

ORDINANCE NO. 1082
As amended by Ordinance 1095, 1/22/19

AN ORDINANCE AMENDING ORDINANCE NO. 574 OF THE CITY OF WILLISTON, NORTH DAKOTA, ALSO KNOWN AS THE "SUBDIVISION REGULATIONS OF THE CITY OF WILLISTON" UPDATING SECTIONS 1 THROUGH 9, ADDING NEW SUBDIVISION DEFINITIONS AND CLARIFYING THE APPROVAL PROCESS FOR ANY SUBDIVISION.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WILLISTON, NORTH DAKOTA, TO-WIT:

1. The Planning Commission of the City is hereby authorized and instructed to review and approve or disapprove the subdivision of land within the City and adjacent territory in accordance with the laws of the State of North Dakota.
2. The Planning Commission is to be governed in its review of subdivisions by the laws of the State, ordinances of the City and the following specific regulations.

SECTION 1. TITLE OF CHAPTER

These regulations shall be known as the "Subdivision Regulations of the City of Williston."

SECTION 2. CONFORMITY WITH CHAPTER

Hereafter all subdivisions made within the City and within the designated areas outside of the corporate limits thereof, and not located in any other municipality, shall be subject to and shall conform to these regulations and shall conform to the major thoroughfare plan and other plans for such territory, or part thereof, including the land use plan and other portions of the Comprehensive Plan.

SECTION 3. INTENT

The intent of this section is to:

- (a) Provide for the proper arrangement of streets in relation to other existing and planned streets and to the master plan.
- (b) Provide for adequate and convenient open spaces for traffic, utilities, access of firefighting apparatus, recreation, light, and air, for the avoidance of congestion of population, and for easements for building setback lines or for public utility lines.
- (c) Establish standard procedures, requirements and conditions for the preparation, submission and approval of plats of the subdivision of land within the City and its extraterritorial jurisdiction, as provided in Chapter 40-48 of the North Dakota Century Code, and to enable the City Planning Commission exercise the authority granted therein.
- (d) Require that such plats conform satisfactorily to the comprehensive plan for the territorial jurisdiction of the City Planning Commission and other plans for such jurisdiction or part thereof, including the land use plan and other portions of the Comprehensive Plan.
- (e) Deter piecemeal planning of subdivisions, which creates an undesirable disconnected pattern of development and poor circulation of traffic.
- (f) Insure that design and arrangement of subdivisions are correlated to the Comprehensive Plan and the Street and Highway Plan of the City, aiming at a unified street and neighborhood network and sustainable neighborhoods.

- (g) Discourage the subdividing of the lands that are far in advance of the needs of the community; or that by their location cannot be efficiently served by public utilities, schools, fire protection, police protection or other municipal service; or that are located in areas subject to flooding or that are topographically unsuitable for development; or that for any other reason are unwisely or prematurely subdivided.
- (h) Encourage the replatting of lands deemed to be unsatisfactorily subdivided or underdeveloped.
- (i) Encourage the coordinated platting of adjacent small parcels of land.

SECTION 4. DEFINITIONS SPECIFIC TO THE SUBDIVISION ORDINANCE

- (a) Basis of Bearing: Must use current or as adopted North Dakota Plane Coordinate System.
- (b) Block: An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a physical land barrier such as a river.
- (c) Condominium: An estate in real property consisting of an undivided interest or interests in common in a portion of a parcel of real property together with a separate interest or interests in space in a structure, on such real property
- (d) Covenants, Conditions, and Restrictions (CC&R's): A contract made between a developer and the property owners within a subdivision or other development that establishes the manner in which property within that subdivision or development may be developed, with the view to protecting and preserving the physical and economic integrity of that subdivision or development.
- (e) Cul-de-sac: A short street having one end open to traffic and being terminated by a vehicular turnaround.
- (f) Dead End Street: A street which has only one outlet for vehicular traffic and terminates without a vehicular turnaround.
- (g) Development Agreement: An agreement between the developer and the City that specifies the developer's responsibility to install the improvements required by this ordinance.
- (h) Easement: A grant by the property owner to the public, a corporation, or persons for the use of land for specific purposes.
- (i) Final Plat: A plat prepared in accordance with the provisions of the North Dakota Century Code and these City of Williston subdivision regulations as laid out herein, as well as requirements of the Williams County recorder's office.
- (j) General Performance Lien: A form of improvement security recorded against all the lots of a subdivision at the time of final plat recordation that is superior to all other liens and which prohibits the sale of individual lots until the required improvements for the subdivision, or a particular phase of the subdivision, have been accepted or escrowed for.
- (k) Improvements: Any manmade, immovable item which becomes part of, placed upon, or is affixed to land. For subdivisions, improvements include street grading, street surfacing and paving, curb and gutters, street lights, street signs, sidewalks (including those associated with the adopted trails plan), crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other such installations as designated by the Planning Commission.

- (l) Lot: A platted tract or parcel of land of at least sufficient size to meet minimum zoning requirements for use, area and to provide such yards and other open spaces as required by City ordinances
- (m) Market Value: An estimate of the property worth, in terms of money, in the free and open market.
- (n) Monument: An identification marker established by certified land survey and set by a registered land surveyor at each section corner, angle point, block corner, street centerline, or other point.
- (o) Parcel: An area of land that is not described by a lot-and-block legal description and that is under a single ownership.
- (p) Pedestrian Way: A public or private right of way across a block or within a block to provide access, to be used by pedestrians.
- (q) Percentage of Grade: The rise or fall of a slope in feet and tenths of a foot for each one hundred (100) feet of horizontal distance. The center line of a street shall be used to determine the street rise of grade.
- (r) Perpetual Easement: An easement whose duration shall continue indefinitely ut in no case shall the easement exceed ninety-nine years as required by the North Dakota Century Code.
- (s) Plat (noun): A map which defines the subdivision of land. A plat commonly shows lots, blocks, streets, and other features relevant to the development and improvement of the property.
- (t) Plat (verb): To create a plat map.
- (u) Preliminary Plat: A proposed drawing or map of a proposed subdivision meeting requirements enumerated in this ordinance.
- (v) State Plane Coordinate System: Provides coordinates on a flat grid for easy computation while maintaining a difference between geodetic and grid distance of one part in 10,000 or better. See North Dakota Century Code Section 47-20.2 for the North Dakota Coordinate System.
- (w) Street: A dedicated public right of way for vehicular or alternative traffic which affords the principal means of access whether designated as a street, parkway, road, avenue, boulevard, lane, place, or however otherwise designated.
- (x) Street, Arterial: Streets with a limited number of intersections used primarily to move large volumes of traffic between the various districts of the community, as shown on the Comprehensive Plan, or as amended.
- (y) Street, Collectors: Streets that carry traffic from local streets to the major system of arterial streets and highways, including the principal entrance streets of residential districts, as shown on the Comprehensive Plan, or as amended.
- (z) Street, Local: Streets which are used primarily to provide vehicular and pedestrian access to residence, business, or other abutting property, as shown on the Comprehensive Plan, or as amended.
- (aa) Street Right of Way: A strip of land taken, deeded or dedicated for use as a public way. In addition to the road-way, it normally incorporates the curbs, grassed boulevards, utilities, sidewalks, lighting, and drainage facilities.
- (bb) Street Width: The paved area of the right of way between the curb and gutter lines, or the width of the travelled way, generally referred to as a "back of curb to back of curb" measurement.

- (cc) Street, Private: A private roadway affording access by pedestrians and vehicles, which is under individual rather than municipal control and ownership.
- (dd) Street, Frontage or Backage: Streets which are parallel and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.
- (ee) Subdivider: A person, corporation, partnership, association or any other entity who prepares or causes to be prepared a subdivision plat.
- (ff) Subdivisions: The division of a parcel of land into lots for the purpose, whether immediate or future, of sale or of building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or from such lots, and the creation of new or enlarged parks, playgrounds, plazas, or open spaces.
- (gg) Tangent: A straight line departing from a curve which is perpendicular to the radius of that curve.
- (hh) Title Opinion: The written opinion of an attorney, based on the attorney's title search into a property, describing the current ownership rights in the property.
- (ii) NAVD 1988 Refers to North American Vertical Datum. 1988.
- (jj) Vertical Curve: Is the surface curvature on a street center line located between lines of different percentage of grade.

SECTION 5. AUTHORITY TO APPROVE PLATS AND TO ACCEPT DEDICATIONS

- (a) Plat approval as required herein and in conformity with statutory authority within the Planning Commission's extra-territorial jurisdiction, shall be by the Planning Commission, with confirmation approval by the City Commission.
- (b) In all cases where land is offered for dedication for street or other public purposes within the city limits, the City Commission shall act to accept or reject the offer of dedication or the deed for the fee to such lands.
- (c) In all cases where land is offered for dedication for streets or other public purposes within the city's extra-territorial jurisdiction, the board of the township and/or county in which the subdivision is located shall act to accept or reject the offer of dedication or the deed for the fee to such lands.

SECTION 6. ENTITLEMENTS, INTENDED USES, AND HEARING AND REVIEW REQUIREMENTS

- (a) Accessory Farm Lot Split
 - 1. Intended Use
 - a. The intent of an accessory farm lot split is to allow agriculturally zoned property of at least 1/4 ¼ of a section or a Government Lot per parcel that have been previously unplatted to create a lot for a dwelling unit, separate farm lot, or other agricultural use.
 - 2. Requirements
 - a. The created lot may be between 1-10 acres, regardless of required zoning district size.
 - b. The created lot must be able to be accessed via a dedicated right of way or a perpetual easement from a dedicated right of way to the created lot.

- c. The original agriculturally zoned lot may only utilize this accessory farm lot split once, which requirement shall be recorded as a deed restriction on the original lot with the plat.
- d. Any application for an accessory farm lot split shall be reviewed for compatibility with the Williston Comprehensive Plan and may be denied based on future compatibility.
- e. Any application for an accessory farm lot split shall be reviewed for and may require easements or right of way dedication for purposes of future connectivity.

3. Hearing and Review Requirements:

- a. Review by the Development Review Committee is required as noted in Section 9.
- b. A public hearing is required at the Planning and Zoning Commission as noted in Section 10.a.
- c. A review is required at the City Commission as noted in Section 10.d.
- d. Accessory farm lot splits with easement or rights of way dedications require a public hearing in front of the Planning Commission as noted in Section 10.a and a review and acceptance of easements or dedications by the City Commission as noted in Section 10.d.

(b) Administrative Review Plat

Intended Use

- a. The intent of the administrative review plat is to allow a simplified process to allow already platted lots to add, remove or move lot lines; allowing residentially zoned properties to create no more than one additional lot, or on commercially or industrially zoned properties, to create no more than 2 additional lots on already platted land. The administrative review plat is not intended to be a substitute for platting individual lots at time of initial subdivision.

4. Requirements

- a. Administrative Review Plats may be used by residentially zoned properties only to move lot lines on already platted lots and to create no more than one additional lot. All required setbacks and development standards must be maintained.
- b. Administrative Review Plats may be used by commercially or industrially zoned properties to change or alter lot lines on already platted lots or to create no more than 2 additional lots on already platted land. All required setbacks and development standards must be maintained.
- c. Administrative Review Plats may be used by residentially, commercially, or industrially zoned properties to remove lot lines between existing lots. Only one lot line may be removed on residential property via Administrative Review Plat.
- d. Administrative Review Plats may not alter the character of the neighborhood.
- e. In no case may easements or rights of way be dedicated through the administrative review plat process.
- f. If a plat does not meet these requirements, or if there is dispute among the review committee, the Planning Director shall reserve the right to require the proposed plat to go

through either the Short Plat or Major Subdivision Plat Process, as necessary.
(Ordinance 1095, 1/22/19)

5. Hearing and Review Requirements

- a. None; this plat requires only administrative review by the Planning Director, all relevant County and City departments, utility companies, and the Development Review Committee.

(c) Short Plat

1. Intended Use

- a. The intent of a short plat is to allow a simplified process to plat residentially, commercially, or industrially zoned properties.

2. Requirements

- a. The short plat may be used by residentially, commercially, or industrially zoned properties to create, split, merge, or remove lots, with the following restrictions:
 - i. Such a plat may not significantly change the character of the neighborhood, require future land use amendments, or require a Planned Unit Development. Such plats may not conflict with any major approved plans of the City, including the Comprehensive Plan, Future Land Use Plan, Future Streets Network Plan, and Future Sewer and Water Connections Plan.
 - ii. Such a plat may not require major construction of new public utilities, including streets, water mains, and sewer mains. This does not include water and sewer service line connections to newly created individual lots.
- b. All required setbacks and development standards must be maintained.
- c. Easements and/or rights of way may be required to be dedicated through the short plat process. In such cases, a development agreement, Homeowners Association, and Codes, Covenants, and Restrictions may be required.
- d. If a plat does not meet these requirements, or if there is dispute among the review committee, the Planning Director shall reserve the right to require the proposed plat to go through either the Short Plat or Major Subdivision Plat Process, as necessary.

3. Hearing and Review Requirements

- a. Review by the Development Review Committee is required as noted in Section 9.
- b. Short plats require a public hearing in front of the Planning Commission as noted in Section 10.a and a review of the plat and acceptance of easements or dedications by the City Commission as noted in Section 10.d.

(d) Major Subdivision Plat

1. Intended Use

- a. The intent of a major subdivision plat is to allow for the subdivision of unplatted property or rearranging already platted lots, which may require:
 - i. A significant change to the character of the neighborhood, future land use amendments, or a Planned Unit Development.
 - ii. An amendment to any major approved plans of the City, including the Comprehensive Plan, Future Land Use Plan, Future Streets Network Plan, and Future Sewer and Water Connections Plan.
 - iii. Major construction of new public utilities, including streets, main water lines and main sewer lines. This does not include minor water and sewer connections to newly created individual lots.

2. Requirements

- a. When moving lot lines or creating new lots, all required setbacks and development standards must be maintained.
- b. Easements and/or rights of way may be dedicated, and improvements may be required through the major subdivision plat process. In such cases, a development agreement, Homeowners Association, and Codes, Covenants, and Restrictions may be required.

3. Hearing and Review Requirements

- a. Major Subdivisions are required to complete both the preliminary plat and final plat process, and submittals must include all items as outlined in Section 5.
 - i. Preliminary Plat Process
 - 1. Review by the Development Review Committee is required as noted in Section 9.
 - 2. A public hearing is required at the Planning and Zoning Commission as noted in Section 10.a.
 - 3. A review is required at the City Commission as noted in Section 10.d.
 - ii. Final Plat Process
 - 1. Requirements
 - a. Upon approval of the preliminary plat by the City Commission, the applicant shall submit a final plat to the Planning Department. The final plat shall incorporate all direction from the Planning Commission and the City Commission as stated in their motions and be substantially similar to the preliminary plat. All additional required items as noted in Section 6 must be included with the final plat submission.
 - b. A Major Subdivision final plat should be substantially similar to the preliminary plat. In cases where it is not substantially similar to the preliminary plat, the plat must be reviewed by the Development Review Committee as noted in Section 9 prior to final plat review by the Planning Commission. The Development Review Committee may determine that the changes are substantial enough to require that the plat return to the application phase.

- c. Final plats shall be submitted 21 days before a particular Planning Commission meeting. The Planning Director may waive this deadline at their discretion, particularly for subdivisions which have not changed between preliminary and final plat stages.
 - 2. A review is required at the Planning and Zoning Commission as noted in Section 10.b.
 - 3. A review is required at the City Commission as noted in Section 10.d.

(e) Vacation

1. Vacation of Subdivision Plat

- a. Intended Use:
 - i. The Vacation of subdivision plat is intended to remove existing platted lot lines, dedications, and easements on a plat of record, creating a single parcel.
- b. Requirements:
 - i. The following findings are required for approval:
 - ii. The plat to be vacated is a legal plat of record.
 - iii. Vacation of the subdivision will not interfere with development of, or deny access via public thoroughfare to, adjoining properties or utility services or other improvements.
 - iv. Vacation of the subdivision will not be contrary to the Williston Comprehensive Plan.
 - v. Must follow process as laid out in NDCC 40-50.1-16
- c. Hearing and Review Requirements
 - i. Review by the Development Review Committee is required as noted in Section 9.
 - ii. A review is required at the Planning and Zoning Commission as noted in Section 10.b.
 - iii. A public hearing is required at the City Commission as required by North Dakota Century Code.

2. Vacation of Right of Way Plat

- a. Intended Use:
 - i. A Vacation of right of way plat is intended for vacating right of way or other land for public use.
- b. Requirements
 - i. Vacation of the right of way will not interfere with development of, or deny access via public thoroughfare to, adjoining properties or utility services or other improvements.
 - ii. Vacation of the right of way will not be contrary to the Williston Comprehensive Plan.
 - iii. Must follow process as laid out in NDCC 40-50.1-16
- c. Hearing and Review Requirements
 - i. Review by the Development Review Committee is required as noted in Section 9.

- ii. A review is required at the Planning and Zoning Commission as noted in Section 10.b.
- iii. A public hearing is required at the City Commission as required by North Dakota Century Code.

(f) Dedication of Right of Way

1. Intended Use

- a. A Dedication of right of way is intended for dedicating right of way or other land for public use when that right of way or land is not part of a short plat or major subdivision.

2. Requirements

- a. Acceptance by the City Commission and/or other territorial jurisdiction.

3. Hearing and Review Requirements

- a. A dedication petition must be reviewed by the City Commission and/or other territorial jurisdiction as noted in Section 10.d.

SECTION 7. SUBMITTAL REQUIREMENTS

The following items shall be submitted for all entitlements in this section, unless otherwise determined by the Planning Department during the application process:

(a) Application, including the following information:

1. Name, mailing address, phone number, and e-mail address of:

- a. Applicant.
- b. Local agent.
- c. Owner of record.
- d. Engineer.
- e. Surveyor.
- f. Title attorney.
- g. Street address of property.

2. Legal description of property (must match legal description on recorded deed).

3. Current zoning.

4. Brief description of the project.

5. Additional information as required by the Planning Department.

6. Signature of property owners.

7. If property owners have a representative, letter from all owners of record concurring with proposed plat and allowing a representative to sign the application (in the event of corporate ownership, an authorized individual of the corporation shall execute the application).

(b) Payment of fee indicated in the fee schedule.

- (c) Preliminary plat that meets requirements stated in SECTION 26-10
- (d) Electronic format as required by the Planning Department
- (e) Copy of deed to all property.
- (f) Title opinion/ALTA survey.
- (g) For major subdivisions
 - 1. a concept plan.
 - 2. Preliminary water, sewer, street and drainage plan
- (h) Completed Utility Contact Form.

SECTION 8. FINAL PLAT SUBMISSION REQUIREMENTS

- (a) Prior to scheduling the final plat for the City Commission, the following documents, if required, must be prepared by City staff and their terms reviewed by the applicant, and this fact included in staff's report to the City Commission:
 - 1. Final Plat
 - 1. Development Agreement.
 - 2. General performance lien.
 - 3. Non-protest agreement
 - 4. Conditions, Covenants, and Restrictions (CC&R's).
 - 5. Design Guidelines.
 - 6. Narratives for Planned Unit Developments.
 - 7. Shared access and maintenance agreements/reciprocal access easements.
 - 8. Updated title opinion.

SECTION 9. REVIEW PROCEDURE

Upon receipt of a complete submittal by the scheduled submittal date for a particular Planning Commission hearing, the Planning Department shall lead and coordinate the review process.

SECTION 10. PROFESSIONAL ASSISTANCE

The City Commission, Planning Commission, or any City department may request such professional assistance as it deems necessary to properly evaluate the plats submitted, with expenses to be paid by the applicant. The City shall provide notice to the applicant prior to retaining that professional assistance.

SECTION 11. DEVELOPMENT REVIEW COMMITTEE

- (a) Intent: The intent of the Development Review Committee is to review entitlements prior to the Planning Commission hearing and to make a recommendation to that Commission regarding the entitlement.
- (b) Membership: The Development Review Committee may consist of:

1. The applicant.
 2. No more than three Planning Commissioners.
 3. No more than two City Commissioners.
 4. Planning Director or his representative.
 5. City Engineer or his representative.
 6. Building Official or his representative.
 7. Fire Chief or his representative.
 8. Public Works director or his representative.
 9. Representatives from other City, County, State, Township, or Federal agencies or utility companies as determined by the Planning Director.
 10. Any other representatives deemed necessary
- (c) Scope of Review: The Planning Department shall present all entitlements in this section to the Development Review Committee for that Committee's review and recommendation prior to Planning Commission hearing.
- (d) Recommendation: After review of the project at the Development Review Committee meeting, the Committee may make a recommendation to approve the project, deny the project, or refer to project with no recommendation to the full Planning Commission.
- (e) In the event the Development Review Committee does not make a recommendation to approve or deny, the Planning Department may propose a recommendation or may bring before the Planning Commission with no recommendation.

SECTION 12. COMMISSION REVIEWS AND PUBLIC HEARINGS

- (a) Planning Commission Public Hearing.
1. When a public hearing in front of the Planning Commission is required, staff shall give notice of a public hearing as required in Section 13. On the appointed date, the Planning Commission shall hold a public hearing, and after review of the materials and the recommendation in staff's report and public comment at the hearing, make a decision to approve, deny, or table the application.
 - a. A motion for approval may include contingencies to be resolved by City staff and the applicant prior to the approval becoming effective.
 - b. A motion for denial shall state the reasons for denial.
 - c. A motion to table shall state the reasons for tabling.
 - d. The Planning Director shall advise the applicant of the Planning Commission's decision.
 2. In such cases where a review or hearing by the City Commission is also required, staff shall give notice of a public hearing as required by the Zoning Ordinance, otherwise known as Ordinance 613, and on the appointed date, the Planning and Zoning Commission shall hold a public hearing, and, after review of the materials and the recommendation in staff's report and public comment at the hearing, make a recommendation to the City Commission to approve, deny, or table the application.

- a. A motion for approval may include contingencies to be resolved by City staff and the applicant prior to the approval becoming effective.
- b. A motion for denial shall state the reasons for denial.
- c. A motion to table shall state the reasons for tabling.
- d. The Planning Director shall advise the applicant of the Planning Commission's decision.

(b) Planning Commission Review

1. When a review in front of the Planning Commission is required, the Planning Commission shall hold a review, and after review of the materials and the recommendation in staff's report, shall hear the review and shall make a decision to approve, deny, or table the application.
 - a. A motion for approval may include contingencies to be resolved by City staff and the applicant prior to the approval becoming effective.
 - b. A motion for denial shall state the reasons for denial.
 - c. A motion to table shall state the reasons for tabling.
 - d. The Planning Director shall advise the applicant of the Planning Commission's decision.
2. In cases where the Planning Commission is required to hold a review of an application, with a further review by the City Commission, the Planning Commission may, after review of the materials and the recommendation in staff's report, make a recommendation to the City Commission to approve or deny the application.
 - a. A recommendation to approve the application may include contingencies to be resolved by City staff and the applicant prior to the final approval of the application.
 - b. A recommendation to deny the application shall state the reasons for the denial.
 - c. The Planning Director shall advise the applicant of the Planning Commission's recommendation and include that recommendation in the staff report to the City Commission.

(c) City Commission Public Hearing.

1. When a public hearing in front of the City Commission is required, staff shall give notice of a public hearing as required by the Zoning Ordinance, otherwise known as Ordinance 613. On the appointed date, the City Commission shall hold a public hearing, and after review of the materials and the recommendation in staff's report and public comment at the hearing, make a decision to approve, deny, or table the application.
 - a. A motion for approval may include contingencies to be resolved by City staff and the applicant prior to the approval becoming effective.
 - b. A motion for denial shall state the reasons for denial.
 - c. A motion to table shall state the reasons for tabling.
 - d. The Planning Director shall advise the applicant of the City Commission's decision.

(d) City Commission Review.

1. Within 30 days of the Planning Commission's determination on an application which requires review by the City Commission, unless the Planning Director receives written notice from the applicant that they wish to delay the review by the City Commission, the Planning Director will schedule a review of the application, including any concurrent applications associated with the application, before the City Commission, and prepare a staff report to the City Commission summarizing:
 - a. the project,
 - b. staff review comments, discussion at the Planning Commission meeting,
 - c. the Planning Commission's recommendation, and
 - d. maps, exhibits, and other supporting documentation,
 and forward the report to the City Commission prior to that Commission's review of the application.
 2. The applicant shall not revise any application until after approval by the City Commission, unless specific direction to do so is included in the Planning Commission's motion.
 3. If the City Commission denies the application, the application is terminated. Any concurrent applications associated with the application are also terminated.
 4. A recommendation to approve the application may include contingencies to be resolved by City staff and the applicant prior to the final approval of the application.
 5. For a review of a final plat, a recommended approval motion for the final plat:
 - a. shall specify additional documents to be recorded concurrently with the final plat,
 - b. shall specify any other entitlements that will become effective upon final plat recordation,
 - c. shall provide for the acceptance of all streets, alleys, easements or other public ways, parks, and other spaces dedicated to public purposes.
 - d. shall state the subdivider's obligation to construct parks and/or trails, or to pay the park payment in lieu fee.
 - e. may include contingencies to be resolved by City staff and the applicant prior to the final plat recordation, including final details of the documents listed above.
 6. A motion to table an application shall state the reasons for the tabling.
 7. A motion to deny an application shall state the reasons for the denial.
 8. A board action to deny the application voids the approval of any concurrent applications.
 9. The Planning Director shall advise the applicant of the City Commission's decision.
- (e) Appeal Process
1. The appeal process for any denied application can be found in Section 28 of this ordinance.

SECTION 13. APPLICATION AND COMPLETION TIMELINES

- (a) When an application is received by the Planning Department, the Planning Department shall place the application on the next available Planning and Zoning Commission meeting according to the Planning

Department Calendar as approved by that commission each year, which, if an application deadline has just passed, may take up to 65 days.

- (b) Within 30 days of the Planning Commission's determination on an application which requires review by the City Commission, unless the Planning Director receives written notice from the application that they wish to delay the review by the City Commission, the Planning Director will schedule a review of the application, including any concurrent applications associated with the application, before the City Commission.
- (c) Any application on which there has been no action within one (1) year will automatically be closed unless an applicant can show there is diligent progress being made, and any prior approvals considered null and void. In such cases, any fees paid to the City will be forfeited by the applicant.

SECTION 14. RECORDATION OF ALL APPROVED ENTITLEMENTS

- (a) All entitlements under this chapter, when granted final approval, must be recorded in the County Recorder's office. The Planning Department will record the documents upon:
 - 1. Payment of the recordation fee.
 - 2. Submittal of final plat in electronic format approved by the Planning Department.
- (b) The following documents, if required, shall be recorded:
 - 1. Approved final plat
 - 2. Development Agreement.
 - 3. General performance lien.
 - 4. Non-protest agreement
 - 5. Conditions, covenants, and restrictions
 - 6. Planned Unit Development (PUD) Narrative
 - 7. Design guidelines
 - 8. Shared access and maintenance agreements/reciprocal access easements
 - 9. Any additional documents necessary to the final plat
 - 10. Any additional documents directed by the City Commission.
- (c) The City shall record all documents at the Williams County Recorder's office.

SECTION 15. PUBLIC HEARING

When a public hearing must be scheduled according to this ordinance, the City Planner shall give notice of a public hearing on such proposed subdivision by advertising the time and place of such at least ten (10) days prior to the date of such hearing. The subdivider will furnish the name and address of the owner of the land, or his agent, at the time of application, and the secretary of the Planning Commission shall send to said address by registered mail a notice of the time and place of such public hearing not less than five (5) days before the date fixed for the hearing. The public hearing may be held at a regular meeting or special meeting of the Planning Commission.

SECTION 16. SPECIFICATION FOR PLATS:

A. Specifications for Preliminary Plats:

1. The following data regarding identification and description of the preliminary plat shall be provided:

a. Proposed name of subdivision, which name shall not duplicate or too closely approximate the name of any plat or existing subdivision heretofore recorded in the County except when such plat is an addition to an existing plat of record. The name of a rearrangement of an existing plat may be shortened from a complete legal description of the rearrangement by stating "(said rearrangement) hereafter to be known as _

b. Location by section, township and range, or by other legal description.

c. Names and addresses of the owners, subdividers, and developers having control of the lands included in said preliminary plat, the designer of the plat, the surveyor and his registration number.

d. Graphic scale, not less than one inch to one hundred (100) feet, or other scale as approved by the Subdivision Administrator.

e. North point.

f. Date of preparation.

2. The following data regarding existing conditions shall be provided for preliminary plats:

a. Boundary line survey, including measured distances and angles which shall close by latitude and departure with an error of closure not exceeding one (1) foot in ten thousand (10,000) feet.

b. Total acreage in said preliminary plat computed to one tenth (1/10) of an acre.

c. Total square footage of each lot.

d. Location and names of existing or platted streets or other public ways, parks and other public open spaces, buildings and structures, easements and section and corporate lines within the tract and to a distance of one hundred (100) feet beyond the tract at the time of submission of the plat.

e. If the proposed subdivision is a rearrangement or a replat of any former plat, the lot and block arrangement of the plat of record along with its original name shall be indicated by dotted or dashed lines. Also, any revision or vacated roadway of the original plat of record shall be so indicated.

f. Location and size of existing surfaced streets shall be shown, as well as all railroads, sewers, water mains, gravel pits, culverts, or other underground facilities within and to a distance of one hundred (100) feet beyond the tract.

g. Boundary lines of adjoining platted or unplatted land within one hundred (100) feet beyond the tract.

h. Complete topography map that extends 100 feet beyond the subdivision boundary line with contour intervals not greater than two (2) feet, water courses, high water elevation, and date thereof (of parts of platted area that are wet or have been wet, or have been subject to flooding), marshes, rock outcrops and other significant features; all superimposed on at least one print of preliminary plat. United States Geodetic Survey datum shall be used for all topographic mapping.

i. In the case of a subdivision where no new street is involved, the prescribed topographic map requirements shall be left up to the discretion of the City Engineer or the Department of Public Works Director.

3. The following data regarding proposed development design features of the preliminary plat shall be provided:

a. Layout of proposed streets, alleys, pedestrian ways and easements, showing right-of-way widths and proposed names of streets. The name or number of any street similar to or heretofore used in the City of Williston shall not be permitted unless the proposed street is an extension of an already named street in which event that name or number shall be used. All street names or numbers shall be subject to the approval of the Planning Commission.

b. Layout, numbers and approximate dimensions of lots, approximate square footage area of each lot, and the number or letter of each block.

c. Proposed Public Improvements: Highways or other major improvements planned by public authorities for future construction on or near the tract.

d. Location and size of proposed parks, playgrounds, churches, or school sites or other special uses of land to be considered for dedication to public use, or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.

e. Vicinity sketch, at a scale of one (1) inch equals one thousand (1,000) feet or less for an area one-half (1/2) miles in radius of the tract, to show the relation of the plat to its surroundings.

f. Existing and proposed covenants, if applicable.

g. A statement of proposed improvements to be installed by the subdivider

h. 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.

B. Data Required for Final Plats:

The owner or subdivider shall submit a final plat together with any necessary supplementary information. The final plat shall consist of one (1) Mylar original and two (2) prints on a reproducible Mylar base or other media approved by the City Engineer or Public Works Director, and in sheet sizes of 22 x 36 inches, or other size approved by the City Engineer or Public Works Director.

1. The final plat shall contain the following:

a. The final plat prepared for recording purposes shall be prepared in accordance with provisions of North Dakota State Statutes and applicable City and County regulations.

b. Name of subdivision: Names shall not duplicate or too closely approximate the name of any existing subdivision in Williams County except when such plat is an addition to an existing plat of record. The name of a rearrangement of an existing plat may be shortened from a complete legal description of the rearrangement by stating "(said rearrangement) hereafter to be known as _____."

c. Location by section, township, range, county and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions which must mathematically close. The allowable error of closure on any portion of a final plat shall be one (1) foot in ten thousand (10,000) feet. The location of monuments shall be noted or shown on the final plat. Location of such monuments shall be shown in reference to existing official monuments or to the nearest established street lines, including true angles and distances to such reference point or monuments. Permanent monuments shall be placed at each corner of each block or portion of a block, points of curvature and points of tangents on street lines, and at each angle point on the boundary of the subdivision. A permanent marker shall be deemed to be a steel rod, one-half (1/2) inch in diameter extending at least two (2) feet below the finished grade. In situations where conditions prohibit the placing of monuments in the location prescribed above, offset markers will be permitted.

d. Locations of lots, streets, public highways, alleys, parks and other features with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground. Dimensions shall be shown from all angle points and points of curve to lot lines.

e. Boundary lines and description of boundary lines on any areas other than streets and alleys which are to be dedicated or reserved for public use.

f. Lots shall be numbered clearly and the square footage of each lot shall be shown. Block numbers shall be shown

clearly in the center of the block and all streets shall be named.

g. Names and addresses of owners, subdividers, and developers, designer of the plat, surveyor and his registration number, making the plat.

h. The scale of the plat shall be not less than one (1) inch to one hundred (100) feet or other scale as approved by the City Engineer or Director of Public Works to be shown graphically, north point, and date of preparation.

i. Statement dedicating all easements as follows: Easements for installation and maintenance of utilities and drainage facilities are reserved over, under and along the strips marked "utility easements."

j. Statement dedicating all streets, alleys and other public areas not previously dedicated as follows: Streets, alleys and other public areas shown on this plat and not heretofore dedicated to public use are hereby also dedicated.

2. Certifications Required on Final Plats:

a. All signatures shall be notarized.

b. Notarized certification by owner and by any mortgage holder of record of their consent of the plat and the dedication of streets and other public areas.

c. Notarized certification by registered land surveyor, to the effect that the plat represents a survey made by him and that monuments and markers shown therein exist as located and that all dimension and geodetic details are correct.

d. Space for Certificates of Approval to be filled in by the signatures of the owner(s), surveyor, President of the Planning Commission, City Auditor, President of the City Commission, and Notary Publics for each as well as the Williams County Register of Deeds. The form of approval by the Planning Commission is as follows:

(1) Certificate of Registered Surveyor

I, _____, BEING A REGISTERED NORTH DAKOTA LAND SURVEYOR, DO HEREBY CERTIFY THAT I HAVE SURVEYED AND MAPPED THE PROPERTY SHOWN HEREIN AND THE WITHIN MAP IS A TRUE AND CORRECT REPRESENTATION OF THE LAND SURVEYED, AND THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF THE NORTH DAKOTA CENTURY CODE AND THE CITY OF WILLISTON SUBDIVISION ORDINANCES TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Registered Land Surveyor

State of North Dakota)

ss.

County of Williams)

Be it known that on this _____ day of _____, 20____, before me personally appeared and acknowledged the execution and signing of the above Certificate of Registered Land Surveyor to be his voluntary act and deed.

(Name) Notary Public
Williams County, North Dakota

My Commission Expires: _____

(2) Owners Consent and Dedication

We, the undersigned, being all the owners and mortgage holders of the lands platted herein, do hereby voluntarily consent to the execution of said plat, and do dedicate the streets, alleys, parks, and public grounds as shown thereon, including all sewers, culverts, bridges, water distribution lines, sidewalks, grounds, whether such improvements are shown or not, to the public use forever.

We agree not to vacate any portion of this plat without consent of the Planning Commission and the City of Williston. We also hereby dedicate easements, to run with the land, for water, sewer, gas electric, telephone or other public utility lines or services under, on, or over those certain strips of land designated hereon as "utility easements".

State of North Dakota)

County of Williams)
ss.

Be it known that on the day of _____, 20____, before me personally appeared _____ and _____, and acknowledged the execution and signing of the above Consent and Dedication to be his (her,their) voluntary act and deed.

Notary Public, Williams County,
North Dakota

My Commission expires:_____

(3) Planning Commission Approval

The subdivision of land shown hereon has been approved by the Planning Commission of the City of Williston on _____, 20____, in accordance with the laws of the State of North Dakota, ordinances of the City of Williston, and regulations of said Planning Commission.

(Name) President

State of North Dakota)

County of Williams)
ss.

Be it known that on the _____ day of _____, 19____, before me personally appeared (name), President of the Planning Commission of the City of Williston and acknowledged the execution and signing of the above.

Notary Public
Williams County, North Dakota

My Commission expires:_____

(4) Approval by City Commission

By virtue of Ordinance No. 544 passed November 28, 1978, the City Commission of the City of Williston, North Dakota, has approved the subdivision of land shown hereon; has accepted the dedication of all streets, alleys and other public ways shown hereon lying within the corporate limits of the City of Williston; has accepted the dedication of all parks and other public areas shown hereon (except those public areas specifically dedicated to other public bodies); and has ordered the vacation of streets, alleys, and public ways of a subdivision previously recorded with the Register of Deeds of Williams County in Book____, Page____, more particularly described as follows:

NOTE: Use only that part of this paragraph that is applicable to the subdivision.

Further, said City Commission has approved the streets, alleys, and other public ways and grounds as shown hereon as an amendment of the Comprehensive Street and Highway Plan and any other appropriate portion of the Comprehensive Plan of the City of Williston.

ATTEST: _____
City Auditor (Name)

President, City Commission

State of North Dakota)
County of Williams) ss.

Be it known that on this _____ day of _____, 20____, before me personally appeared _____ and known to me to be the persons who executed the above certificate and acknowledged to me that they executed the same.

Notary Public
Williams County, North Dakota

My Commission expires: _____

NOTE: A similar form will be required for acceptance of any streets or public lands dedicated to any governing body other than the City of Williston.

(5) Certificate of the Williams County Register of Deeds

This plat was filed for record in the office of the Williams County, Register of Deeds, in the State of North Dakota at _____ on the _____ day of _____ A.D., 20____, and was duly entered in the Book _____ Page _____.

Williams County Register of Deeds

C. The following information shall accompany the final plat and shall be filed therewith at the time the final plat is submitted to the Planning Commission.

1. Plan and profiles of streets showing grades approved by the City Engineer. The profiles shall be drawn to City standard scales and elevations and shall be based on a datum plane approved by the City Engineer or Director of Public Works.

2. A certificate by the City Auditor certifying that the subdivider has complied with one of the following alternatives:

a. All improvements as described in Section 14 of these regulations have been installed in accord with the requirements of these regulations and with the action of the Planning Commission giving approval of the preliminary plat, or

b. A bond or certified check has been posted, which is available to the City, and in sufficient amount to assure such completion of all required improvements.

3. Restrictive covenants in form for recording.

4. A title opinion stating the name of the owner of record.

5. Other Data: Such other certificates, affidavits, endorsements, or deductions as may be required by the Planning Commission in the enforcement of this ordinance.

SECTION 17. DESIGN STANDARDS:

A. Streets and Alleys:

1. The arrangement of thoroughfares and collector streets shall conform as nearly as possible to the Williston Comprehensive Plan. Except for cul-de-sac, streets normally shall connect with streets already dedicated in adjoining or adjacent subdivision, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets to the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed use of the area to be served.

2. Minor streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs will be permitted where conditions justify their use. Street cul-de-sacs shall normally not be longer than five hundred (500) feet, including a terminal turn-around which shall be provided at the closed end, with an outside right of-way radius of not less than fifty five (55) feet.

3. Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

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

5. Under normal conditions, streets shall be laid out so as to intersect as nearly as possible at right angles, except where topography or other conditions justify variations. The minimum angle of intersection of streets shall be eighty (80) degrees. Street intersection jobs with an offset of less than one hundred fifty (150) feet shall be avoided.

6. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a limited or controlled access U.S. or State Highway or a thoroughfare, the Planning Commission shall determine which provision shall be required: (a) for a service road approximately parallel and adjacent to the boundary of such right-of-way, (b) for a street at a distance suitable for the appropriate use of land between such street and right-of-way, or (c) for double frontage lots and a reservation strip along the rear or thoroughfare property line with a screen planting. Such distance shall be determined with due consideration of the minimum distance for approach connections to future grade separations, grade crossings or for lot depths.

7. Proposed Alleys shall be considered as public access and utility easements. An exception for alleys to be maintained as a public right of way by public ownership may be considered as part of the platting process if unusual circumstances are presented and substantiated that would prohibit the reasonable development of an alley as an easement under the control of a home owners association or would justify that a public right of way and public ownership would best serve as the necessary mechanism to address the unusual circumstances. Definite and assured provision must be made for emergency vehicle (police, fire and ambulance) and service access, such as off-street loading, unloading and parking consistent with and adequate for uses proposed. Alleys, where provided, shall not be less than twenty (20) feet wide for residential, commercial and industrial alleys. Dead-end alleys will not be permitted, except that this requirement may be waived where an adequate turn-around for emergency vehicles (fire, police and ambulance) is provided.

Alleys that separate a residential zone from a commercial property (including multi-family properties) or industrial zones shall not be used by commercial or industrial traffic to access the alley. Any hardship circumstances shall be considered through the variance process.

Alley Design Standards:

- a. Pavement width: Alleys shall be graded and paved with concrete or hot mix asphalt (hard surface)

with a 15 foot wide paved hard surface measured from the top edge of the asphalt slough or the back of the curb and gutter if installed. The 2.5-foot space between the alley pavement and alley easement line shall be left unpaved for the installation of utility poles, boxes and pedestals. Once the utility systems including service lines have been installed in the neighborhood this space may be paved with concrete or asphalt. Maintenance of these utility strips if left unpaved shall be included in the Home Owner's Association conditions, covenants and restrictions. Alley construction plans shall be submitted to City Engineering for review and approval and meet City Engineering design specifications.

- b. Garages built perpendicular to the alley: The setback of the garage to the edge of the alley easement line shall be a minimum of 25 feet. The driveway from the edge of the alley easement line to the garage shall be constructed of concrete. The concrete driveway shall be as wide or wider than the garage door. Garages must have the required 25-foot concrete driveway between the garage door and the edge of the alley easement line. Concrete parking pads adjacent to the garage the width of the garage door and 25 feet in length from the edge of the alley easement line could be provided in lieu if the garage is built to maintain the minimum setback of 20 feet from the rear property line per the zoning ordinance.
- c. Side loaded garages parallel to the alley: The garage or accessory structure shall not be closer than 3 feet to the alley easement line.
- d. No garage to the alley: Parking pads accessed from the alley shall be concrete, 25 feet in length from the edge of the alley easement line and 10 feet wide per space. Gravel or grassed parking pads are not permitted.
- e. Drainage: Stormwater shall not drain from a street into an alley. Stormwater carried by an alley shall drain onto a street or into a storm sewer. Storm water shall not drain from an alley onto private property or block positive drainage of adjacent properties. The developer's site grading shall be designed and constructed to provide positive drainage onto streets, alleys or other approved storm water conveyances. Grading and drainage plans for alley construction must be submitted to City Engineering per their requirements and approved prior to any alley construction. Alley construction must be completed and certified by City Engineering before any building permits are issued for lots adjacent to an alley. Surveyed as built drawings shall be provided to the Building Department for each property prior to issuing a certificate of occupancy to ensure that drainage and elevation are built consistent with the approved drainage plan.
- f. Alley ownership: Alleys that are public access and utility easements shall be managed and controlled by a Home Owners Association (HOA).
- g. Items that will need to be included with a development agreement include:
 - i. Alleys are considered improvements. Prior to the release of the general performance lien on any phase, including release of the lien to escrow, the developer shall submit to the City a plan depicting the proposed alley drainage.
 - ii. The developer shall assume all responsibility for the ownership and maintenance on all alleys until such time as those alleys are turned over to a homeowners association (HOA) or similar association.
 - iii. A waiver of protest for the creation of future alley improvement districts must be recorded with the entitlement.
 - iv. Prior to recordation of the final plat, the developer shall submit to the City conditions, covenants, and restrictions (CC&R's) for review to confirm that City-required wording is included in the CC&R's. The approved CC&R's shall be recorded with the final plat .
 - v. The CC&R's for the HOA must state that:
 - 1. Membership in the HOA is mandatory for all property owners in this subdivision;
 - 2. The governing documents shall designate a liaison from the HOA for the City to contact for the purpose of resolving any conflicts of the alley performance on adjacent or impacted public infrastructure, utilities and maintenance. It is the HOA's responsibility to provide the liaison contact information and update of that information

- to the City Public Works Department for their files.
- 3. The HOA owns the alleys and is empowered to assess the members of the HOA for the cost of maintenance of the alleys, including pavement repair, snow removal and to maintain them clean, orderly and weed free, Pushing dirt or snow into the adjacent public right of way is prohibited.
- 4. If the HOA dissolves, the City of Williston can assess the property owners for the cost maintenance for the alleys .
- vi. Prior to the release of the general performance lien on any phase, including release of the lien to escrow, the developer shall submit to the City documentation from the North Dakota Secretary of State's office verifying the establishment of the HOA as an entity in this state.
- h. Note: There are additional garage setback requirements in relation to the property line and alley in the form of a right-of-way (see Section 25 Figures 3-6 of the City of Williston Zoning Ordinance). See the zoning ordinance for required off-street parking standards.

8. Dedication of half streets will not be approved, except where it is essential to the reasonable development of the subdivision and in conformity with the other requirements of these regulations, where it is found that it will be practical to require the dedication of the other half when the adjoining property is subdivided, or where it becomes necessary to acquire the remaining half by condemnation so it may be improved in the public interest. If a half street right-of-way is approved, parking shall be prohibited on such half street until a full street right-of-way is provided.

9. For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for streets shall be as shown in the Comprehensive Plan for Williston, and where not shown therein, the minimum right of-way for streets, alleys, or pedestrian ways included in any subdivision shall not be less than the minimum dimensions for each classification as follows:

<u>Right-of-Way</u>	
Major Arterial Street	100 feet
Minor Arterial Street	80 feet
Collector Street	60 feet
Local Street	50 feet
Service Road	30 feet
Residential Alley	20 feet
Industrial-Commercial Alley	20 feet
Pedestrian Way	10 feet

Where existing or anticipated traffic or utilities warrant greater widths of street right-of-way, these shall be required.

10. All proposed streets shall be offered for dedication as public streets.

11. Reserve strips in private ownership controlling access to streets shall be prohibited.

12. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

13. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 400 feet for collector streets, and of such greater radii as the Planning Commission shall determine for special cases.

14. Pavement widths shall measure from the back of the curbs of roadways and shall not be less than the following:

- a. Major arterial streets 48 feet
- b. Minor arterial streets 44 feet
- c. Collector streets 44 feet
- d. Local street 34 feet
- e. Cul-de-sacs radius of cul-de-sac shall be the same as street width with a minimum radius of 40 feet.
- f. Alleys 15 feet

g. Sidewalks 5-6 feet

h. The Swale concept is approved where internal pedestrian walks and bike-ways are provided.

15. No street names or numbers shall be used which will duplicate or be confused with the names of existing streets. Street names or numbers shall be subject to the approval of the Planning Commission.

16. Street grades, wherever feasible, shall not exceed the following, with due allowance for reasonable vertical curves:

- a. Arterial streets - 6 percent
- b. Collector streets - 8 percent
- c. Local streets - 10 percent

17. No street grade shall be less than four tenths (4/10) of one (1) percent.

18. Flat grades are preferred from fifty (50) to one hundred (100) feet away from an intersection, but in no case shall grades exceed four (4) percent for a distance of at least fifty (50) feet from all intersections.

19. General considerations:

- a. Intersections of more than two (2) streets at a point shall not be permitted.
- b. Alleys or other appropriate access shall be provided in commercial and industrial districts.
- c. Dead-end streets as permanent features shall be prohibited.
- d. The quality of construction should be comparable to existing and approved construction in adjacent areas.

B. Easements:

1. Where alleys are not provided an easement for utilities, at least ten (10) feet wide, shall be provided along each rear lot line and along any other line as may be deemed necessary by the City Engineer to form a continuous right-of-way of at least twenty (20) feet in width, said greater or lesser width shall be specified by the City Engineer or Director of Public Works and provided accordingly upon the plat.

2. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Commission, by resolution upon the recommendation of the City Planning Commission.

3. Additional easements for pole guys should be provided at the outside of turns. Where possible, lot lines shall be arranged to bisect the exterior angle so that pole guys will fall along side lot lines.

4. Where a subdivision is traversed by a water course, coulee, drainage way, channel, or stream, a storm water easement, drainage right-of-way or park dedication, whichever the Planning Commission may deem the most adequate, conforming substantially with the lines of such water course shall be provided, together with such further width or construction, or both, as will be adequate for the storm water drainage of the area. The width of such easements shall be determined by the City Engineer or Director of Public Works.

5. The use of underground installation of all utilities (including power, gas, telephone and cable television) is strongly encouraged in the new subdivisions.

C. Blocks:

1. Block length - in general, intersecting streets, determining block length, shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions shall normally not exceed thirteen hundred and twenty (1,320) feet in length, except where topography or other conditions justify a departure from this maximum. In blocks longer than eight hundred (800) feet, pedestrian ways and/or easements through the block may be required. The width and location of such pedestrian ways shall be subject to No. 2 below and to the approval of the City Engineer or Director of Public Works and the Planning Commission. Blocks for business or industrial use should normally not exceed seven hundred (700) feet in length.

2. Block Width - The width of the block shall normally be sufficient to allow two (2) tiers of lots of appropriate depth,

except in such cases where lots fronting on service roads are necessary for traffic control. Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking and deliveries.

D. Lots:

1. The minimum lot area, width and depth shall not be less than that established by the Williston Zoning Ordinance, except that in those areas in which the public sewer facilities are not likely to be available before development, the Planning Commission may require lot size to accommodate adequate land use density and sewage disposal systems, in conformance to the Comprehensive Plan of Williston and the City Zoning Ordinance.

2. Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as defined in the Williston Zoning Ordinance.

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

4. Double frontage lots shall be avoided except where lots back on an arterial street, or where topographic or other conditions render subdividing otherwise unreasonable. Such double frontage lots shall have an additional depth of at least twenty (20) feet in order to allow space for screen planting along the back lot line if such screening is not otherwise accounted for. The facing of houses away from an arterial street is strongly encouraged if there is an alternative street to face.

5. Every lot must have frontage on a publicly dedicated street other than alley, or in the case of commercial or industrial properties be granted access via a recorded Perpetual Right of Way easement or Reciprocal Easement Agreement. Said public dedicated street or in the case of a commercial or industrial property, an easement, shall be at least thirty (30) feet in width and meet the subdivision regulations and building department requirements as established by the City of Williston. In the case of commercial or industrial properties said easement shall follow the requirements as defined below or as modified by a Development Agreement:

1. for purposes of this ordinance, a Perpetual and/or Reciprocal Easement is defined as a contract that allows multiple parties with specific ownership or interest in said property(ies) to use both the surface and underground rights to the property(ies) for the express mutual benefit of said property(ies);

2. said easements shall provide ingress and egress to owners and their invitees and location of public or private utilities with the property(ies);

3. said easements shall benefit each property owner that such easement crosses or provides benefit;

4. said reciprocal easements shall not be construed as allowing or providing a pass through benefit of access or utilities to property(ies) that are not a contractual party to said easements;

5. said easements shall not confer right to property(ies) that are not a party to the easement;

6. said easements shall grant permission for construction, maintenance and repairs of utilities and surface improvements as needed;

7. said easements shall be subject to all City of Williston subdivision and building regulations regarding site development unless otherwise modified by the Development Agreement;

8. Easement shall run with the land;

9. for new subdivisions, easements shall be specifically noted on the final plat. Perpetual or reciprocal easement agreements must be recorded at the time of final plat recording;

10. access roads within property(ies) that are served by said easements shall be delineated on the street signs as private in nature;

11. all associated agreements dealing with utilities or access to the property(ies) shall identify that such services are via private conveyance and as such are not the responsibility of the City of Williston unless modified by Development Agreement;

12. Maintenance of roads and utilities provided by such easements shall be the responsibility of the benefiting lot owners unless otherwise modified by Development Agreement.

6. Side lot line shall be substantially at right angles or radial to street line

E. Public Sites and Open Spaces

1. In subdividing land or resubdividing an existing plat, due consideration shall be given by the subdivider to the dedication or reservation of suitable sites for schools, parks, playgrounds, conservation areas, or other public or semi-public recreational areas or open spaces. Areas so dedicated or reserved shall conform as nearly as possible to the comprehensive plan, as determined by reasonable discretion of the City Commission upon recommendation of the Planning Commission. All areas to be reserved for or dedicated to public use shall be indicated on the preliminary plat in order that it may be determined when and in what manner such areas will be dedicated to or acquired by the appropriate agency.

2. Residential Subdivisions. The subdivider of any tract of land which is to be developed for residential uses shall dedicate to the public for public use as parks, playgrounds, public open space, or storm water holding areas or ponds, that percentage of the net tract to be subdivided which corresponds with the applicable density of the subdivision in the following schedule:

<u>Density</u>	<u>Percentage</u>
0 to 6 dwelling units per acre	6
7 to 12 dwelling units per acre	7
13 to 20 dwelling units per acre	8
Subdivisions of 3 acre lots or larger shall not have to dedicate for parks or open space.	

If the density of the proposed residential subdivision exceeds twenty (20) dwelling units per acre, the City Commission shall require the dedication of such percentage of the proposed subdivision as it deems reasonable and in the public interest, which percentage shall in no event be less than eight (8%) percent nor more than ten (10%) percent.

3. Commercial, Industrial, and Other Developments: In accordance with the purpose and intent of this subparagraph, the developer of any tract of land for any uses enumerated in this subparagraph shall dedicate to the public for public use as parks, playgrounds, public space, or storm water holding areas or ponds, such portion of the development tract, not to exceed six percent (6%) thereof, as the City Commission deems to be reasonable and in the public interest, taking into consideration the recommendation of the Planning and Zoning Commission, which shall consult with the Park District, the locale of the development tract, its accessibility, serviceability, and zoned use.

4. Dedications of land or cash in lieu of dedication of land for public sites and open space shall be based on the net usable land, that is, the amount of land left after dedication of public streets and alleys, as indicated by the square footage on the preliminary plat.

5. Delineation of Area to be Dedicated. The actual area to be dedicated for public use as parks, playgrounds, public open space, or storm water holding areas or ponds shall be delineated on the preliminary and final plat. Copies of such preliminary plat or site plan shall be referred to the Park Board for its scrutiny and report to the Commission of its findings, conclusions, and recommendation, this referral being in addition to the referral to the Planning Commission.

6. Cash in lieu of dedication: If the Park Board and the City waive a dedication of land under this section, the plat may still be finalized subject to a Park Fee to be assessed at the time the first building permit for each lot is issued. The fee shall be assessed as follows:

- a. The park dedication fee shall be assessed by service unit at the time a building permit is issued. The service unit charge for residential and commercial property per service unit shall be set by resolution of the City Commission after recommendation for the Planning Commission which shall consult the Park Board prior to recommending the fee or any change in such fee.

Service Unit: For the purpose of this ordinance, a service unit will be computed as follows:

- i. ... Residential

1. Minimum charge of one service unit being equivalent to 10,000 square feet of property served
2. Larger lots will be assessed in direct proportion to size. That is, a 12,500 square foot lot will be assessed 1.25 service units up to a maximum of two (2) service units.
3. Multi-family and apartment houses will be assessed as one service unit for each apartment or dwelling.

ii. Commercial

1. Commercial shall be assessed for one (1) service unit per 10,000 square feet of property served.
2. Any lot already developed but not platted is subject to the same formula at the time such lot is platted.

7. Restriction on Use of Cash in Lieu of Dedication. All Cash in Lieu of Dedication received by the City pursuant to Paragraph 6 in this Section 11 shall be placed in a special fund and used only for acquisition of land for parks, playgrounds, public open space, and storm water holding areas or ponds, development of existing park and playground sites, public open space, and storm water holding areas or ponds, and debt retirement in connection with land previously acquired for such public purposes, all within the general location of the subdivision from which the Cash in Lieu of Dedication is received or for any co unity park facilities that would serve the same subdivision.

F. Planned Unit Development:

The subdivision of land in a Planned Unit Development (P.U.D.) shall follow the development agreements as determined by the City Planning Commission and City Commission. Any variance required of this ordinance for the adoption of the P.U.D. shall herein be considered as a part of the approval of the P.U.D.

SECTION 18. SCHEDULE OF FEES

The City Commission shall establish a schedule of fees and a collection procedure to cover the cost of examining plans, advertising and holding public hearings, and other expenses incidental to the approval of a subdivision. The schedule of fees shall be posted in the office of the Subdivision Administrator and may be altered or amended only by the City Commission.

All applicable fees shall be paid in full at the time of application for tentative approval of a preliminary plat. If, because of the failure of the subdivider to submit a final plat within twelve (12) months after receiving tentative approval of the preliminary plat, it will be necessary to re-submit a preliminary plat for tentative approval, the subdivider shall be required to pay a new fee based upon the fee rates in effect at the time of such re-submission.

SECTION 19. VARIANCES

A. General Conditions:

The Planning Commission may recommend a variance from the provisions of this Ordinance when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the Commission shall take into account the nature of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Commission finds:

- I. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land when compared to the reasonable use of land as enjoyed by neighboring land owners.

2. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

3. That the granting of the variance will not be detrimental to the public welfare or injurious to other property or property values in the territory in which said property is situated.

B. Applications Required:

Applications for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration by the Commission, stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the Commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan.

SECTION 20. REQUIRED IMPROVEMENTS

A. Statement of Policy:

1. It is hereby declared to be the policy of the City to require installation of Sanitary Sewer, Storm Sewer, Watermain, Street Grading, and Street Surfacing in all new subdivisions within the City boundaries, and storm sewer, street grading, street surfacing and approved sewage disposal and water systems within the general jurisdiction of this Ordinance.

2. The following improvements shall be installed at the sole expense of the developer:

a. Storm sewers, culverts, storm water inlets, and other drainage facilities will be required where they are necessary to insure adequate storm water drainage for the subdivision. Such drainage facilities shall be constructed in accordance with the standards and specifications for street construction as approved by the City Engineer or Director of Public Works.

b. The full width of the right-of-way shall be graded, including the sub-grade of the areas to be paved, in accordance with standards and specifications for street construction as approved by the City Engineer or Director of Public Works.

c. Sanitary Sewer in the City limits to serve the entire subdivision including service connection, extended to the property line, for each lot or, in areas outside the City, sufficient percolation tests to insure proper function of independent systems.

d. Watermain in the City limits to be provided where the City deems it to be reasonably available to serve the entire subdivision including valves, fire hydrants and service connections (extended to the property line) to serve each lot or, in areas outside the City, adequate insurance that individual water systems will function in the subdivision.

e. Street Identification Signs. Street identification signs of the standard design approved by the City Commission shall be installed at each street intersection.

3. In the case of the improvements set forth below, the developer shall install the same at his own expense or, as an alternative, shall submit a legally sufficient petition for the installation of the same. Such petition must be submitted prior to, or at the time of, the request for final plat approval in accordance with Section 6 of this Ordinance.

a. Street surfacing. All streets shall be improved with surfacing to overall width in accordance with City standards.

b. Street Trees. Street trees shall be planted in residential areas of subdivisions in conformance with City Standards and Specifications for Street Tree Planting as established by the City Forester.

c. Curbs, Gutters and Sidewalks. Curbs, gutters, and sidewalks shall be provided in conformance with the standards and specifications as approved by the City Commission.

B. No final Plat Shall be Approved by the City Unless the Owner or Subdivider:

1.
 - a. Shall have installed survey monuments at all block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat;
 - b. Shall have installed approved iron monuments, at each corner or angle on the outside border, minimum 1/2 inch diameter x 2 feet long;
 - c. Shall have preserved in precise position, all United States, State, County or other official benchmarks, monuments or triangulations, stations in or adjacent to the property, all as required by the City Engineer or Director of Public Works;
2.
 - a. Shall have furnished a cash deposit or corporate surety bond conditioned that the applicant will faithfully perform all requirements by him undertaken with reference to the proposed plat and will install all required improvements;
 - b. Shall have approved plans and specifications as listed below:

C. Plans and Specifications:

A developer or subdivider shall have the option of developing his subdivision under option 1 or 2 below, except that a subdivision outside of the corporate City limits shall be required to follow option 2 only.

1. City Development Option.

Plans and specifications for the construction of required improvements shall be prepared by a registered and licensed engineer or subject to his approval. All construction shall be in accordance with such plans and specifications and subject to the City Engineer's or Director of Public Works' inspection and approval. Required bond amounts shall be determined by the City Engineer or Director of Public Works.

- b. Upon completion of all improvements ordered to be made in the subdivision, the City Commission shall direct that the assessable cost thereof be levied less any portion of the cost contributed or paid by the owner or subdivider, and after required hearing, the City Commission will proceed as provided by law to levy said assessed costs.

2. Private Development Option.

- a. Before a final plat is approved by the City, the owner and subdivider of the land covered by the said plat shall execute and submit to the City an agreement, which shall be binding on his or their heirs, personal representatives and assigns, that he will cause no private construction to be made on said plat or file or cause to be filed any application for building permits for such construction until all improvements required under this Ordinance have been made or arranged for in the manner following, as respects the streets to which the lots sought to be constructed have access.

- b. Prior to the making of such required improvements, the owner or subdivider shall deposit with the City an amount equal to one (1) and one-half (~) times the City Engineer's or Director of Public Works' estimated cost of such improvements, either in cash or an indemnity bond, with sureties satisfactory to the City conditioned upon the payment of all construction costs incurred in making of such improvements and all expense incurred by the City for engineering and legal fees and other expense in connection with the making of such improvements.

- c. The subdivider shall submit with the final plat or at the time of completion of improvements, if bonded, a certificate of completion of improvements, if bonded, a certificate of completion of construction of required improvements. Such certificates shall be prepared by a registered engineer and shall include a statement of the inspection and approval of the same by the City Engineer. Drawings showing all improvements built shall be filed with the City.

D. Building Permit:

No building permit shall be issued for the construction of any building, structure or improvement on any land required to be subdivided by these Regulations until all requirements of these Regulations have been fully complied with.

E. No final plat shall be approved by the City Commission on land subject to flooding or containing poor drainage facilities and on land which would make adequate drainage of the streets and lots impossible. However, if the subdivider agrees to make improvements which will, in the opinion of the City Engineer, make the area completely safe for occupancy, and provide adequate street and lot drainage, the final plat of the subdivision may be approved.

F. All of the required improvements to be installed under the provisions of this ordinance shall be inspected during the course of their construction by the City Engineer or Director of Public Works. All of the inspection costs pursuant thereto shall be paid by the owner or subdivider in the prescribed manner. All required improvements shall be installed by the developer at no cost to the City.

SECTION 21. ENFORCEMENT:

A. Validity:

I. No plat or subdivision of the City of Williston or within the extra territorial limits thereof shall be recorded or filed with the Williams County Register of Deeds, nor shall any plat or subdivision have any validity until it complies with the provision of this ordinance and has been approved by the City Commission and the applicable Planning Commissions, as prescribed herein.

B. Building Permits:

I. Not more than one building permit shall be issued for each separate tract existing at the effective date of these regulations unless the tract shall have been platted in accordance with the provisions of these regulations.

C. City Funds Expended:

I. No public improvements over which the City Commission has control shall be made with the City funds, nor shall any City funds be expended for street maintenance, street improvements, or other services in any area that has been subdivided after the date of the adoption of these regulations unless such subdivision and streets have been approved in accordance with the provisions of this ordinance and the street accepted by the City Commission as a public street.

SECTION 22. PENALTY:

Any owner, or the agent of any owner, of land located within a subdivision who transfers, sells, agrees to sell, 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 Commission and governing body and recorded as approved in the office of the appropriate Register of Deeds, shall forfeit and pay a penalty as provided by Section 40-48-23 of the North Dakota Century Code. (One Hundred Dollars (\$100.00) 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 civil action.

SECTION 23. AMENDMENTS:

Changes in these regulations, as amendments, may be adopted by the City Commission after a public hearing on any such change with ten (10) day notice thereof. Each proposed change shall be submitted to the Planning Commission for a report thereon. Failure to report within thirty (30) days shall be deemed to be approval, unless an extension of time is agreed to by both parties.

SECTION 24. REPEAL OF CONFLICTING ORDINANCES AND REGULATIONS:

I. From and after these regulations take effect, all regulations, ordinances and part of the City of Williston and the City Planning Commission in conflict herewith are hereby repealed.

SECTION 25. VALIDITY:

If any section, subsection, sentence, clause or phrase of this ordinance be declared unconstitutional or void, such decision shall not affect the validity of this ordinance as a whole or any part thereof, other than the part so declared invalid.

SECTION 26. EFFECTIVE DATE:

This ordinance shall be in effect from and after its adoption and publication as required by law.

Commissioner Cymbaluk moved the adoption of the foregoing Ordinance. The Motion was seconded by Commissioner Brostuen. On roll call vote of the Commissioners vote "AYE": Cymbaluk, Brostuen, Bekkedahl, Piesik, and Klug; and the following Commissioners vote "NAY": None. Absent and not voting: None.

WHEREUPON, the Motion was passed and the Ordinance declared **adopted this 26th day of June, 2018.**

Howard Klug, President
Board of City Commissioners

ATTEST:

John Kautzman, City Auditor

First Reading: June 12, 2018
Second Reading: June 26, 2018
Publish: July 3, 2018