

# **Chapter 34 SUBDIVISION OF LAND**

*Last updated December 2014*

## **In General**

### **Sections:**

**34.010 Planning Commission**

**34.020 Purpose of Subdivision Regulations: Approval of Plats**

**34.030 Definitions**

**34.040 Procedure**

**34.050 Design Standards**

**34.060 Improvements**

**34.070 Specifications for Plats**

**34.080 Variances**

**34.090 Fees**

**34.100 Penalties**

**34.110 Vacation of Plats**

**34.120 Vacation of Easements**

## **Section 34-010. Planning Commission.**

1. The planning commission of the City of Dickinson is hereby authorized and instructed to review and approve or disapprove the formal subdivision of land within its jurisdiction.
2. The territorial jurisdiction of the city planning commission over the subdivision or platting of land shall include all land located within the corporate limits, and all land lying within the extraterritorial jurisdiction as defined in Section 14-02-03 hereof.

## **Section 34-020. Purpose of Subdivision Regulations; Approval of Plats.**

As each new subdivision of land in the City becomes a permanent unit in the basic structure of the expanding community, to which the community will be forced to adhere, the design and arrangement of such subdivisions must correlate to the unified scheme of community interests. In order to provide for the proper arrangement of streets in relation to other existing and planned streets, and to the master plan of the City of Dickinson; to provide for adequate and convenient open spaces, for recreation, for light and air; in order to avoid congestion of population; in order to provide for traffic, for utilities, for access of fire-fighting apparatus; in order to promote, preserve and enhance area natural resources; in order to provide for and improve the public health, safety and general welfare of the City of Dickinson, the following rules and regulations for the platting and subdivision of land within the City of Dickinson and adjacent territory have been adopted by the Planning Commission of the City of Dickinson, in accordance with the laws of the State of North Dakota and the ordinances of the City of Dickinson.

Every piece of land proposed within the City or within the City's extraterritorial area shall be prepared, presented for approval and recorded as described in this Chapter. This chapter applies to the platting of land into a single parcel, the subdivision of a lot or parcel of land into two or more lots, or other division of land for the purpose of sale or development, whether

immediate or future, including the resubdivision or replatting of lots. No plat of a subdivision of land within the City of Dickinson or within the adjacent territory designated on any filed master plan as subject to subdivision regulations of the City of Dickinson, shall be filed or recorded until it shall have been approved by the Planning Commission of the City of Dickinson and such approval entered in writing on the plat by the chairman and secretary of the City Planning Commission. Such subdivision plats must be prepared in accordance with provisions of Chapter 40-50 of the North Dakota Century Code. The filing of a plat of irregular description in accordance with Chapter 57-02-39 of the North Dakota Century Code does not meet the requirements of this Chapter.

### **Section 34-030. Definitions.**

The following definitions represent the meanings of terms as they are used in these regulations:

**Alley:** A public right-of-way generally designed to provide secondary access to the side or rear of a property whose principal frontage is on another street.

**Applicant:** An owner, developer, or subdivider submitting an application to divide property pursuant to this Ordinance.

**Block:** A tract of land entirely surrounded by public streets, by streets and the exterior boundary of the subdivision, by other blocks, or a combination of the above with a physical or man-made land barrier.

**Collector:** Roadway which provides traffic movements between local roads and arterial roads and also provides direct access to abutting property. Collectors are often only two-lane roads but should be planned and designed to minimize on-street parking and direct driveway access.

**Cul-de-Sac:** A turnaround at the end of a dead end street.

**Dedication:** A grant of land to the City or another public agency for a public purpose.

**Development:** The act of building, engineering, mining, or other operations in, on, over, or under land or the making of any material change in the use of any building or other land or the subdivision of land into two or more lots or tracts.

**Drainage:** The removal of surface or ground water from land by drains, grading, or other means.

**Drainage system:** The system through which water flows from the land.

**Easement:** A grant of one or more of the property rights by the property owner to the public, a corporation, or another person or entity.

**Easement/Drainage:** An easement required for the installation of storm water sewers or drainage ditches, or required for the preservation or maintenance of a natural stream or water course or other drainage facility.

**Final Approval:** The final action of the City Commission, upon a recommendation by the Planning and Zoning Commission, permitting the filing of a subdivision with the Stark County Register of Deeds and the conveyance of individual parcels and lots to subsequent owners. Final Approval follows the completion of detailed engineering plans, negotiation of subdivision agreements, posting of required guarantees, and other approvals of this Ordinance.

**Frontage:** The length of the property line for a single parcel which runs parallel to and along each public right-of-way (exclusive of alleys) it borders.

**Functional Classification:** The process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide.

**Ghost platting:** A method of master planning for future urban densities in rural residential large-lot subdivisions located within the Urban Service Area Boundary (USAB). Platting for future urban densities is achieved by establishing lines for future splits of large lots into smaller lots and dedication of right-of-way and easements for future streets, utilities, storm water facilities etc. As the city grows and rural residential large-lot subdivisions are incorporated into the city, costs of public facility improvements can be shared among more users by planning ahead for conversion of rural residential subdivisions into urban density neighborhoods.

**Grade:** The slope of a street or other public way is defined as a percentage or ratio of vertical change in elevation to horizontal change in distance.

**Improvement:** A public improvement consisting of any sanitary sewer, storm sewer, drainage ditch, water main, roadway, street grading and surfacing, sidewalks, planting strips, crosswalks, off-street parking areas, park or greenway, trail, or any other facility for which the city may ultimately assume operational responsibility.

**Intersection:** A place of joining or crossing of streets.

**Interstate:** Roadway which provides rapid movement of large traffic volumes between major population centers and other arterials. Interstates are multi-lane divided highways with grade separations at all crossroads, full access control and no parking. The locations of roadways classified as interstates shall be as designated on the most recent edition of the North Dakota Department of Transportation functional classification map.

**Local:** Roadway whose primary function is to provide access to abutting property. Local roads are usually two-lane roads with parking and direct access to adjacent lands.

**Lot:** One unit of a recorded plat or subdivision or a portion of land considered as a unit and occupied or to be occupied by a building and its accessory buildings and including as a minimum such open spaces as required by other city ordinances and having frontage on a public street.

**Lot, corner:** A lot abutting on and at the intersection of two or more streets.

**Lot, double frontage:** A lot, other than a corner lot, having frontage on two streets. Access shall be provided on a double frontage lot to the minor of the two streets or to the front lot line as determined at the time of platting.

**Lot, interior:** A lot other than a corner lot.

**Lot area:** The total horizontal distance measured from the front and rear lot lines.

**Lot Line:** A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street rights-of-way or easement.

- a) **Front Lot Line:** The lot lines separating a lot and a public or private street right-of-way or easement.
  - 1) For an interior lot, the lot line separating the lot from the right-of-way or easement.
  - 2) For a corner lot, the shorter lot line abutting a public or Private Street or easement. The Subdivision Administrator shall determine the front lot line, or as may be noted on a final plat.
  - 3) For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the Subdivision Administrator shall determine the front lot line, or as may be noted on a final plat.

b) **Rear Lot Line:** The lot line which is opposite and most distant from the front lot line.

c) **Side Lot Line:** Any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, or private way, is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot Width:** The horizontal distance measured between the side lot lines of a lot, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

**Main:** The principal artery of a system of continuous piping which conveys fluids and to which branches may be connected.

**Minor Arterial:** Roadway which provides through traffic movements between areas and links collectors with other arterials. Minor arterials usually have two to four lanes and may be divided or undivided roads, preferably with little or no parking, and limited access.

**Monument:** An identification marker established by a registered land surveyor at each section corner, block corner, lot corner, or other point as required by this ordinance and North Dakota State Law.

**Off-site:** Located outside the boundaries of the parcel that is the subject of an application.

**Open space:** Any parcel or area of land or water that is essentially retained in an open state and set aside for public or private use.

**Parcel:** A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

**Parking, Off-Street:** Space located outside of any street right-of-way or easement and designed to accommodate the parking of domestic vehicles.

**Pedestrian Way:** A public or private right-of-way or easement across or within a block to provide access to be used by pedestrians. A pedestrian way may also be used for the installation of public utilities.

**Plat:** A map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision, and other information in compliance with the requirement of all applicable sections of this chapter, state statutes and of any local ordinances, and may include the terms "replat" and "amended plat."

**Principal Arterial:** Roadway which provides for rapid movements of relatively large traffic volumes between large land areas, major traffic generators and other arterials. Principal arterials should have controlled access and are usually multi-lane roads with no parking.

**Right-of-Way:** Land dedicated, deeded, used or to be used, for a street, alley, walkway, boulevard, drainage facility, access for ingress, egress or other purpose by the public, certain designated individuals or governing bodies.

**Sidewalk:** A paved path provided for pedestrian use, usually located at the side of and detached from a road, but within the right-of-way.

**Street:** Any access way such as a street, road, lane, highway, avenue, boulevard, parkway, viaduct, circle, court, terrace, place or cul-de-sac and also includes all of the land lying between the right-of-way lines as delineated on a plat showing such street, whether improved or unimproved, but shall not include those access ways such as easements and rights-of-way intended solely for limited utility purposes, such as for electric power lines, gas lines, telephone lines, water lines, drainage and sanitary sewers, and easements or rights-of-way of ingress and egress.

**Street hierarchy:** The conceptual arrangement of streets based on function. The hierarchical approach classifies streets from local, which provide private access to a limited number of lots, to arterials, which accommodate large volumes of high-speed, regional traffic. Street types contained within the hierarchy include:

- (a) Local
- (b) Collector
- (c) Minor Arterial
- (d) Major Arterial

**Storm Sewer:** A conduit which conducts storm drainage from a development or subdivision, ultimately to a drainage system or stream.

**Stormwater:** Flow of surface runoff water which results from and which occurs during and immediately after a rainfall event.

**Stormwater Management Plan:** That part of a Site Development Plan that shows existing and proposed low water and high water elevations, together with adequate justification that the proposed low water elevations will be attained, locations of proposed channels and ponds and delineation of offsite areas draining to the proposed development along with the drainage calculations and other pertinent information.

**Subdivision:** The division of a tract or parcel of land into record lots for the purpose, whether immediate or future, of sale or of building development, including 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 such lots, and/or including the creation of new or enlarged parks, playgrounds, plazas or open spaces. However, the division of land for into parcels of forty (40) or more acres not involving any new street or easement of access shall be exempted from these regulations, except as to the rezoning of property. Federal, state and local jurisdictions, public utilities and telecommunications are exempt from this Chapter, but are required to dedicate rights-of-way along abutting roads if determined necessary by the appropriate jurisdiction. This provision does not include administrative or general office buildings. In addition, any rezoning of property shall require platting and conformance with this Chapter. (Ord. No. 1562 § 1)

**Subdivision Plat, Minor:** A subdivision, platted pursuant to Chapter 40-50.1 NDCC, that meets all of the following criteria:

- a. Does not require the dedication of public rights-of-way or the construction of new streets;
- b. Does not land-lock or otherwise impair convenient ingress and egress to or from the rear or side of the subject tract or any adjacent property;
- c. Does not violate any local, state or federally-adopted law, ordinance, regulation, plan or policy;
- d. Consists of four lots or less. (Ord. No. 1545 § 2)

**Subdivision Plat, Major:** Any subdivision, platted pursuant to Chapter 40-50.1 NDCC, that does not meet the definition of a minor subdivision.

**Plat of Irregular Description:** A plat made for taxation purposes at the request of the County Auditor in accordance with Section 57-02-39 NDCC. Such a County Auditor's plat is not platting pursuant to Chapter 40-50 NDCC, but rather is made for the convenience of tax officials in describing property on the tax rolls.

**Lot Line Adjustment:** An adjustment of an existing platted lot line between two (2) adjoining lots by relocation of a common boundary that meets the following criteria:

- a. Does not involve lots within more than one zoning classification;
- b. Is not one lot line adjustment in a series of lot line adjustments proposed for contiguous lots as a way to circumvent the minor subdivision plat process.
- c. Both of the resulting parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located, or will when combined with an adjacent parcel as part of the same lot modification action;
- d. The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For lot line adjustments between irregularly-shaped parcels or to transfer an irregularly-shaped portion of a lot to an adjacent land owner, the City Planner may waive this requirement, provided the resulting parcels can be legally described as the original lot number combined with a letter (e.g. Lot 1 would become Lots 1A, 1B and 1C);

**Lot Combination:** A combination of two (2) or more platted lots into a single lot whose boundaries coincide with the lot lines shown on the recorded plat of the subdivision that meets the following criteria:

- a. Does not involve the vacation of existing easements;
- b. does not involve lots within more than one zoning classification.

**Lot Split:** The division of a previously platted lot into not more than three (3) lots, that meets the following criteria:

- a. The lot split does not involve the creation of new utility easements;
- b. The lot split does not require the dedication of public rights-of-way for the purpose of gaining access to the property;
- c. All parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located;
- d. The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition). For an irregularly-shaped lot, the City Planner may waive this requirement, provided the resulting parcels can be legally described as the original lot number combined with a letter (e.g. Lot 1 would become Lots 1A, 1B and 1C), and provided that any line dividing the parcel along a common wall is a straight line from the front property line to the back property line among the common wall;
- e. The property has not previously been divided through the lot split provisions of this ordinance.

**Lot Modification:** A lot line adjustment, lot split or lot combination as defined herein

**Subdivision Administrator:** Unless otherwise designated by the City, the Subdivision Administrator shall be the City Planner, or designee, who is responsible for the following:

Enforcing and administering this ordinance;

Reviewing concept plans, preliminary plats, and final plats for conformance with the regulations of this ordinance; providing proper notice of public hearings for subdivision approval as established in this ordinance;

Submitting reports to the Planning and Zoning Commission regarding conformance of proposed plats with these regulations, other applicable ordinances and status, and the Comprehensive Plan; and

Providing and maintaining public information relative to matters pertaining to this chapter.

**Tangent:** A straight line departing from a curve which is perpendicular to the radius of that curve.

**Utility:** A community service available to the general public, including but not limited to electricity, telephone, cable television, water supply, gas and sanitary sewers.

**Variance:** A relaxation of the dimensional regulations of the code where such actions will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship.

**Zoning District:** Areas of land or water, whose boundaries are indicated on the Zoning Map, within which all properties are regulated by the general regulations of this Code and the specific regulations of the individual district.

## **Section 34-040. Procedure.**

1. Preliminary steps:
  - a. Prior to preparing a subdivision plat for submittal, the applicant shall meet with planning and engineering staff to discuss the proposed plat, consistency of the plat with City policies and plans, the overall concept plan for the area, extension of municipal utilities to service the plat, compliance with the fringe area road master plan, and storm water management issues.
  - b. The subdivider should also consult with parties potentially interested with him or with the ultimate users of the development, such as mortgage, insurance and lending institutions, with a view to reaching at this stage a clear understanding of the part of the market demand that should be served, suitability of the location of the proposed subdivision, the most advantageous general plan or arrangement of streets, lots, and other features of the proposed development.
  - c. It will be the duty of the planning commission to discourage the subdividing of lands that are far in advance of the needs of the community; that by their location cannot be efficiently served by public utilities, fire protection, police protection or other municipal services; that are located in areas subject to flooding; that are located in areas that would adversely impact water quality and environmentally sensitive lands; that are topographically unsuitable for development; or that for any other reason are being unwisely or prematurely subdivided. It shall also be the duty of the planning commission to encourage the replatting of lands deemed to be unsatisfactorily subdivided or which represent an obstacle to the orderly and efficient growth of the city. It shall also be the duty of the planning commission to encourage the coordinated platting of adjacent parcels of land.
2. Lot Modifications - Lot Line Adjustments, Lot Splits and Lot Combinations:
  - a. The purpose of this subsection is to provide for approval of lot modifications that meet specific criteria and for the waiver of standard platting requirements specified elsewhere in this Chapter. This process is intended to facilitate the further division of previously platted lots, the combination of

previously platted lots or for the adjustment of an existing lot line by relocation of a common boundary.

- b. Any person having a legal interest in the property may file an application for a lot modification. For an adjustment of an existing lot line, an affidavit from all affected property owners indicating their consent must also be submitted.
  - c. An application for a lot modification shall be submitted to the City Planner, along with the applicable fee; a certificate of survey prepared by a registered land surveyor showing the parcel or lot, the proposed modification, and all existing building or structures; a legal description of the original parcel, and a legal description of the resulting parcel(s).
  - d. For lot combinations and lot line adjustments in all zoning districts and for lot splits in all zoning districts, the application will be reviewed by the City Planner in consultation with the City Engineer. No hearing or review by either the Planning and Zoning Commission or City Commission is necessary.
3. Minor Subdivision Plat:
- a. The purpose of this subsection is to provide for an expedited review and approval process for the resubdivision of previously platted property that meets the criteria for a minor subdivision plat. Subdivision plats that do not meet the criteria shall be considered major subdivision plats.
  - b. The subdivider shall apply in writing to the City Planner for approval of a minor subdivision plat by the specified application deadline and on the proper form. All current owners of property within the plat shall sign or ratify the application form.
  - c. The number of prints of the minor subdivision final plat as indicated on the current application form shall accompany the application for approval. The minor subdivision final plat shall comply with the provisions of Section 34-70 (2) of these regulations and shall be accompanied by:
    - i. The applicable fee;
    - ii. Either a copy of a current title insurance policy or a current attorney's opinion of ownership;
    - iii. An 8½ x 11 reduction of the plat;
    - iv. A digital copy of the plat; and
    - v. A storm water management plan in accordance with City Code.
    - vi. Any other documentation and/or studies as deemed necessary by the City Planner and/or City Engineer.

#### *Application Requirements*

- After the concept plat conference, the applicant shall prepare and submit an application for preliminary plat approval. The application for preliminary plat approval shall be submitted to the Subdivision Administrator at least 60 days before the Planning and Zoning Commission meeting at which the application will be considered. The application shall consist of a form established by the Subdivision Administrator; the supporting documents required for Major Subdivisions; and payment of a fee, the amount of which shall be determined by the City Commission.
- d. The City Planner shall give notice of a public hearing on such proposed subdivision by advertising the time and place of such hearing in a newspaper of



general circulation in the City of Dickinson once each week for two (2) consecutive weeks prior to the date of such hearing. Not less than ten (10) days prior to date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the proposed minor subdivision plat. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Stark County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The City Planner shall send a notice of the time and place of such public hearing to the subdivider and property owner(s) before the date fixed for the hearing. The public hearing may be held at any regular or special meeting of the Planning and Zoning Commission.

- e. After a public hearing, the Planning Commission may act upon the request for minor subdivision plat approval. If the Planning Commission approves the minor subdivision plat, such approval will be entered upon the tracing and will be signed by the secretary of the Planning Commission (City Planner) and the Chair of the Planning and Zoning Commission. If the Planning and Zoning Commission disapproves the subdivision, such action, together with the reasons therefore, will be entered in the official records of the Planning and Zoning Commission and the subdivider shall be so notified.

4. Major Subdivision Plat:

- a. The subdivider shall apply in writing to the City Planner for preliminary approval of a major subdivision plat by the specified application deadline and on the proper form. All current owners of property within the plat shall sign or ratify the application form.

*Application Requirements*

After the concept plat conference, the applicant shall prepare and submit an application for preliminary plat approval. The application for preliminary plat approval shall be submitted to the Subdivision Administrator at least 60 days before the Planning and Zoning Commission meeting at which the application will be considered. The application shall consist of a form established by the Subdivision Administrator; the supporting documents required for Major Subdivisions; and payment of a fee, the amount of which shall be determined by the City Commission.

*Draft Subdivision Agreement*

The preliminary plat application shall include a draft of a subdivision agreement, following a format established by the City. The subdivision agreement establishes the mutual responsibilities of city and developer, including financing of public improvements; the nature of performance bonds and guarantees that the developer will offer; and the financing arrangements proposed for the subdivision.

- b. The number of prints of the preliminary plat as indicated in the current application form shall be filed with the City Planner at the time application for tentative approval is made. The plat shall comply with the provisions of Section 34-70 (1) of these regulations and shall be accompanied by:
  - i. The applicable fee;
  - ii. An 8½ x 11 reduction of the plat and 24x36 inch plat;

- iii. A digital copy of the plat;
  - iv. A concept development plan showing the proposed location of roadways and a generalized lot layout for all adjacent land within ½ mile of the proposed plat that is owned by the applicant.
  - v. A preliminary storm water management plan that includes:
    - a. The proposed preliminary grading plan shown at contours as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features;
    - b. A preliminary drainage plan of the developed site delineating the direction and at what rate storm water runoff will be conveyed from the site and setting forth the areas of the site where storm water will be collected; and
    - c. Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the preliminary review of the project.
  - vi. A traffic impact study, if deemed necessary by City Engineer.
  - vii. Any other documentation and/or studies as deemed necessary by the City Planner and/or City Engineer.
- c. For a proposed subdivision plat within or adjacent to the corporate limits, a preliminary utility servicing plan is also required. This preliminary utility servicing plan shall include:
- i. An accurate location map;
  - ii. The proposed layout of lots and streets;
  - iii. Topographic contours with a minimum contour interval of two (2) feet;
  - iv. The location of any existing municipal utilities within or adjacent to the plat; and
  - v. The proposed location of water and sanitary sewer mains within the subdivision, how these mains are proposed to connect to the existing utility systems, and any easements on adjacent property required to accommodate connections.
- d. For proposed subdivision plats outside of the corporate limits, but within the Urban Service Area Boundary, the following profiles for roads/streets are also required:
- i. Three profiles of existing ground elevation; one at centerline and one on each side of the right-of-way, fifty feet beyond the right-of-way lines, and
  - ii. Two centerline profiles of proposed design elevations; one for a rural road section and another for a future urban street section design.
- e. For proposed subdivision plats within two-miles of the corporate limits, the source of water shall be identified. If the subdivision is to be served by Southwest Water District a formal request from Southwest Water District to service the subdivision shall be submitted in conjunction with the request for tentative approval. The City Engineer shall review the request and make a

determination as to whether or not Southwest Water District service will be allowed.

f. All areas proposed for development shall be platted to the edge of the property with all undevelopable land included within the plat (subject to discussion and agreement by the landowner and the City).

i. Land determined by the owner and City to be undevelopable and/or needed for stormwater purposes shall be:

Included in adjoining platted lot(s) as a stormwater easement that is privately owned, with only major maintenance by City. The amount of property taxes and special assessments for these areas will be determined by the City based on the level of benefit and the value of the land; or Platted as a separate lot(s) that is owned and maintained by the City, as a regional stormwater conveyance or detention facility; or Platted as a separate lot(s) that is owned and maintained by the Dickinson Parks and Recreation Department (subject to their agreement) as a natural area; or Platted as a separate lot(s) that is owned and maintained by the Dickinson Parks and Recreation Department, (subject to their agreement) and including a City-maintained stormwater easement; or Other maintenance entity approved by the City; or Any combination of the above options.

Undevelopable land will be maintained as a natural area unless a drainage easement is present and the easement requires major maintenance. Major maintenance shall include maintenance of existing structures, mowing below floodplain elevation, cleaning of sediment and maintenance of access.

g. The Planning Commission shall approve, approve conditionally, table or disapprove such preliminary major subdivision plat. If approved with modification or waiver of certain requirements by the planning commission, the reasons therefore shall be specified. If approved conditionally, the conditions and reasons therefore shall be specified. In any conditional approval, the Planning Commission may require the subdivider to submit a revised preliminary major subdivision plat. If disapproved, the reasons for that action shall be stated, and if possible, the Planning Commission shall make recommendations on the basis of which the proposed subdivision may be approved.

h. The action of the Planning Commission shall be entered on the official records of the Planning Commission, including any conditions imposed and the reasons for any disapproval of a preliminary major subdivision plat.

i. Tentative approval of a preliminary major subdivision plat by the Planning Commission is not an acceptance of the major subdivision plat for record, but is rather an expression of approval

of a general plat for the final approval and recording upon fulfillment of all requirements of these regulations.

- j. Tentative approval shall be effective for a maximum period of twelve (12) months, unless upon application by the subdivider, the City Planner grants an extension. If the final major subdivision plat has not been submitted for final approval within this time limit, a preliminary major subdivision plat must again be submitted to the Planning and Zoning Commission for tentative approval.
5. Final approval - Major Subdivision Plats:
- a. The subdivider shall apply in writing to the City Planner for final approval of a major subdivision plat by the specified application deadline and on the proper form. All current owners of property within the plat shall sign or ratify the application form.
  - b. The number of prints of the final major subdivision plat as indicated in the current application form shall accompany the application for final approval. The final plat shall comply with the provisions of Section 34-70 (2), of these regulations, and shall be accompanied by:
    - i. Either a copy of a current title insurance policy or a current attorney's opinion of ownership, running to the benefit of the City of Dickinson;
    - ii. An 8½ x 11 reduction of the plat and 24x36 plats;
    - iii. A final digital copy of the plat; and
    - iv. A storm water management plan in accordance with Title 14.
  - c. For proposed subdivision plats located within the City of Dickinson's extraterritorial area, an assurance of completion of the required improvements (in a form acceptable to the Planning Commission) shall be required only if such improvements are not constructed and accepted prior to recording of the plat.
  - d. For plats proposed within the Urban Service Area Boundary, the following are also required:
    - Grading plans for both rural section roadways to be constructed to serve the rural lots and future urban roadway sections to be constructed to serve the ghost platted urban lots.
    - Master plans for the future extension of municipal water and sewer facilities to ghost platted urban lots.The above listed requirements may be waived by the City Engineer.

#### *Application Requirements*

The application for final plat approval shall be submitted to the Subdivision Administrator at least 45 days before the Planning and Zoning Commission meeting at which the application will be considered. The application shall consist of a form established by the Subdivision Administrator; the supporting documents required for Major Subdivisions; and payment of a fee, the amount of which shall be determined by the City Commission.

#### *Subdivision Agreement*

The final plat application shall include a final version of a subdivision agreement, following a format established by the City. The subdivision agreement establishes the mutual responsibilities of city and developer, including

financing of public improvements; the nature of performance bonds and guarantees that the developer will offer; and the financing arrangements proposed for the subdivision.

- e. The City Planner shall give notice of a public hearing on such proposed subdivision by advertising the time and place of such hearing in a newspaper of general circulation in the City of Dickinson once each week for two (2) consecutive weeks prior to the date of such hearing. Not less than ten (10) days prior to date of the scheduled public hearing, the City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the proposed major subdivision plat. "Notify" shall mean the mailing of a written notice to the address on record with the City Assessor or Stark County Auditor. The failure of adjacent property owners to actually receive the notice shall not invalidate the proceedings. The City Planner shall send a notice of the time and place of such public hearing to the subdivider and property owner(s) before the date fixed for the hearing. The public hearing may be held at any regular or special meeting of the Planning and Zoning Commission.
- f. After a public hearing, the Planning and Zoning Commission may act upon the request for final approval. If the Planning and Zoning Commission approves the subdivision, such approval will be entered upon the tracing and will be signed by the secretary (City Planner) and the Chair of the Planning and Zoning Commission. If the Planning and Zoning Commission disapproves the subdivision, such action, together with the reasons therefor will be entered in the official records of the Planning and Zoning Commission and the subdivider shall be so notified.
- g. Final approval of a major subdivision plat by the planning commission shall in no way constitute legal acceptance of any dedicated streets, alleys or other public lands.
- h. A final major subdivision plat that is approved by the Planning and Zoning Commission will be recommended for approval to the Board of City Commissioners. Following final approval by the Board of City Commissioners, a plat in recordable form shall be furnished to the City Planner within one hundred eighty (180) days following approval. The City Planner may grant extensions of thirty (30) days for good cause shown in writing. Upon review and obtaining required signatures, the City Planner shall file and record the original signed final major subdivision plat with the Stark County Recorder. All final plats shall be provided digitally formatted to the City of Dickinson's current computer-aided drafting and geographic system software and policy, including coordinate system ties as defined within this zoning ordinance.

### **Section: 34-050. Design Standards.**

- 1. Streets and alleys:
  - a. The arrangement, character, extent, width, grade, and location of all streets shall conform to the City's road standards and shall be considered in relation to existing and planned streets, to topographical conditions, and to the proposed uses of lands to be served thereby.

- b. Where it is not shown on the road master plan, the arrangement of streets in a subdivision shall either:
  - 1. Provide for the continuation or appropriate projection of existing arterial and collector streets in surrounding areas; or Conform to a plan for the neighborhood approved or adopted by the planning commission to meet a particular situation where topographical or other conditions make continuance of or conformance to existing streets impractical.  
Provide a minimum of two (2) points of ingress and egress.
- c. Where a subdivision abuts or contains an existing or proposed arterial street, the planning commission shall limit access to the arterial street and may require reverse frontage of lots with a screen planting contained in a non-access reservation along the rear property lines, deep lots with rear services alleys, or other treatment that it deems advisable to limit such access and to give adequate protection to residential properties and to afford separation of through and local traffic.
- d. Nonaccess lines shall be placed along all arterial streets and intersections thereof with the dimensions of same to be approved by the planning commission.
- e. Street jogs should be avoided, but if unavoidable centerlines must be separated by a minimum of 300 feet.
- f. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
- g. When connecting street lines deflect from each other by more than ten (10) degrees they shall be connected by a curve of adequate radius to insure clear visibility for vehicles.
- h. Intersecting streets shall be laid out at as nearly right angles as possible, and no such angle of intersection shall be less than sixty (60) degrees.
  - i. In all areas within the corporate limits of the City of Dickinson, unless otherwise shown on the master plan, right-of-way and roadway widths shall be as follows:

Functional Classification	Minimum Right-of-Way (in feet)	Typical Roadway Width (in feet)
Principal Arterial	150	63
Minor Arterial	120	51
Collector	80	44
Local	66	40

If demonstrated by the developer that special circumstances exist, the City Engineer may adjust minimum required right-of-way widths.

In all areas outside the corporate limits but within the two-mile extraterritorial area of the City of Dickinson, unless otherwise shown on the master plan, right-of-way and roadway widths shall be as follows:

Functional Classification	Minimum Right-of-Way (in feet)	Typical Roadway Width (in feet)
---------------------------	--------------------------------	---------------------------------

Principal Arterial	150	40
Minor Arterial	150	36
Collector	120	30
Local	80	26

If demonstrated by the developer that special circumstances exist, the County Engineer/Road Supervisor may adjust minimum required right-of-way widths.

Private streets shall meet, at a minimum, the requirements of the city fire code and shall not become a city maintenance liability. Each private street shall be evaluated by the city prior to installation.

- l. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other standards of these regulations, and where the planning commission finds it will be practicable to require the dedication of the other half-street when the adjoining property is subdivided. Wherever there exists a half-street adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

- m. Cul-de-sacs. The use of cul-de-sac streets shall be limited in order to promote a well-connected street network that provides for safe, direct and convenient access by vehicles, bicycles, and pedestrians. Cul-de-sac streets may be permitted in instances where there is no reasonable opportunity to provide for future connections to adjoining streets, including natural barriers such as topography or water features, man-made barriers such as railroad tracks, or to discourage through traffic between incompatible land uses. Detailed written justification for the use of cul-de-sac streets in proposed subdivision plats shall be provided as part of the plat application process. In such cases where cul-de-sacs are accepted by the City, the following standards shall apply:

*Length.* The maximum overall length of a cul-de-sac shall be seven hundred-fifty (750) feet. The minimum throat length of a cul-de-sac shall be two hundred-thirty (230) feet. Such lengths shall be measured from the centerline intersection with the through street to the center point of the turnaround.

*Diameter.* The minimum drivable pavement diameter shall be 96 feet. Additional diameter may be necessary if required for municipal emergency service equipment. Right-of-way distances beyond required pavement shall be consistent with the connecting and/or adjacent road.

*Multi-use Paths.* Access easements may be required to provide current and/or future access connections from the turnaround terminus area to other streets, schools, neighborhood activity centers, or open space areas. Such access easements shall be included in a maintenance agreement with either a neighborhood association or governmental entities, subject to review and approval by the City and recorded as part of the subdivision plat approval process.

Islands/Medians. Islands or medians within a cul-de-sac are subject to the following standards:

- a. Maintenance. Landscaped islands or medians may be permitted provided a neighborhood association assumes responsibility for curb and vegetation maintenance. Maintenance agreements shall be reviewed and approved by the City and recorded as part of the subdivision plat approval process.
  - b. Parking. Islands and medians may provide off-street parking areas. All such parking shall be subject to review and approval by the City.
  - c. Snow storage. Islands or medians, including any adjacent parking area shall be available for snow storage purposes by the City.
  - d. The design of such proposed islands or medians shall be subject to review and approval by the City during the subdivision plat approval process. Landscaping within islands or medians shall be subject to the City's landscape permit approval process.
- n. No street names will be used that will duplicate or be confused with the names of existing streets. Streets that are now or will eventually be continuations of existing streets shall be called by the names of the existing streets. The city shall make at least general recommendations for street names.
- o. All streets shall have a grade of not less than three-tenths (0.3) per cent. No arterial street shall have a grade in excess of five (5) per cent, and no other street shall have a grade in excess of eight (8) per cent except that roadways with grades not meeting these standards may be allowed where topography makes it impossible to meet normal standards.
- p. On rural road sections the following standards shall apply:
1. Adequate culverts shall be installed to handle all drainage, with a minimum size of eighteen (18) inches in diameter or equivalent. The owner shall present to the engineer of the appropriate jurisdiction two (2) copies of a report proposing the size, type, and location of all drainage structures. All drainage structures shall conform to current North Dakota State Highway Department standard specifications. For drainage structures with drainage areas of over forty (40) acres, the report shall include acceptable engineering calculations for the required hydraulic capacity. Written approval shall be obtained from the engineer of the appropriate jurisdiction prior to the installation of drainage structures.
  2. Rural subdivision roadways must be paved in accordance with the standards and specifications of the engineer of the appropriate jurisdiction (city or county), unless an alternative roadway material is approved by the jurisdiction engineer.



All approaches shall be paved in accordance with the standards and specifications of the engineer of the appropriate jurisdiction (city or county), unless an alternative roadway material is approved by the jurisdiction engineer.

3. All drainage under streets, private drives, and approaches must have culverts installed where required by the engineer of the appropriate jurisdiction or superintendent of roads.

4. All streets must be constructed to an adequate height to insure proper snow clearance and removal. Any deviation from the minimum road section must have written approval of the engineer of the appropriate jurisdiction prior to construction. Protective covenants shall be filed by the owner to preserve the backslopes extending onto the lots.

5. The engineer of the appropriate jurisdiction or superintendent of roads will inspect the completed roads in each subdivision before assuming responsibility and maintenance of the roads and streets to insure that the above standards, and those of the zoning and subdivision regulations, have been complied with.

6. No more than two (2) approaches onto a county or township road in any one thousand three hundred twenty (1,320) feet of distance will be allowed without prior approval of the engineer of the appropriate jurisdiction. No approach may be constructed without first having obtained an approach permit from the engineer of the respective jurisdiction.

2. Easements:

a. Where a subdivision is traversed by a watercourse, coulee, drainageway, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width for construction that will be adequate for such purpose. Parallel streets or parkways may be required in connection with such drainage easement.

b. There shall be a sidewalk construction and maintenance easement established on the front one and one-half feet of each lot except where this area is covered by a building.

c. Utility easements shall be located in the side or rear of lots.

3. Blocks:

a. Block length should usually not exceed one thousand three hundred twenty (1,320) feet nor be less than three hundred (300) feet, measured from street center line to street center line.

b. Pedestrian walkways not less than twelve (12) feet wide may be required in blocks longer than nine hundred (900) feet where such crosswalks are deemed by the planning commission to be essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation, or other community facilities. Crosswalks may be six (6) feet wide if they are no more than one hundred fifty (150) feet in length.

c. Blocks intended for business and industrial use should be designed for such purposes.

4. Lots:

a. Lot dimensions and areas shall be no less than the underlying zoning district minimum lot, and shall be sized to accommodate on-site wastewater, storm water and water supply facilities as soil conditions require.

b. Rural residential lots platted within the city's Urban Service Area Boundary (USAB) shall show future re-subdivision into urban sublots (ghost lots) as required by the Planning and Zoning Commission. These sublots shall be lettered and dimensioned within the boundaries of the plat and the area of each sublot shall be shown in a table format to avoid confusion with the area shown for the numbered rural lots. A plat note shall also be included which indicates that the sublots must be held in common ownership until annexation and servicing by municipal utilities occurs. Within the Urban Service Area Boundary, proposed structures shall be subject to the R1 or other designated zoning district by the Planning and Zoning Commission for side and rear yard building setbacks from interior ghost lot lines, in addition to any setbacks from the primary lot lines required in the underlying zoning district.

c. Within the Urban Service Area Boundary and as part of the ghost platting process, dedications are required for any additional right-of-way, utility easements or stormwater easements needed for further subdivision and the future development of ghost lots. Installation of roadways and utilities within the dedications are not required until annexation occurs.

d. All lots shall abut on a street or other public or private right-of-way.

e. Double frontage or reverse frontage lots shall not be permitted except where lots back on arterial streets or highways, or where topographic or other conditions render subdividing in another fashion unreasonable. Such double frontage lots shall have an additional depth of at least twenty (20) feet over and above normal lot size in order to allow screen planting and landscaping along the back lot line.

f. Corner lots shall be of extra width sufficient to maintain building lines on both streets.

g. Side lot lines shall be approximately at right angles or radial to street lines.

h. A screen planting easement is required between residential and commercial or industrial lots in accordance with the Zoning Code.

5. Parks and Recreational Spaces

(a) Establishment and Approval of Policy

The City of Dickinson hereby establishes and approves its design policy for parks and recreational spaces within the City of Dickinson. This policy shall be interpreted and administered by the City Planner, City Engineer, City Administrator, or such other city personnel as may apply.

The Board of City Commissioners hereby finds that parks and recreational spaces provide a benefit to the general public and to the citizens of the City of Dickinson, and that adoption of an appropriate design policy for parks and recreational spaces within the City is for the general welfare of the City and its citizens.

(b) Land for Park District Purposes

(1) ***Purpose of Section.***

The purpose of this section is to provide an equitable and effective development standard for securing adequate land for park district purposes, or funds for development of the same, in new residential subdivisions throughout the city or in areas of the city which are rezoned from some other land use to a residential land use.

(2) ***Application for Plat Containing Residential Zoning – Residential Zoning Request***

Any person applying for approval of a plat intended for any residential zoning request within the corporate limits of the City of Dickinson, and any person applying for a zoning or rezoning request of any property to residential uses within the corporate limits of the City of Dickinson, shall be obligated to first meet with Board of Commissioners of the Park District of City of Dickinson. Such meeting shall be for the purpose of ascertaining whether the Park District desires to acquire land in such area for park district purposes. This meeting may take place following presentation of a sketch plat to the Dickinson Planning and Zoning Commission. The Park District shall provide its comments and recommendations regarding the plat application or zoning application prior to any final action on the matter by the Dickinson Planning and Zoning Commission.

(3) ***Acquisition of Land – Generally***

Any plat of any subdivision or development in the city, when the same shall be designed, in whole or in part, for residential uses, shall provide that no less than seven percent (7%) of the combined area of land to be developed, exclusive of all other dedications, has been or will be conveyed to the Park District for any uses authorized by a park district under North Dakota law. Such uses may include, pursuant to N.D.C.C. 40-49-12, the right to sell and convey the same. The Park District shall work in consultation with the planning and zoning commission in order to determine suitable locations for parks, playgrounds, trails, and recreational areas within the City of Dickinson.

Land so conveyed under this section shall be sufficient and suitable for use by the public as a park, playground, recreational space, trail, public space, green space, or other recreational area, and shall be acceptable to the Park District for park district purposes.

(4) ***Review of PUD by Park District.***

Any proposed plat of a planned unit development residential area, or any petition for rezoning from an existing classification to a planned unit development, shall be submitted to the Board of Commissioners of the Park District of City of Dickinson who shall have a reasonable opportunity to review the same and submit to the planning and zoning commission their recommendations regarding such project. The planning and zoning commission shall consider the recommendations of the park district regarding dedication of land, payment of funds in lieu thereof,

whether the owners or developers of such PUD shall provide and maintain privately such parks, playgrounds or recreational areas which are proposed and any other reasonable recommendations which the park district may submit.

(5) ***Cash Payment in Lieu of Land.***

At the sole option of the Board of Commissioners of the Park District of City of Dickinson, the Park District may permit the owner or developer of residential property, or the applicant for approval of a plat or zoning designation, to make cash payment in lieu of the deeding to the Park District of seven percent (7%) of the total land area to be developed, exclusive of all other dedications, as provided in subsection (c). The Park District may further permit such owner or developer to make partial cash payment in lieu, in the event that the owner or developer conveys some land to the Park District for park purposes, but less than seven percent of the total land area to be developed exclusive of all other dedications.

Such cash payment in lieu of land shall be intended to provide the Park District with a substantially equivalent economic benefit as if the Park District had received the land itself, as provided in subsection (c). Such payment in lieu of land shall be in amounts as may be determined by the Board of City Commissioners, and included, by resolution, in the annual City Fee Schedule.

Such payment shall be calculated by the City, and shall be due and payable from the applicant for zoning at the time of zoning approval as a part of the application fee therefore. No zoning change shall be approved by the City prior to such payment being made.

In the event of an application for replatting or rezoning of property already platted or zoned for residential uses, the applicant for such replatting or rezoning shall pay cash in lieu only for the difference between such rezoned residential use and the prior residential use previously paid for. However, an applicant seeking rezoning or replatting of a residential land use shall not be permitted to receive any reimbursement of cash in lieu previously paid therefore.

In the event that an applicant, owner, or developer cannot comply with the provisions of this Article, either by deeding seven percent (7%) of the land to be developed or by paying cash in lieu therefore, the application for plat approval or application for zoning shall be denied.

(6) ***Off-site impact assessment – Commercial and Industrial properties***

Any party applying for a Limited Commercial Downtown Commercial, Community Commercial, General Commercial, Limited Industrial, or General Industrial zoning designation on any property within the corporate limits of the City of Dickinson shall be assessed an off-site impact assessment for the Park District.

Such off-site impact assessment shall be in amounts as may be determined by the Board of City Commissioners, and included, by resolution, in the annual City Fee Schedule.

Such payment shall be calculated by the City, and shall be due and payable from the applicant for zoning at the time of zoning approval as a part of the application fee therefore. No zoning change shall be approved by the City prior to such payment being made.

In the event that an applicant, owner, or developer cannot comply with the provisions of this Article by paying the off-site impact assessment therefore, the application for plat approval or application for zoning shall be denied.

(7) ***Waiver of Requirements.***

Any or all of the requirements of this section may be waived upon a two-thirds majority vote of the entire planning and zoning commission. (Ord. No. 1491 § 1)

### **Section: 34-060. Improvements – Issuance of Building Permits**

Before issuing a building permit for any structure within the city limits, the City shall require that the certain public improvements are either (1) constructed in place; or (2) assured of completion by deposit with the City of Dickinson of sufficient surety equal to 130% of the engineer's estimate of the cost of the improvements. Such surety may be by certified check, performance bond, certificate of deposit, irrevocable letter of credit, or other instrument accessible to the City. Such surety shall be acceptable in form to the City Attorney.

Such surety shall be held by the City in order to ensure completion of the required public infrastructure, and shall be released in full by the City upon completion of the work and inspection and acceptance of the same by the City. In the event that the applicant or developer of the property should fail to construct or complete the required public improvements, the City shall be entitled to execute upon the surety and complete construction of the required public improvements.

The public improvements for which the posting of surety shall be required are as follows:

- Stormwater management systems, including associated grading, sewers and structures.
- Street and alley grading and paving, including curb and gutter.
- Sanitary sewers, except where, in the opinion of the city engineer, the provision of sanitary sewers is impractical, in which case individual lots will comply with the size requirements of these regulations and will be provided with approved septic tanks and disposal fields prior to or at the time of construction of any buildings on such lots.
- Watermains, except where, in the opinion of the city engineer, connection to a public water supply is impractical, in which case individual lots will comply with the size requirements of these regulations.
- Monuments, as required by the North Dakota Century Code.
- Fences shall be provided along the boundary of any subdivision at all points at which the subdivision abuts or adjoins interstate highway right-of-way, arterial or any open drainage facility if determined necessary by the Planning and Zoning Commission. Said fence shall meet the requirements of the North Dakota Department of Transportation where applicable, and the city engineer. This requirement shall also apply to commercial and industrial zoned properties abutting or adjoining residential property.

- Approval of Plans, Profiles and Specifications
  - o No public improvements shall be made unless and until all necessary plans, profiles and specifications therefor shall have been submitted to and approved by the City Engineer.
  - o At the time such plans, profiles and specifications are submitted for review, the City Engineer shall prepare an estimate of cost for office checking and field inspection of all improvements, which such costs may include the cost of third-party review by City engineering consultants. The applicant shall thereupon deposit with the City an amount of money equal to the estimated cost of such office checking. If during the progress of the review, it shall appear that the cost thereof will exceed the estimate, the City Engineer shall notify the applicant of this fact and shall provide the applicant with an updated estimate in connection with such review and the applicant shall then deposit the additional amount of money necessary to cover the cost of the review.
- Building Permits
  - o No Building Permit or Certificate of Occupancy shall be issued by the City except where all of the requirements of this Chapter have been satisfied.
  - o No Building Permit or Certificate of Occupancy shall be issued by the City unless a street giving access to such proposed structure is an existing street or unless such street appears on a recorded plat.
  - o At the time of filing an application for a Building Permit the applicant shall submit either (a) a certificate signed by the City Engineer that all required improvements are in place or (b) a certificate signed by the City Engineer that plans, specifications, and profiles for such improvements have been filed with and approved by him, and a certificate signed by the Community Development Director that sufficient surety has been posted for completion of the public improvements. Where part of the public improvements has been completed, appropriate certification shall be filed.
- Other Improvements
  - o Other improvements which may be required by the City after a building permit is issued include:
    - Crosswalks;
    - Street and alley paving;
    - Sidewalks;
    - Curb and gutter;
    - Street lights;
    - Landscaping.
- Acceptance of Public Improvements
  - o The City shall accept ownership and maintenance responsibility of all public improvements constructed with the City right-of-way only as provided herein.
  - o No public improvement shall be accepted by the City unless and until written acceptance of such public improvement is issued by the City

Engineer. Until such written acceptance is issued by the City Engineer, the applicant and developer of the subdivision shall retain ownership and maintenance responsibility for all public improvements within the subdivision, including, but not limited to, snow removal, street maintenance, and maintenance of water mains, sanitary sewer mains, and storm sewer infrastructure.

- Upon completion of the public improvements, the applicant or developer of the property shall request final acceptance of the public improvements by the City. The City Engineer or his designee shall make a final inspection of the public improvements and identify, in writing, a punch-list of any deficiencies. Such deficiencies shall be corrected by the applicant or developer of the subdivision prior to acceptance of the public improvements by the City. In the event that the applicant or developer of the subdivision fails to correct the punch-list deficiencies within ninety (90) days following the final inspection, the City may proceed to correct any such deficiencies and charge the cost thereof to the applicant and developer of the subdivision.
- In general, sequencing of construction and City acceptance shall include, but not limited to, the following:
  - Storm sewer and sanitary sewer facilities shall be televised and submitted to City Engineer for review. Deficiencies shall be corrected prior to placement of any road surface.
  - Erosion and sedimentation control for the entire development shall be maintained by the developer until 70% of land to be disturbed has received permanent ground cover or until all public improvements have been accepted. (Ord. No. 1545 § 2)

### **Section: 34.070 Specifications for Plats**

1. The preliminary plat shall contain the following:
  - a. Proposed name of subdivisions.
  - b. Location of subdivision by section, township and range, to the quarter section, or other legal description.
  - c. Names and addresses of property owner(s) and registered land surveyor who prepared the plat.
  - d. Scale of plat, which shall be one (1) inch equals one hundred (100) feet or less and shown graphically.
  - e. Date.
  - f. North point indication.
  - g. Boundary line of proposed subdivision indicated by a solid heavy line.
  - h. Total acreage within subdivision.
  - i. A location map inset showing the boundary of the proposed subdivision and covering the area within a one-mile radius of the subdivision.
  - j. Existing and proposed access points along public right-of-way within or adjacent to the subdivision. In addition, all such adjacent access points within one-quarter (1/4) mile of the subdivision shall be shown or noted if the subdivision is located within the extraterritorial jurisdiction.

- k. Name, location, width of all existing or previously platted streets, including the type and width of surfacing within or adjacent to the subdivision.
- l. Name, dimensions and location of any railroad right-of-way within or adjacent to the subdivision.
- m. Name, dimensions and location of any utility easements within or adjacent to the subdivision.
- n. Name, dimensions and location of any parks, public land or multi-use trails or crosswalks within or adjacent to the subdivision.
- o. Name, dimensions and location of any permanent buildings or structures within or adjacent to the subdivision.
- p. Location of any corporate boundaries within or adjacent to the subdivision.
- q. Location and identification of any section lines within or adjacent to the subdivision.
- r. Existing water mains, storm sewers, sanitary sewers, culverts, bridges, poles, pipelines and other utility structures within or adjacent to the tract, indicating pipe sizes, grades, and exact locations, oil wells, septic tanks and outlets, farm drains inlets and outfalls..
- s. Existing zoning of proposed subdivision and adjacent tracts of subdivided and un-subdivided land.
- t. Boundary lines of tracts of subdivided and un-subdivided land within or adjacent to the proposed subdivision. Owners' names are not needed for adjacent tracts within the corporate limits but must be shown for any adjacent tracts within the extraterritorial jurisdiction.
- u. Topographic contours with a minimum contour interval of two (2) feet, with indication of datum used (NGVD29 or NAVD88 with NAVD88 required for areas with current floodplain information in that datum).
- v. 100-year floodplain and floodway elevations if any portion of the subdivision is within the floodplain, with indication of datum used (NAVD88 required for areas with current floodplain information in that datum).
- w. Layout, numbers and dimensions of lots and blocks.
- x. Layout of proposed streets, alleys, crosswalks and easements, showing all widths and proposed street names, proposed building setback lines with dimensions.
- y. Location and dimensions of proposed utility easements, including easements for storm water management facilities and proposed locations of culverts and retention/detention areas, if available.
- z. Location and dimension of all non-access lines.
- aa. Identification of parcels of land intended to be dedicated or reserved for public use, or set aside for use of property owners within the subdivision.
- bb. Fencing note for fencing along Interstate 94, arterials or drainage facilities in accordance with the Zoning Code.
- cc. Proposed deed restriction if any.
- dd. Traffic Impact Study analyzing the improvements required within and nearby the proposed subdivision, if deemed necessary by the City Engineer.
- ee. Detailed grading plan of part or all of the area, if required by the City Engineer.
- ff. Statement of the general type of improvements required within and nearby the proposed subdivision.



- gg. Soil survey/report, if required by the City Engineer.
- hh. Wetlands study

2. The final plat shall be submitted on high quality Mylar in sheets thirty (30) inches by thirty-six (36) inches, provided that when more than one sheet is required, there shall also be filed an index sheet on high quality Mylar and of the same dimensions, showing the entire subdivision on one sheet and giving block and lot numbers. The final plat shall contain the following:

- a. Name of subdivision of which should not duplicate or resemble any existing subdivision within the area.
- b. Location of subdivision by section, township and range, to the quarter section, or other legal description.
- c. Names and addresses of owners and registered land surveyor.
- d. Scale of plat, which shall be one (1) inch equals one hundred (100) feet or less and shown graphically.
- e. Date.
- f. North point indication.
- g. Basis of bearings, as derived from State Plane Coordinates.
- h. Indication of both vertical datum and horizontal datum used for the plat.
- i. Boundary line of subdivision based on an accurate traverse, with angular and lineal dimensions indicated.
- j. Legal description of property being platted, including any section line right-of-way not previously deeded for plats within the extraterritorial jurisdiction.
- k. Accurate locations of all monuments. For plats located within the corporate limits or plats that will be annexed prior to development, one such monument shall be placed at each corner and at each change of direction in the boundary line of the subdivisions; one such monument shall be placed at each block corner, one such monument shall be placed at each lot corner and at each point of deflection in the interior lot lines, and one such monument shall be placed at the point of curvature and point of tangency of each curve in a street line on both sides of the street. The monuments for the boundary line of the subdivision must be placed prior to recording the final plat, the monuments for block corners and the points of curvature and tangency of each curve in a street line on both sides of the street must be placed upon completion of roadway and municipal utility improvements, and monuments for lot corners and each point of deflection in the interior lot lines must be placed prior to obtaining a building permit for that lot.  
  
For plats located in the extraterritorial jurisdiction, one such monument shall be placed at each corner and at each change of direction in the boundary line of the subdivision; one such monument shall be placed at each block corner, one such monument shall be placed at each lot corner and at each point of deflection in the interior lot lines, and one such monument shall be placed at the point of curvature and point of tangency of each curve in a street line on both sides of the street. All monuments must be placed prior to recording the final plat.
- l. True angles and distances to the nearest official monuments (which shall be accurately described on the plat and not less than two (2) for subdivisions within the extraterritorial jurisdiction and not less than one (1) for subdivisions within

the corporate limits). For the purpose of this requirement, an official monument is defined as a section corner or quarter corner.

- m. Ties to a minimum of two (2) accepted State Plane Coordinates based on NAD 83 horizontal datum (adjusted 86), units of measurement international feet, ND south zone 3302.
- n. Elevations referenced to a durable benchmark described on the plat with its location and elevation to the nearest hundredth of a foot, with indication of datum uses (NAVD88 required for areas with current floodplain information in that datum).
- o. Exact location, width and name of all rights-of-way within and adjoining the subdivision, and the exact location of all alleys and or multi-use trails within the subdivision.
- p. Accurate outlines and legal description of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposes indicated; and of any areas to be reserved by deed covenant for common use of all property owners within the subdivision.
- q. All easements for rights-of-way provided for public services and public utilities.
- r. All lot and block numbers and lot lines, with accurate dimensions in feet and hundredths.
- s. Square footage or acreage of land within the subdivision, each individual lot, each subplot created by ghost platting, and the total area in streets. If the subdivision crosses a quarter-section line, the acreage within each quarter section must also be noted.
- t. Radii, deltas, and lengths of all curves based on arc definitions.
- u. Location and dimension of all non-access lines and any access points within a continuous non-access line.
- v. 100-year floodplain and floodway elevations and topographic contours with a minimum contour interval of two (2) feet for the portion of the plat lying within a designated floodplain, with an indication of datum used (NAVD88 required for areas with current floodplain information in that datum).
- w. For any waterways or bodies of water within or adjacent to the plat, the present shoreline locations (relative to the meander line).
- x. Water elevations must be shown and dated (meander line).
- y. Certification by registered land surveyor to the effect that the plat represents a survey made by him/her, or under the surveyor's direct supervision, and that the monuments shown thereon are accurate, all required monuments have been set, and that all dimensions and elevations are correct.
- z. Notarized certification by the owners of the land of the adoption of the plat and the dedication of sewers, water distribution lines, streets, public areas and other improvements. If there are multiple owners, the specific lot(s) owned by each owner must be specified.
- aa. Proper form for the approval of the Planning Commission.
- bb. Proper form for the approval of the City Engineer.
- cc. Fencing note for fencing shall be shown in accordance with Section 34-60.
- dd. All restrictive airport noise, clear zone and approach zone elevations as established by the latest available data, where applicable.

- ee. All easements for stormwater management facilities shall be shown and dedicated in accordance with Title 14.1.
- ff. Border line of one-half (1/2) inch shall be provided on the top, bottom and right sides of the plat, with two (2) inches provided on the left side.
- gg. Certification from Stark County that all taxes are paid in full.

### **Section: 34-80. Variances.**

1. Hardship.
  - a. Where it can be shown in the case of a particular proposed subdivision, that strict compliance with the requirements of these regulations would result in extraordinary hardship to the subdivider because of unusual topography, soils, or other such conditions which would result in retarding the achievement of the objective of these regulations, then the board of adjustment may vary, modify or waive requirements so substantial justice may be done and the public interest secured; provided that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of these regulations, or of the master plan.
  - b. In no case shall any variance, modification or waiver be more than a minimum easing of the requirements; in no case shall it have the effect of reducing the traffic capacity of any arterial or collector street; in no case shall it be in conflict with the existing zoning regulations.
  - c. In granting variances, modifications or waivers, the board of adjustment may require such conditions as will, in its judgment secure substantially the objectives of the standards and regulations so affected.
2. Large-scale development:
  - a. These regulations may be modified by the planning commission in the case of a plan for a planned unit development which provides such covenants, financial guarantees, and other legal assurance that the plan will be followed and will be achieved.

### **Section: 34-90. Fees.**

1. In order to cover the costs of examining plans, advertising and holding public hearings, and other expenses incidental to the approval of a subdivision, the subdivider shall pay a fee at the time of application for a lot modification, a minor subdivision plat or tentative approval of a preliminary major subdivision plat. If, because of the failure of the subdivider to submit a final major subdivision plat within twelve (12) months after receiving tentative approval of a preliminary major subdivision plat, it is necessary to resubmit a preliminary major subdivision plat for tentative approval, the subdivider shall be required to pay the fee currently in effect at the time of resubmission.
2. The fees to be charged and collected for consideration of any application for a major subdivision plat, subdivision plat vacation, lot modification or minor subdivision plat shall be established by the Board of City Commissioners and shall be collected at the time of filing of an application.

3. All fees established by this section are in addition to any sums paid to cover the costs of review of improvement plans and field inspection of construction required under this chapter and other provisions of the Dickinson Municipal Code.

**Section: 34-100. Penalties.**

Any owner or the agent of any owner of land located within a subdivision, who transfers, sells or negotiates to sell any such land by reference to or exhibition of a plat of a subdivision or by any other use thereof before such plat has been approved by the planning and zoning commission and governing body and recorded as approved by the planning and zoning commission in the office of the register of deeds, shall forfeit and pay a penalty of one hundred dollars for each lot or parcel transferred or sold or agreed or negotiated to be sold. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this section. The municipality may enjoin such transfer, sale or agreement by an action for injunction or it may recover the penalty by a civil action.

*For similar state law, see NDCC, § 40-48-23.*

**Section: 34-110. Vacation of Plats.**

Any property owner wishing to vacate a previously approved and recorded plat or any part thereof must follow the same procedures as those required for plat approval and outlined in this chapter.

**Section: 34-120. Vacation of Easements.**

The procedure hereinafter set forth may be used as an alternative to the procedure set forth in NDCC §40-39 for the vacation of utility easements. For the purposes of this Section, “utility easements” shall mean all platted easements within the City of Dickinson or its extra-territorial jurisdiction.

1. No utility easement shall be vacated by the City except on a petition signed by all of the owners of the property upon which to utility easement to be vacated is located. Such petition shall set for the facts and reasons for the vacation, shall be accompanied by a plat of the utility easement to be vacated, and shall be verified by the oath of the petitioner.
2. If the City Engineer finds that the petition for vacation is in proper form and contains the proper signatures, the City Engineer shall give notice by publication in the official newspaper of the City that the petition will be considered by the Board of City Commissioners on a certain specified date, not less than seven (7) days following publication of the notice. The City Engineer may cause additional notice to be given to adjoining property owners as the City Engineer may deem necessary.
3. Prior to consideration of the petition by the Board of City Commissioners, the City Engineer shall provide a copy of the petition to all utility companies

(including, but not limited to, electrical, gas, telephone, and cable television) which may be affected by the vacation. Consent of all such utility companies shall be required prior to any action by the Board of City Commissioners to vacate such easement.

4. The Board of City Commissioners shall investigate and consider the matter set forth in the petition. At the time and place specified in the notice, the Board of City Commissioners shall hear testimony and evidence of the persons interested in such petition to vacate the easement. After public hearing, the Board of City Commissioners, by a resolution passed by a two-thirds vote of all of its members, may declare the utility easement described in the petition to be vacated upon such terms and conditions as it shall deem just and reasonable.
5. The resolution shall be filed for record and duly recorded in the Office of the Recorder, and such resolution shall have the effect of conveying to the abutting property owners all of the right, title, and interest of the municipality to the easement vacated.
6. All expenses incurred in vacating any utility easement shall be paid by the petitioners, who shall deposit with the City such sum as may be necessary before any such expense is incurred. The amount to be deposited shall be determined from time to time by the Board of City Commissioners in its fee schedule. (Ord. No. 1541, § 1.)