subdivision is consistent with all Township zoning regulations, and providing additional comments when warranted.

**3.6.3** For both minor and major subdivisions, the applicant shall submit at least three (3) full size and eight (8) 11x17 reduced copies of the final plat to the County Planner twenty-one (21) days prior to the next regularly scheduled Planning Commission meeting. In the case of minor subdivisions where no preliminary plat is required, after the application meeting the applicant shall prepare and submit the final plat together with improvement plans and other supplemental material as required.

**3.6.4** When applicable, the County Planner shall meet with the applicant prior to the Planning Commission meeting to make sure that the final plat conforms to the preliminary plat as approved. If

desired by the applicant, the final plat may constitute only that portion of the approved preliminary plat which is proposed to be recorded. The final plat must be submitted within six (6) months of preliminary plat approval. Failure to meet with this provision shall void the preliminary plat.

**3.6.5** When applicable, the final plat shall have incorporated all changes required by the Planning Commission as conditions to the approval of the preliminary plat, but the final plat shall otherwise conform to the preliminary plat as approved.

**3.6.6** Once all the requirements have been met, the Planning Commission shall hold a public hearing after notice of the time and place therefore, has been published once in the official newspaper at least ten (10) days prior to the date of the hearing.

**3.6.7** After the public hearing, the Planning Commission shall forward its recommendation, together with any recommendations received by the township, to Board of County Commissioners to approve, approve with conditions, or deny the final plat.

### **Part 3.7 - Recording Final Plat**

**3.7.1** No plat shall be finally approved or disapproved by the Board of County Commissioners except upon receipt of recommendations by both the Planning Commission and the board of township supervisors of the township in which the proposed subdivision is located. If the board does not receive a recommendation by the board of township supervisors within sixty days after notification, it may take final action upon the application for plat approval.

**3.7.2** The final plat of record prepared in accordance with the "Platting and Land Subdivision Regulations for Cass County," shall be filed with the County Register of Deeds by the applicant.

**3.7.3** For all subdivisions, the applicant shall provide the County Planner with two (2) photographic mylars (one identified as original and containing original signatures, the other a copy of the signed original), plus three (3) full size and three (3) 11" x 17" reduced paper prints. All signatures on the plat shall be written with black ink, not ball point, and all rubber stamps must be with black ink. The plat shall be twenty (20) inches by thirty (30) inches, and shall have border lines ½ inch from the top, bottom, and right sides and 1 ½ inches from the left side.

#### **3.7.4** Certifications required:

- a. Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets, roads, and other public areas.
- b. Notarized certification by a registered land surveyor to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimensional and geologic features are correct.
- c. Certification from County Auditor showing that all taxes and special assessments due on the property have been paid in full.
- d. Certificate of approval to be filled in by the signature of the Chairman of the Cass County Board of Commissioners.

- e. Certificate of recording by the Register of Deeds.
- f. Certificate of review by township, County Engineer, and Planning Commission.

The forms of review are as follows:

"Reviewed by \_\_\_\_\_ Township, Cass County,  
North Dakota, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

Signed  
Chairman  
Attest  
Clerk

"Reviewed by the Cass County Engineer this \_\_\_\_\_ day of  
\_\_\_\_\_, 19 \_\_\_\_\_.

Signed  
Cass County Engineer

"Reviewed by the Cass County Planning Commission this  
day of \_\_\_\_\_, 19 \_\_\_\_\_.

Signed  
Chairman  
Attest  
Secretary

"Approved by Cass County, North Dakota, this \_\_\_\_\_ day of  
\_\_\_\_\_, 19 \_\_\_\_\_.

Signed  
Chairman, Board of County Commissioners  
Attest  
Cass County Auditor

### **Part 3.8 - Variances and Appeals**

**3.8.1** The Planning Commission must grant a hearing for variance approval from the provisions of these regulations upon proper application, and provide a recommendation to the County Board regarding action on such variance request. The Planning Commission may recommend and the County Commission may approve a variance from the provisions of these regulations when it is found that undue hardship may result from strict compliance. In granting any variance, the County Commission shall prescribe any conditions that it deems necessary to or desirable for the protection of the public interest. In making such findings, as required herein below, the Planning Commission and the County Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons who reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the County Commission finds any of the following:

- a. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of these regulations would deprive the applicant of the reasonable use of his land.
- b. That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- c. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

**3.8.2** If an applicant wishes to obtain a reversal from a decision regarding a subdivision application by the County Planner, he may do so by filing the appropriate request for appeal with the Planning Commission. If an applicant wishes to obtain a reversal from a decision regarding a subdivision application by the Planning Commission, he may do so by filing the appropriate request for appeal with the County Commission.

### **Part 3.9 - Amendments**

**3.9.1** For the purpose of providing the public health, safety, and general welfare, the Planning Commission may, from time to time amend the provisions imposed by these subdivision regulations. Public hearings on all proposed amendments shall be held by the Planning Commission and the County Board in the manner prescribed by law.

### **Part 3.10 - Violations and Penalties**

**3.10.1** Any person, partnership, or corporation who or which, being the owner or agent of the owner of any lot, tract, or parcel of land, shall lay out, construct, open, or dedicate any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings abutting thereon, or who or which sells, transfers, or agrees or enters into an agreement to sell or transfer any land in a subdivision or engages into an

agreement to sell or transfer any land in a subdivision or engages in the subdivision of land or erects any buildings thereon, unless and until a plat has been finally approved in full compliance with the provisions of these regulations and has been recorded as provided herein, shall be guilty of a Class B misdemeanor.

**3.10.2** Each lot, tract, or parcel created or transferred, and each building erected in a subdivision in violation of these regulations shall constitute a separate offense.

**3.10.3** If any lot, tract, or parcel of land is subdivided; or if any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or if any building structure, or land is used in violation of these regulations, the proper county authorities or any affected citizen or property owner, may institute any appropriate action or proceedings in addition to other remedies to:

- a. Prevent such unlawful subdivision, erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- b. Restrain, correct, or abate such violations;
- c. Prevent the occupancy or use of the building, structure, or land which has been unlawfully subdivided; or
- d. Prevent any illegal act, conduct, business, or use in or about such premises; or
- e. To vacate and nullify any recorded plat of such unlawful subdivision.