

## CHAPTER SIX - SUBDIVISION REGULATIONS

### I. REQUIREMENTS TO MEET SUBDIVISION REGULATIONS

No person shall cause or create a subdivision or re-subdivision of land except in compliance with the provisions of this Chapter, other requirements of this Ordinance, and all State of North Dakota subdivision regulations.

Every new lot, plat, tract or parcel of land created by subdivision for immediate or future transfer, sale or lease for building development, shall be situated entirely within a district zoned other than as an Agricultural District.

### II. FILING CHECKLIST

**Step 1** - Prior to filing an application for conditional approval of the Preliminary Plat, the subdivider shall submit the necessary information to the Mercer County Planning Commission. (See Pre-Application Procedure for information required.)

**Step 2** - If the Planning Commission determines that the plans and data submitted by the subdivider meet the requirements and objectives of the subdivision regulations, the subdivider may begin the preparation of the Preliminary Plat. (See Procedure for Conditional approval of Preliminary Plat for information required.)

**Step 3** - Submit twelve copies of the Preliminary Plat to the Planning Commission with a written application for conditional approval at least ten days prior to the meeting at which the Preliminary Plat is to be considered.

**Step 4** - Obtain a copy of the conditionally approved Preliminary Plat after the Planning Commission has acted.

**Step 5** - Application for approval of the Final Plat shall be submitted in writing to the Planning Commission at least ten days prior to the meeting at which it is to be considered. The Final Plat shall be submitted to the Planning Commission within two months after approval of the Preliminary Plat unless the Planning Commission grants a longer period. (See Approval for Final Plat.) The subdivider will submit a Storm Water Management Plan pursuant to Chapter 2 with the application for approval of the final plat.

**Step 6** - The signature of the County Engineer indicating his approval must appear on the Final Plat prior to submission to the Board of

County Commissioners for approval.

**Step 7** - The Planning Commission shall forward the approved Final Plat to the Board of the Board of County Commissioners for final approval and signatures.

**Step 8** - After the Board of County Commissioners has approved the Final Plat, the developer shall file with the Planning Commission for distribution to the appropriate agencies, a sufficient number of copies of the approved plat. The number of copies necessary shall be determined by the Planning Commission.

**Step 9** - The subdivider shall record the Final Plat with the Mercer County Register of Deeds and shall file a certified copy of the Final Plat with the Mercer County Auditor.

### **III. FILING PROCEDURES AND DATA REQUIREMENTS**

#### A. Pre-Application Procedure

1. Preliminary Plat - the subdivider shall submit the following plans and data, prepared by a land surveyor or engineer registered in the State of North Dakota, to the Mercer County Planning Commission:
  - a. Location Map - shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. The location map shall include: the development name and location, main traffic arteries, public transportation lines, shopping centers, elementary and high schools, parks and playgrounds, principal places of employment, other community features such as railroad stations, airport, hospitals, churches, title, scale, north arrow, date and any other pertinent information.
  - b. Sketch Plan on Topographic Survey - shall show in single sketch form the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan may be a free-hand pencil sketch made directly on a print of the topographic survey. The sketch plan shall include the existing topographic data and such other data as the Planning Commission determines is necessary for its consideration of the proposed sketch plan.

- c. General Subdivision Information - shall describe or outline the existing conditions of the site and proposed development as necessary to supplement the required drawings. This information may include, but is not limited to; data on existing covenants, land characteristics, available community facilities, utilities, and information describing such subdivision proposals as number of residential lots, typical lot width and depth, business areas, playgrounds, park areas and other public areas, proposed protective covenants, proposed utilities and street improvements. This step does not require a formal application, fee or filing of plat with the Planning Commission.
  - d. Location of streams, water courses, marshy or swampy areas within or adjacent to the subdivision, including federally designated wetlands. Show existing drainage patterns within and adjacent to the subdivision.
2. Within 15 days after submittal, the Planning Commission shall inform the subdivider whether the plans and data as submitted or as modified, meet the objectives of these regulations. When the Planning Commission finds the plans and data do not meet the objectives of the subdivision regulations, it shall state the reasons for its rejection and what changes are required for approval.

#### B. Procedure for Conditional Approval of Preliminary Plat

1. Once it has been determined by the Planning Commission that the plans and data submitted by the subdivider meet the requirements of these regulations, the subdivider shall prepare the Preliminary Plat. The following requirements are necessary for conditional approval of the Preliminary Plat including a preliminary storm water management plan:
  - a. Topographic Data - shall include the following existing conditions except when otherwise specified by the Planning Commission:
    - 1) Boundary lines - bearing and distance.
    - 2) Easements - location, width and purpose.
    - 3) Streets on and adjacent to the tract - name and right-of-way width and location, type, width and elevation of surfacing, any legally established center-line elevations, walks, curbs, gutters,

- culverts, etc.
- 4) Utilities on and adjacent to the tract - location, size and invert elevation of sanitary and storm sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone poles, and street lights. If water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to, and size of nearest mains. Show sewer pipe invert elevations.
  - 5) Subsurface conditions on the tract - if required by the Planning Commission and the County Engineer, location and results of tests made to ascertain subsurface soil, rock and ground water conditions, depth to ground water unless test pits are dry at a depth of 5 feet, location and results of soil percolation tests if individual sewage disposal systems are proposed.
  - 6) Other conditions on the tract - rock outcrops, wooded areas, isolated preservable trees one foot or more in diameter, historic and other significant features upon a topographic map in five (5) foot or less contours except floodplain areas which shall be in two (2) foot contours.
  - 7) Other conditions on adjacent land - show approximate direction and gradient of ground slope, including any embankments, or retaining walls, character and location of buildings, railroads, power lines, towers, and other nearby non-residential land uses or adverse influences, owners of adjacent unplatted land. For adjacent platted land refer to subdivision plat by name, recordation date and number. Show approximate percent that is developed, typical lot size and dwelling type.
  - 8) Photographs if required by the Planning Commission - camera locations, directions of views and key numbers.
  - 9) Zoning on and adjacent to the tract, if any.
  - 10) Proposed public improvements - highways or other major improvements planned by public authorities for future construction on or near the tract.
  - 11) Key plan showing location of the tract.
  - 12) Title and certificates - submit tract designation according to official records, title under which proposed subdivision is to be recorded, names and addresses of owners, notation stating acreage, scale, north arrow, datum, benchmarks,

certification by a land surveyor registered in the State of North Dakota, date of survey.

- 13) Submit a survey plat, prepared by a land surveyor registered in the State of North Dakota, which is in compliance with State Law and Mercer County Zoning Regulations.
  - 14) Submit results of percolation tests if these tests are required by either the County Planning Commission, County Commission or County Health Department.
- b. The Preliminary Plat shall be at a scale of one inch to two hundred feet (1:200). It shall show all existing conditions required in Topographic Data and shall show all proposals including the following:
- 1) Streets - names, right-of-way and roadway widths, approximate grades and gradients, similar data for alleys, if any.
  - 2) Other rights-of-way or easements - locations, width and purpose.
  - 3) Location of utilities, if not shown on other exhibits.
  - 4) Lot lines, lot numbers and block numbers.
  - 5) Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.
  - 6) Sites if any, for multi-family dwellings, shopping centers, churches, industry or other non-public uses exclusive of single-family dwellings.
  - 7) Minimum building setback lines.
  - 8) Site data, including number of residential lots, typical lot size and acres in parks, etc.
  - 9) Title, scale, north arrow and date.
- c. Preliminary plan of proposed sanitary sewers with grades and sizes indicated. Applicant shall provide proof that such plans have been submitted and approved by Custer Health. Collector or centralized sewer systems shall require approval by the State Department of Environmental Quality and the Mercer County Water Resource Board.
- d. The preliminary plan of storm water management shall include a review of existing and proposed surface water runoff and flood risks within a development, plat or

watershed. This review shall document and identify flood hazard areas and determine systems required to convey or control storm water flows within and through the development, watershed, and other existing developments and storm water management systems. The storm water management plan shall include a map(s) identifying the following:

- 1) Existing and proposed watersheds
- 2) Existing and proposed drainage patterns
- 3) The "Base Flood Elevation (BFE)", defined as the height of the base flood or 100-year flood, as designated on FEMA published flood insurance rate map (FIRM) with indication of datum used;
- 4) Identification of any and all necessary consent, conveyances easements, or licenses necessary to build such plan;
- 5) Identification of proposed conveyance channels, storm sewer systems, culvert locations, retention/detention areas;
- 6) Identification of any natural floodplains, stream channels, natural protective barriers, or existing protective barriers, which help accommodate or convey flood waters; and
- 7) Identification of proposed flood barriers, filing, grading, dredging which may divert flood waters as they presently exist.

In addition to the storm water management map(s), a list of any state and/or federal agencies which consent is necessary to implement such plans shall be submitted.

In the event the Board believes that additional information is needed to evaluate the preliminary plan, its impacts on the watershed, surrounding property owners, any other storm water management systems, and any other factors related to storm water management they shall have authority to request additional information during the Procedure for approval of a final plat, which may include engineering studies, reports, or analysis as outlined in Section V Storm Water Management.

- e. Other preliminary plans - when required by the Planning Commission, the Preliminary Plat shall be accompanied by profiles showing existing ground surface and

proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical cross sections of the proposed grading, roadway and sidewalk and preliminary plan of proposed sanitary and storm water sewers with grades and sizes indicated.

- f. Protective Covenants - submit a draft of protective covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.
2. Twelve (12) copies of the Preliminary Plat and supplementary material specified above shall be submitted to the Planning Commission with written application for conditional approval at least ten (10) days prior to the meeting at which it is to be considered. The Planning Commission shall forward copies of the Preliminary Plat to the following agencies: County Engineer, County Water Resource Board, Custer District Health, County State's Attorney, Land Use Administrator, local Soil Conservation District, affected rural fire district and the local electric and telephone companies serving the proposed area.
3. Upon submission of the Preliminary Plat and supplementary material specified above the Developer shall give notice and a copy of the submission via certified mail to each owner of land within one mile [1.61 kilometers] downstream of the proposed water management system outlet unless the distance to the nearest waterway depicted as a perennial or intermittent stream or river on a United States geological survey topography map, assessment drain, natural watercourse, slough, or lake is less than one mile [1.61 kilometers], in which case notice and a copy of the submission must be given immediately to each owner of land between the outlet and the nearest assessment drain, natural watercourse, slough, or lake. The notice requirement in this section must be waived if the applicant presents signed, notarized letters of approval from all downstream landowners entitled to notice in this subsection. Developer must submit a sworn statement identifying each landowner that was provided notice, such statement shall state the name of each landowner, the address notice was mailed to, and the date such mailing was placed in the mail. Developer is responsible for all

costs associated complying with notice under this section. All such mailings must be placed in the mail at least twenty-one (21) days prior to review by the Water Resource Board.

4. Following (a) review of the Preliminary Plat and other material submitted for conformity to the subdivision regulations and (b) negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the Planning Commission shall, within forty (40) days, act on the Preliminary Plat, as submitted or modified and if approved, the Planning Commission shall express its approval as Conditional Approval and state the conditions of such approval, if any, or if disapproved, shall state the reasons therefore.
5. The action of the Planning Commission shall be noted on two copies of the Preliminary Plat, referenced and attached to any conditions determined by the Commission. One copy shall be returned to the subdivider and the other retained by the Planning Commission.
6. Conditional Approval of a Preliminary Plat shall not constitute approval of the Final Plat. Rather it shall be deemed an expression of approval to the layout submitted on the Preliminary Plat as a guide to the preparation of the Final Plat which shall be submitted for approval of the Planning Commission and for recording upon fulfillment of the requirements of these regulations and the conditions of the Conditional Approval, if any.

#### C. Procedure for Approval of a Final Plat

1. The Final Plat shall be prepared by a land surveyor registered in the State of North Dakota. The Final Plat shall comply with state law and the requirements of these regulations.
2. Where deemed necessary by the Board of County Commissioners, the developer may be required to post a performance bond with the County Auditor.
3. Application for approval of the Final Plat shall be submitted in writing to the Planning Commission at least ten (10) days prior to the meeting at which it is to be



considered. Prior to applying for approval of a Final Plat, all acreage contained within the Final Plat must be rezoned to meet applicable use. This rezoning must be approved by the County Commission.

4. The Final Plat shall show the following:
  - a. Primary control points, approved by the County Engineer, or descriptions and "ties" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.
  - b. Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearings or deflection angles, radii, arcs or central angles of all curves.
  - c. Name and right-of-way width of each street or other right-of-way.
  - d. Location, dimensions and purpose of easement.
  - e. Number to identify each lot or site.
  - f. Purpose of which sites, other than residential lots, are dedicated or reserved.
  - g. Minimum building setback line, water setback line, and water buffer strip on all lots and other sites.
  - h. Location and description of monuments.
  - i. Names of record owners of adjoining unplatted land.
  - j. Reference to recorded subdivision plats of adjoining platted land by record name, date and number.
  - k. Certification by a Registered Land Surveyor.
  - l. Certification of title.
  - m. Statement by owner dedicating streets, rights-of-ways and any sites for public use.
  - n. Title, scale, north arrow and date.
  - o. Cross sections and profiles of streets showing grades approved by the County Engineer. The profiles shall be drawn to county scales and elevations and shall be based on a datum plane approved by the County Engineer.
  - p. Certification by the County Engineer that the subdivider and plat has complied with applicable state and county rules and regulations.
  - q. A tangent at least one hundred (100) feet long shall be required between reverse curves on arterial and collector streets.
  - r. When connecting street centerlines deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius adequate

to insure a sight distance of not less than two hundred (200) feet for minor or collector streets, unless the Planning Commission shall determine a greater radius.

- s. Streets shall be laid out to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.
- t. Street right-of-way widths shall be not less than as follows:

<u>Street Type</u>	<u>Right-of-Way</u>	<u>Feet</u>
Arterial or Collector		80
Minor		66
Marginal		50

- u. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with other requirements of the regulations, and where the Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided, the other half of the street shall be platted within such tract. Owners of half streets shall approve and sign the plat.
  - v. Permanent dead-end streets shall not be longer than six hundred (600) feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet.
  - w. Identify zoning districts and zoning district boundaries.
5. Provide a Storm Water Management Plan per the requirements outlined Chapter 2. Upon satisfaction that the Storm Water Management Plan adequately addresses all storm water management concerns related to the development the Water Resource Board shall issue a certificate of approval to be included with the final plat.
  6. Before the construction can take place the subdivder shall submit a storm water permit with the County Water Resource District as outlined in Chapter 2.

#### D. Alleys

1. Alleys or service drives shall be provided in commercial and industrial districts, except that the Planning

Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

2. The width of an alley shall be a minimum of twenty (20) feet.
3. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
4. Dead-end alleys shall be avoided where possible, but if unavoidable and approved by the Planning Commission, shall be provided with adequate turn-around facilities at the dead-end.

#### E. Easements

1. Easements across lots or centered on rear or side lot lines shall be provided for utilities, such easements to be not less than ten (10) feet. The centerline of such easement may coincide with lot lines.
2. Where a subdivision is traversed by a water course, drainage way, channel or stream there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connections therewith. The minimum width of such easements shall be twenty (20) feet. The maximum width of such easements shall be determined based on the watercourse's conveyance capacity and/or its estimated floodplain based on the projected base flood elevation (i.e., the 100-year event or regional flood).
3. Protective covenants or private deed restrictions shall be written on or attached to the plat.
4. Other data - such other certificates, affidavits, endorsements or deductions as may be required by the Planning Commission in the enforcement of these regulations not on plat attached, thereto.
5. The Final Plat shall be submitted to the Planning

Commission within two months after approval of the Preliminary Plat, otherwise, such approval will become null and void unless an extension of time is applied for and granted by the Planning Commission.

6. The Planning Commission shall forward the approved Final Plat to the Board of County Commissioners for final approval and signatures.
7. The Final Plat shall not be approved by the Board of County Commissioners until:
  - a. Approval is received from all public utilities involved, and shall be so indicated by an affidavit on the plat.
  - b. Approval is received from the County Sanitarian for proposed sewage disposal and water supply.
  - c. Approval issued by the County Water Resource Board indicating the Board's approval of the proposed Storm Water Management Plan.
8. Upon approval of the Final Plat by the Board of County Commissioners, the developer shall file with the Planning Commission for distribution to the appropriate agencies a sufficient number of copies of the plat as approved by the Board of County Commissioners. The number of copies shall be in the amount determined by the Planning Commission to be necessary.
9. Permanent monuments shall be set at all corners, angle points, points of curves and street intersections prior to recordation of the plat.
10. Permanent lot corners consisting of 5/8-inch reinforcing steel shall be set at all corners, angle points and points of curves for each subdivision lot prior to recordation of the plat.
11. The developer shall record the Final Plat with the County Register of Deeds and file a certified copy of the Final Plat with the County Auditor.

#### **IV. DESIGN STANDARDS**

##### **A. Streets**

1. The arrangements, character, extent, width, grade and location of all streets shall conform to road standards of Mercer County. Design will consider relation to: existing and planned streets, topographic conditions, public convenience and safety and relation to the proposed uses of the land to be served.
2. The arrangement of streets in the subdivision shall either:
  - a. Provide for the continuation of existing principal streets in surrounding areas; or
  - b. 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 existing streets impractical.
3. Minor streets shall be so laid out that their use by through traffic will be discouraged.
4. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require: marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
5. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and on each side of such right-of-way. Said streets shall be so located that the intervening land can be used for park purposes in residential districts, or commercial or industrial purposes in appropriate districts. The distance shall be determined with due consideration of requirements for approach grades and future grade separations.
6. Street centerline offsets of less than one hundred and twenty-five (125) feet should be avoided.
7. Adequate culverts shall be installed to handle all existing and projected drainage according to the Storm Water Management Plan as approved by the County Engineer and/or County Water Resource Board. All stream crossings

shall conform to Chapter 89-14 of the North Dakota Administrative Code titled "Stream Crossings".

8. Drainage under side streets, private drives and approaches must have culverts installed, with flared end sections, where required by the County Engineer, with a minimum size of eighteen (18) inches. Where applicable, culverts shall conform to the Storm Water Management Plan for the subdivision.

#### B. Blocks

1. The lengths, widths and shapes of blocks shall be determined with due regard to:
  - a. Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  - b. Zoning requirements as to lot sizes and dimension.
  - c. Needs for convenient access, circulation, control and safety of street traffic.
  - d. Limitations and opportunities of topography.

#### C. Lots

1. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
2. Lot dimensions shall conform to the requirements of the zoning ordinance:
  - a. R-1 and R-2 Residential lots where not served by central water and central sewer shall not be less than two (2) acres in size nor less than 150 feet in width. An exception to this two (2) acre minimum lot size may be made under certain conditions as provided for in Chapter Three - Section II - Residential Districts - Section A - R-1 District Regulations under 2.
  - b. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
3. Corner lots for residential use shall be of such width so as to allow any structure erected thereon to comply with setback regulations.

4. The subdividing of the land shall provide each lot with satisfactory access to an existing public street.
5. Double frontage and reverse frontage lots are not desirable and should be avoided. If topography or other conditions require the use of double frontage lots, a planting screen easement of 10 feet or greater with no right of access will be required along the lots abutting traffic arteries.

#### D. Public Sites, Playgrounds and Open Spaces

1. The subdivider shall pay 6% with a maximum amount not to exceed \$2500.00 of the value of a lot when a lot is sold or otherwise conveyed and before said lot is recorded. Said fee will be collected by the office of county treasurer before a deed to the lot is recorded in the office of county recorder. Said fees shall be deposited into a special revenue fund. The board of county commissioners is empowered to appropriate out of said account monies to park boards or public recreational use. Said fees will be based on the recorded sale price. In the event the sale price is not shown or does not reflect fair market value, the county tax equalization director shall determine a lot's fair market value. If the subdivider does not accept the tax equalization director's determination of fair market value, the subdivider may submit in writing a copy of an estimate of fair market value prepared and signed by a state certified general appraiser. Said fees are restricted for public parks or public recreational use only. In December of each year the county shall advertise the availability of funds for county public park and public recreational use. All county public parks and public recreational entities may apply. County commissioners shall evaluate all applications apportion said fees per their discretion, and their decision is final. All monies remaining in the account at year's end shall be carried forward.