

Burke County Subdivision Ordinance

ARTICLE 1 – INTRODUCTION

Section 1. TITLE

This Ordinance shall be known and may be cited and referred to as the "Burke County Subdivision Ordinance."

Section 2. PURPOSE

The purpose of this Ordinance is to promote the health, safety, morals, and general welfare of Burke County and its residents. It is further the purpose of this Ordinance to facilitate the orderly and efficient development of the County in a manner which is consistent with its Comprehensive Plan.

Section 3. STATUTORY AUTHORITY

This Ordinance is adopted pursuant to the authority granted by Chapter 11-33.2 of the North Dakota Century Code.

Section 4. SEVERABILITY

If any section, provision, or portion of this Ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

ARTICLE 2 – GENERAL PROVISIONS

Section 1. JURISDICTION

This Ordinance shall apply to all areas within the civil boundaries of Burke County, North Dakota; with the exception of those areas within the civil boundaries and extraterritorial zoning boundaries of organized cities in Burke County. Those areas that are within the civil boundaries and extraterritorial boundaries of an organized city will retain the opportunity to exercise their own subdivision authority.

Section 2. APPLICABILITY

This Ordinance applies to any person, partnership, corporation, or limited liability company who or which being the owner or agent of any lot, tract, or parcel of land shall lay out, construct, open, or dedicate any street, sanitary sewer, storm sewer, water main, or other improvements for public use, travel or other purposes or for the common use of occupants of buildings abutting thereon, or who sells, transfers or agrees or enters into an agreement to sell any land in a subdivision whether by reference to or by other use of a plat of such subdivision or erect any building thereon.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies therein provided.

A county auditor's plat made pursuant to North Dakota Century Code 57-02-39 is for taxation purposes for convenience of tax officials in describing property on tax rolls and does not confer rights in or Transfer title to land. Therefore, this "platting" of Auditor's Lots is not "platting" pursuant to this Ordinance. Thus, an Auditor's Lot is not approved by the County for sale or development.

For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or vacates any portion of said plat, such parcel shall follow the same procedures, rules and regulations as an original subdivision plat. When necessary, when any change in a map of a subdivision plat affects any street layout shown, in

conjunction with the process identified in this Ordinance, the appropriate provisions of Chapter 24-07 of the North Dakota Century Code shall be followed.

Before any subdivision plat shall be recorded or be of any validity, it shall be approved by the Burke County Board of County Commissioners as having made appropriate provisions for the public health, safety and general welfare and for such open spaces, drainage ways, streets, parks, playgrounds sites for schools and school grounds and that the public use and interest will be served by the platting of said subdivision and that the proposed plat complies with this Ordinance.

Section 3. ADMINISTRATION

The Planning and Zoning Commission shall approve, approve conditionally, or deny all subdivision plats and shall make recommendations for all subdivision plats in Burke County's jurisdiction to the Burke Board of County Commissioners. The Planning and Zoning Commission shall adopt rules and by-laws to govern its membership, membership terms, meetings and officers not inconsistent with this Ordinance and the North Dakota Century Code.

The Board of County Commissioners shall grant final approval of all subdivision plats as provided in the North Dakota Century Code and this Ordinance. It shall further serve as the Board of Review for appeals on any matter on which it is allowed by law. The Board of County Commissioners shall also hear and adopt Comprehensive Plan amendments and Subdivision Regulation amendments in accordance with this Ordinance and the North Dakota Century Code.

The Burke Planning & Zoning Coordinator shall serve as the administrative officer of the Planning and Zoning Commission.

This Ordinance shall be construed and applied to the extent that it does not conflict with the provisions of Section 11-33.2-12 of the North Dakota Century Code.

Section 4. DEFINITIONS

For the purpose of this Ordinance the following definitions have the meaning given them solely for the purposes of implementation of this Ordinance:

Applicant – The owner, owners' agent or person having legal control, ownership and/or interest in land for which the provisions of this Ordinance are being considered or reviewed.

Block - An area of land within a subdivision which is entirely bounded by streets or by a combination of streets, railroad right-of-way, or public parks, the exterior boundary or boundaries of the subdivision, or the shoreline of the above with a lake, stream, or river.

Buffer Yard – A strip of land utilized to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights, or other impacts.

Buildable Land – Land having a size and configuration capable of supporting principal and accessory buildings, with an approved domestic waste water treatment system and potable water system.

Building - Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind.

Building Line - A line parallel to the street right-of-way line at its closest point to any story level of a building and representing the minimum distance which all or part of the building is set back from said right-of-way line.

Certificate of Survey – A land survey prepared by a land surveyor registered in the State of North Dakota with a certification that the information on the land survey is accurate.

Common Open Space - Any open space including parks, nature areas, playgrounds, trails and recreational buildings and structures owned in common by a group of property owners.

Conveyance System – Any path, including but not limited to, ditches, streams, overland flow channels, and storm sewer systems, traveled by water as it passes through the watershed.

County Engineer - The County Engineer or an engineer employed by the County.

County Commission - The Burke County Board of County Commissioners.

Cul-de-sac - (See Street).

Developer - A person who submits an application for the purpose of land subdivision as defined herein. The developer may be the owner or authorized agent of the owner of the land to be subdivided.

Easement - The right to use the land of another owner for a specified use. An easement may be granted for the purpose of constructing and maintaining walkways, roadways, individual sewage treatment systems, utilities, drainage, driveway, or other uses.

Farm Dwelling - A single family dwelling or manufactured home which is occupied by a farmer.

Farmer - Any individual who normally devotes the major portion of his/her time to the activities of producing products of the soil, poultry, livestock or dairy farming and such products; who normally receives not less than fifty (50) percent of his/her annual net income from any one or more of the foregoing activities (as defined in North Dakota Century Code 57-02); and the term also includes an individual who is retired because of illness or age and who at the time of retirement owned or occupied as a farmer, as above defined the residence in which he/she lives and is exempt from taxation pursuant to the laws of North Dakota.

Filter Strip – A linear strip of land along a lake, wetland, river, creek, or stormwater ponding area where vegetation is established and maintain as a means to slow the velocity of stormwater drainage and to filter sediment and pollutants from the stormwater.

Financial Guarantee – A financial security consistent with Article 5 - Section 6 of this Ordinance, posted with the County with the approval of a plat, guaranteeing compliance with the approved plat, construction plans, and conditions of approval set forth by the Township and/or County.

Floodplain Related:

1. Flood - A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

Minimum Subdivision Design Standards - The guides, principles and specifications for the preparation of subdivision plans indicating among other things, the minimum and maximum dimensions of the various elements set forth in the plat.

Outlot - A parcel of land shown on a subdivision plat as an outlot, and designated numerically, (for example - Outlot 1.) Outlots are used to designate one of the following: land that is part of the subdivision but is to be subdivided into lots and blocks at a later date; land that is to be used for a specific purpose as designated in a developer's agreement or other agreement between the County and the developer; or for a public purpose and for which no building permit shall be issued.

Owner - Any individual, firm, association, partnership, corporation, trust or any other legal entity having proprietary interest in the land.

Plat - The final map or drawing on which the developer's plan or subdivision is presented to the County Board for approval and which, if approved, will be submitted to the Office of the County Recorder for filing.

Protective Covenant - A restriction of the use placed upon the property by a present or former owner and recorded in the Office of the County Recorder. The County will not be responsible to enforce private protective covenants.

Registered Land Survey - A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of Registered Land Survey Number.

Registered Land Surveyor - A land surveyor licensed and registered in the State of North Dakota.

Resubdivision - A change in an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved for public use, or any lot line or if it affects any map, or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

Right-of-Way - A strip of land occupied or intended to be occupied by a street, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term right-of-way for land platting purposes shall mean that every right-of-way hereafter established and shown on a plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Right-of-way intended for streets, water main, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the recording of the plat on which such right-of-way is established.

Road Right-of-Way Width - The horizontal distance between the outside edges of a road right-of-way.

Setback - The minimum horizontal distance between a structure, individual sewage treatment system, road, highway, property line, or other facility.

Street - A right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, court, way, trail or however otherwise designated. Private, ingress and egress easements shall not be considered streets.

Principal Arterial - Streets which include all interstate freeways and other roadways which provides for the longest trips. The emphasis is on mobility rather than land access.

Minor Arterial - A street system which serves medium to short trips and provides access to the principal arterial. They interconnect concentrations of commercial or industrial land uses and connect cities and towns of the region to each other and to similar places outside the region. The emphasis is still on mobility rather than land access.

Collector - A street which provides connection between neighborhoods and from neighborhoods to minor business concentrations. Mobility and land access are equally important.

Local - Those that remain, serving the shortest trips and providing access to adjacent property.

Cul-De-Sac - A local street having one end open to traffic and the other end permanently terminated by a vehicular turn-around.

Service or Frontage - A local street which is parallel and adjacent to a highway or an arterial street and which provides access to abutting properties and protection from through traffic.

Street Width - The width of the improved surface of the street as measured at right angles or radially to the centerline of the street from curb face to curb face, or on a street without curbs from the outside edge of the improved shoulder to outside edge of improved shoulder.

Subdivision - The division of a lot, tract, or parcel of land, creating one or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or of building development.

Subdivision, Standard - The division of a lot, tract, or parcel of land, creating one or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or of building development in accordance with the provisions of this Ordinance.

Subdivision, Simple - The division of an existing lot, tract, or parcel of land (which was not created as a simple subdivision) into not more than two lots, tracts or parcels of land where the division of land does not create any new streets or easement of access.

Zoning Ordinance - The Burke County Zoning Ordinance, as may be amended.

ARTICLE 3 – PLATTING PROCEDURES

Section 1. PLATTING REQUIRED.

1. All subdivisions of land resulting in lots less than fifteen (15) acres shall be regulated by this Ordinance and shall be platted in accordance with the procedures and requirements of Articles 3 and 4 of this Ordinance, with the exception of those subdivisions of land specifically provided for in Article 3 – Section 1 (3).

2. Whenever any subdivision of land is proposed, regardless of whether the land has been previously subdivided; before any contract is made for the sale of any part thereof; and before any permit for the erection of a structure on such proposed subdivision shall be granted; the subdividing owner or his authorized agent shall receive final approval and meet the requirements of this Ordinance.

3. Subdivision requests which have a farm dwelling located on the parcel proposed to be platted, where the proposed lot parcel is smaller than fifteen (15) acres, shall be provided a one-time exemption from the requirements of this Ordinance. The administrative procedures for a single lot simple subdivision shall still apply.

Section 2. PREMATURE SUBDIVISIONS.

Any plat and/or development deemed premature pursuant to the criteria listed below shall be denied by the County Commission. A subdivision may be deemed premature should any of the provisions which follow exist:

1. Lack of Adequate Drainage. A condition of inadequate drainage shall be deemed to exist if:

a. Surface or subsurface water retention and runoff is such that it constitutes a hazard resulting in flooding, loss of life, property damage, or other losses.

b. The proposed subdivision will cause pollution of water bodies or damage to other natural resources.

c. The proposed site grading and development will cause damage from erosion, sedimentation, or slope instability.

d. The proposed subdivision fails to comply with the storm water management requirements of Burke County.

e. Factors to be considered in making these determinations may include:

average rainfall for the area; area drainage patterns; the relationship of the land to floodplains; the nature of soils and sub-soils and their ability to adequately support surface water runoff and waste disposal systems; and the slope and stability of the land.

2. Lack of Adequate Potable Water Supply. A proposed subdivision shall be deemed to lack an adequate potable water supply if the proposed subdivision does not have adequate sources of water to serve the proposed subdivision if developed to its maximum permissible density without causing an unreasonable depreciation of existing water supplies for surrounding areas.

3. Lack of Adequate Roads or Highways to Serve the Subdivision. A proposed subdivision shall be deemed to lack adequate roads or highways to serve the subdivision when:

a. County or local roads which serve the proposed subdivision are of such a width, grade, stability, vertical and horizontal alignment, site distance and paved surface condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare, or seriously aggravate an already hazardous condition, and when said roads are inadequate for the intended use.

b. The traffic generated by the proposed subdivision would create or contribute to unsafe conditions on highways existing at the time of the application.

4. Lack of Adequate Waste Disposal Systems. A proposed subdivision shall be deemed to lack adequate waste disposal systems if there is inadequate on-site sewer capacity potential to support the subdivision if developed to the maximum permissible density indicated in the Burke County Land Use Plan.

5. Inconsistency with Land Use Plan. A proposed subdivision shall be deemed inconsistent with the Burke County Land Use Plan when the subdivision is inconsistent with the purposes, objectives and/or recommendations of the adopted Land Use Plan of Burke County, as may be amended.

Section 3. BURDEN OF EVIDENCE

The burden shall be upon the applicant to show evidence that the proposed subdivision or development is not premature.

Section 4. SIMPLE SUBDIVISION PROCEDURE

1. Pre-application Meeting. Prior to submittal of a plat application, the property owner may submit a sketch plan and meet with Planning Staff to discuss the subdivision application in order to better understand procedures and requirements of the platting process.

2. The person applying for plat approval shall submit to the Planning & Zoning Coordinator a complete application which may include a graphic and written description of the information requirements outlined in this Ordinance. Applications must be accompanied by a fee and processing escrow established by the County Commission. The plat application shall be considered to be officially filed when the Planning & Zoning Coordinator has received and examined the application and has determined that the application is complete.

3. A certificate of survey may be considered as a substitution for a plat drawing for recording purposes if it has the required plat information as identified in this Ordinance, and it is recommended by the Planning & Zoning Coordinator.

4. The proposed simple subdivision plat is not required to be reviewed and approved by the Planning Commission, or to have a public hearing. However, the completed application and proposed plat shall be reviewed, modified as requested, and approved by the Planning & Zoning Coordinator, the relevant Township Board, an appointed member of the Board of County Commissioners, the Tax Equalization Director, the State's Attorney, the County Auditor, and when found by each to be appropriately prepared, finally reviewed by the County Recorder (to verify appropriateness for recording purposes). Then the proposed simple subdivision shall be reviewed and approved by the Burke County Board of County Commissioners.

5. With the exception of those subdivisions of land specifically provided for in Article 3 – Section 1 (3), a simple subdivision procedure cannot be used to subdivide a lot or lots unless all of the following are true:

- a. No more than two lots will be created exclusive of the larger parcel being subdivided
- b. The proposed plat is not adjacent to previously platted property
- c. The parcel(s) being subdivided were not which were created via the simple subdivision procedures of this Ordinance.

6. Any action of the Burke County Board of County Commissioners pertaining to a simple subdivision application shall not take place until receipt of approval from the relevant Board of Township Supervisors or the passage of 60 days from the date of notification to the township, whichever occurs first, pursuant to North Dakota Century Code 11-33.2-12(2).

Section 5. STANDARD SUBDIVISION PROCEDURE

1. Pre-application Meeting. Prior to submittal of a plat application, the property owner may submit a sketch plan and meet with Planning Staff to discuss the subdivision application in order to better understand procedures and requirements of the platting process.

2. The person applying for plat approval shall submit to the Planning & Zoning Coordinator a complete application and all other information required no later than three (3) weeks prior to a regularly

scheduled Planning and Zoning Commission meeting. The application shall address the informational requirements and issues identified through the pre-application meeting. The plat application shall be considered to be officially filed when the Planning & Zoning Coordinator has received and examined the application and has determined that the application is complete.

3. A complete plat application shall include:

a. A graphic and written description of the information requirements outlined in this Ordinance.
b. Supporting information described by the Planning & Zoning Coordinator during the pre-application meeting. The Planning & Zoning Coordinator may request the applicant to provide documentation that describes the subdivision's potential effects or impacts on public facilities, utilities and services including, but not limited, to:

- (1) Streets.
- (2) Law enforcement.
- (3) Ambulance/emergency services.
- (4) Fire protection.
- (5) County/Township administration.
- (6) Schools.
- (7) Utilities.

c. Applications must be accompanied by a fee and processing escrow established by the County Commission.

4. The Planning & Zoning Coordinator shall refer copies of the plat to the Township Board and other staff, committees, consultants, or agencies as appropriate.

5. The application shall be reviewed by Township Board. A written recommendation for application approval or denial from the Township Board may be forwarded to the Planning & Zoning Coordinator. The Township recommendations received by the Planning & Zoning Coordinator will be forwarded to the Planning and Zoning Commission for their consideration of the application at a public hearing.

6. The Planning & Zoning Coordinator shall refer the application to the Burke County Planning and Zoning Commission for consideration.

7. A public hearing on the application shall be held by the Planning and Zoning Commission. Notice of the time, place, and purpose of the hearing shall be published once each week for two consecutive weeks in the official newspaper of the county. In unincorporated areas, the property owners of record within one-half (1/2) mile of the subject property shall be notified in writing of the plat application. Where the subject site adjoins an incorporated area, the County shall mail written notification of the application to property owners within the incorporated area located within two hundred (200) feet of the subject site. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply has been made.

8. The applicant, or his agent, shall appear before the Planning and Zoning Commission in order to answer questions concerning the proposed plat.

9. The Planning and Zoning Commission and Planning & Zoning Coordinator shall have the authority to request additional information from the applicant concerning a plat. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.

Failure of the applicant to supply all necessary supportive information may be grounds for denial of the request.

10. The recommendations of the Planning and Zoning Commission shall be forwarded to the County Commission for consideration.

11. The County Board shall take action on the application with a motion of approval or denial in a reasonable timeframe, but in no case prior to receipt of approval from the relevant Board of Township Supervisors or the passage of 60 days from the date of notification to the township, whichever occurs first, pursuant to North Dakota Century Code 11-33.2-12(2).

12. The applicant or his agent shall be notified orally or by mail of the decision of the Board of County Commissioners.

13. After a plat suitable for recording has been approved by the Board of County Commissioners, it shall be filed for recording with the Office of the Burke County Recorder within ninety (90) days after approval. One (1) copy shall be filed with the Planning & Zoning Coordinator.

14. No Building Permit shall be issued until the plat is recorded at the Recorder's Office.

Section 6. RECORDING

If the plat is approved by the County Commission, the developer shall record the plat within the Office of the County Recorder within ninety (90) days after the date of approval, otherwise the approval of the plat shall be considered void.

Section 7. SECURITY/FEEES

The Board of County Commissioners shall establish fees and charges as it deems appropriate for applications and plat review, and other procedures as may be needed for the administration of this Ordinance. Prior to recording of any plat, all fees and charges shall be paid in full covering the costs of the County related to the approved plat.

Section 8. RECORD PLANS

The developer shall submit for review and approval all proposals to change the original plans regarding road construction, drainage, and stormwater management. The developer must obtain written approval by the Township Board and the County prior to changes to the plans. The developer shall submit one (1) set of record plans indicating all changes in the work, including accurate as-built locations, dimensions, elevations, grades, slopes and all other pertinent information concerning the completed work.

ARTICLE 4 – PLATTING STANDARDS AND OTHER REQUIREMENTS

Section 1. FORM AND CONTENT

The plat shall be of the form and content that shall conform to the requirements of this Ordinance as well as the provisions of Chapters 11-33.2 and 40-50.1 of the North Dakota Century Code.

Section 2. INFORMATION REQUIRED FOR PLATTING

When an owner or developer chooses to file an application for plat approval, it shall be filed with the Planning & Zoning Coordinator. The platting stage is the point in the process that all information pertinent

to the proposed development is furnished by the developer for review by County staff, the Township Board, the Planning and Zoning Commission, any other applicable agencies, and the public. The information provides a basis for approval or denial of the application. The information submitted in the application shall address both existing conditions and changes that will occur during and after development. The plat is a plan of how property will be subdivided and developed. Additional information or modifications may be required by County staff, Township Board, the Planning and Zoning Commission and additional information may be requested during the review process. In certain cases some information required by these standards may not be appropriate or may need to be modified in order to provide an adequate basis for making a decision. The detail of information required for a one lot plat shall be determined by the Planning & Zoning Coordinator.

Section 3. GENERAL INFORMATION REQUIRED

1. Proposed subdivision shall not have a name which duplicates or too closely approximates the name of any plat or existing subdivision heretofore recorded in Burke County.
2. Date of application, name, address, and phone number of the owner, developer, engineer, surveyor, or other principal involved in the development of the plat.
3. Proof of ownership or legal interest in the property in order to make application.
4. Existing zoning or any zoning changes needed, or reference to any zoning or similar land use actions that have already occurred that are pertinent to the proposed development.
5. Total acreage of the land to be subdivided.
6. Boundary line survey and legal description.
7. Three (3) paper copies of the plat and supporting documents, plus any additional copies deemed necessary by the Planning & Zoning Coordinator, plus one (1) reproducible copy reduced to 11" x 17" along with one (1) copy of plat and all related engineering plans in a digital format that is compatible with County requirements. A paper copy of the plat and supporting documents, plus any additional copies deemed necessary by the Planning & Zoning Coordinator.
8. North arrow and scale of one to two hundred (1/200) to one to fifty (1/50) depending upon the size of the plat and the detail of the information to be shown.
9. Vicinity Map must be included on the plat.
10. Proposed street names.
11. Location by Section, Township, Range, County and State shall be stated on the plat.
12. Any additional information as requested by the Planning & Zoning Coordinator.

Section 4. EXISTING FEATURES TO BE SHOWN

1. Existing property lines and property lines extending two hundred (200) feet from the exterior boundaries of the parcel to be subdivided, including the names of the adjacent property owners shall be indicated.
2. Existing roads, both public and private, showing width of road, type of construction, and any associated easements.
3. Any and all existing public and private easements including the purpose or type of the easement.
4. Location and size of all existing and abandoned drainage, stormwater, and agricultural tiles; individual sewage treatment systems, wells, and utilities, including poles located on the property and to a distance of two hundred (200) feet beyond the property.
5. Permanent buildings or other substantial land uses located on the property and to a distance of two hundred (200) feet beyond the property.
6. Waterways, watercourses, wetlands, and one hundred (100) year flood elevations, as designated by the State Water Commission or Flood Insurance Rate Maps (FIRM), shall be so designated on the plat and

the mean sea level of the one hundred (100) year flood, if available, shall be denoted on the plat to datum as referenced on FIRM map.

Section 5. PROPOSED FEATURES TO BE SHOWN

1. Proposed lot lines, dimensions, and the gross soil acreage of all lots.
2. Proposed uses, stormwater retention areas, and areas of common ownership.
3. Location, grade, and width of proposed streets and provision for extending streets to serve adjacent areas. Access and street classifications shall be consistent with the Burke County Land Use Plan.
4. Proposed easements for drainage, flood protection, and protection of wetlands, including stormwater retention areas and easements for the installation of utilities.

Section 6. ADDITIONAL REQUIRED INFORMATION

1. Documents outlining the content of proposed conservation easements, restrictive covenants, deed restrictions, and establishment of homeowners' associations for review.
2. Elevation contour information may be required by the Planning and Zoning Commission or the Planning & Zoning Coordinator.
3. Proposed title declarations for residential lots adjoining potential future development open spaces notifying the prospective homeowner of the intent to have the open space develop in the future.
4. One (1) copy of the developer's agreement, including signature lines for the Developer and the County.
5. In replats, 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.
6. Any additional information as requested by the Planning & Zoning Coordinator.

Section 7. LOT STANDARDS

1. Area. The minimum lot area, width and depth shall not be less than that established by the Burke County Zoning Ordinance in effect at the time of adoption of the plat.
2. Corner Lots. Corner lots for residential use shall have additional width to permit appropriate building setback from both streets as required in the Burke County Zoning Ordinance.
3. Side Lot Lines. Side lines of lots shall be approximately at right angles to street lines or radial to curved street lines.
4. Width. Every lot must have the minimum width measured at the front yard setback extending to the location of the principal building.
5. Setback Lines. Setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the Burke County Zoning Ordinance, as may be amended.
6. Lot Remnants. All remnants of lots below minimum lot size left over after subdividing of a larger tract must be added to adjacent lots.
7. Political Boundaries. No singular plat shall extend over a political boundary or school district line without document notification to the affected units of government.
8. Frontage on Two Streets. Double frontage, or lots with frontage on two (2) parallel streets shall not be permitted except where lots back on major collector or arterial streets, County or State highways, or where topographic or other conditions render subdividing otherwise unreasonable.
9. Irregular Shaped Lots. On single family residential lots determined to be irregular in shape (e.g., triangular), the developer shall demonstrate to the County an ability to properly place principal buildings and accessory structures upon the site which are compatible in size and character to the surrounding area.
10. Outlots. Outlots may be platted within a subdivision to delineate commonly owned open spaces. The outlot shall be sized in a manner to accommodate its intended use. No building permits shall be issued for an outlot.

Section 8. STREET STANDARDS

1. Streets, Continuous. Except for cul-de-sacs, streets shall connect with streets already dedicated in adjoining or adjacent subdivisions, or provide for future connections to adjoining unsubdivided tracts, or shall be a reasonable projection of streets in the nearest subdivided tracts. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.
2. Temporary Cul-de-Sac. In those instances where a street is terminated pending future extension in conjunction with future subdivision and more than four hundred (400) feet between the dead-end and the nearest intersection, a temporary turn around facility shall be provided at the closed end, in conformance with cul-de-sac requirements. This temporary cul-de-sac must be placed inside a temporary roadway easement if it is located outside street right-of-way. Financial guarantee will be required for removal or restoration as determined by the County Engineer.
3. Provisions for Resubdivision of Large Lots and Parcels. 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.
4. Street Intersections. 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. Under normal conditions, the minimum angle of intersection of streets shall be eighty (80) degrees. Street intersection jogs with an offset of less than three hundred (300) feet shall be avoided.
5. Subdivisions Abutting Major Rights-of-Way. Wherever the proposed subdivision contains or is adjacent to the right-of-way of a U.S. or State highway, or a County arterial or collector road, provisions may be made for a local street. The design shall include proper circulation, setbacks from an intersection on the major rights-of-way, minimum distance required for approach connections to future grade separations, and for lot depths.
6. Cul-de-Sacs/Dead-End Streets.
 - a. Dead-end streets (temporary or permanent) without cul-de-sac turn arounds shall be prohibited.
 - b. Permanent cul-de-sacs shall only be allowed in cases where proper interconnectivity of local streets will be provided or where topography or environmental constraints preclude interconnection of local streets.
 - c. Minimum outside roadway diameter of any cul-de-sac or turn-around shall be sixty (60) feet with a right-of-way diameter of one hundred forty (140) feet.
7. All roads within the subdivision shall be centered on the roadway right-of-way and be a minimum of twenty (20) feet wide. Minimum top of roadway elevation shall be three (3) feet above original ground line with side slopes of 3:1 unless otherwise approved by the County Engineer. Roadbed shall be excavated to clay and road constructed from clay packed with a pneumatic roller and topped with a minimum of five (5) inches of Class 13 gravel. Ditch bottoms shall be three (3) feet in width and have positive drainage to an adequate outlet.
8. The plat shall show all accesses off public roads or highways including the size of culverts to be used. Where access is off a State Highway, written approval for the access, including culvert size, from the North Dakota Department of Transportation shall be submitted with the plat. Where access is off a County or Township Road, written approval from the County Water Resource Board or County Highway Department as to culvert size for all private drives as well as the public access shall be submitted with the plat. Access spacing from a County or Township road shall be consistent with the standards set forth in the Burke County Zoning Ordinance and Land Use Plan.

Section 9. EASEMENTS

1. Drainage and utility easements shall be required over any stormwater management facilities, natural drainageways, and wetlands. The size and location of the necessary easements shall be reviewed and approved by the Planning & Zoning Coordinator.
2. In all Zoning Districts, except Agricultural Districts, any subdivision shall provide easements for utilities and drainage at least ten (10) feet wide along lot lines. If necessary for the extension of utilities, easements of greater width may be required along lot lines or across lots.
3. Minimum right-of-way or easement width for a private roadway within the subdivision shall be sixty-six (66) feet.
4. Easements and right-of-way, when approved, shall not hereafter be changed without the approval of the Board of County Commissioners upon the recommendation of the Planning and Zoning Commission.

Section 10. STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

All subdivisions shall comply with storm water management standards of Burke County.

ARTICLE 5 – IMPROVEMENTS

Section 1. DEVELOPER RESPONSIBILITY

All required improvements shall be installed and furnished by the developer, including all costs of inspection by the County, at the sole expense of the developer and at no expense to the County. If any improvement installed within the boundaries of the subdivision is determined to be of substantial benefit to lands beyond the boundaries of the subdivision, the County may make provisions for causing a portion of the cost of the improvement, representing the benefit to such lands, to be assessed against the same and, in such case, the developer will be required to pay only for such portion of the whole cost of said improvements that represents the benefit to the property within the subdivision.

Section 2. STANDARDS AND REQUIREMENTS

Engineering requirements, standards for plans, the required improvements, and the standards for design and installation shall conform to such standards and specifications as adopted by the County and any additional or more restrictive standards as may be determined by the County during the plat review and approval process.

Section 3. STREET IMPROVEMENTS

1. Roads within the subdivision shall be constructed prior to development and inspected during construction and approved by someone appointed by the Planning and Zoning Commission or the Board of County Commissioners. Building Permits shall not be issued until such roads are approved.
2. All roads within the subdivision shall have either Yield or Stop signs that comply with the "Manual on Uniform Traffic Control Devices" at their intersection with a state, county or township road.
3. Culverts deemed necessary shall be installed under all roads within the subdivision. Unless otherwise approved by the Board of County Commissioners at the recommendation of the County Engineer, culvert sizes shall be as follows:
 - a. size shall match the larger of upstream or downstream culvert with a minimum diameter of twenty-four (24) inches
 - b. culverts under driveways shall be a minimum diameter of twenty-four (24) inches
 - c. all culverts shall be constructed of new riveted corrugated metal pipe with aprons

Section 4. SANITARY SEWER AND WATER DISTRIBUTION IMPROVEMENTS

1. All sewage and water systems shall conform to the provisions of this Subdivision Ordinance and the State and County Health Departments. Soil analysis and percolation tests shall be performed to determine

the type of septic system to be used. No building permit shall be issued until percolation tests have been performed.

2. All unsafe wells and/or abandoned wells within and in the immediate vicinity of the subdivision shall be closed and capped.

Section 5. DEVELOPER'S AGREEMENT

Prior to installation of any required improvements and prior to the plat being recorded, the developer shall enter into an agreement in writing with the County requiring the developer to furnish and construct said improvements at his sole cost and in accordance with plans and specifications and usual agreement conditions and/or pay appropriate costs for improvements or other costs associated with the plat. Further, the agreement shall provide for the development of any restrictions, covenants, easements, signage, park, or other conditions of the approved plat and provide for the proper execution, recording or other action required. Approval of the developer's agreement shall be part of plat approval by the County Commission.

1. The developer's agreement shall include provisions for the supervision of the details of construction by the Planning & Zoning Coordinator or his agent.
2. The developer's agreement shall require the developer to provide a financial guarantee to ensure completion of all improvements as provided in Article 5 of this Ordinance.
3. The time for completion of the work, and the several parts thereof, shall be determined by the County upon recommendation of the Planning & Zoning Coordinator after consultation with the developer and shall be reasonable in relation to the work to be done, the seasons of the year, and proper coordination with construction activity in the subdivision.
4. One (1) copy of the developer agreement which was signed by the applicant and the County shall be submitted to the Planning & Zoning Coordinator at the time the plat is recorded.

Section 6. FORM OF DEVELOPER'S AGREEMENT

The developer's agreement provided in Article 5 – Section 5 requires the developer to provide a financial guarantee. The County shall determine the appropriate type of financial guarantee which shall take one of the following forms.

1. Letter of Credit. The developer may furnish the County with a letter of credit from a financial institution providing authorization and guarantee that the County may draw on the developer's account, amounts not to exceed the required financial guarantee. The required financial guarantee shall be the sum equal to the total cost as estimated by the Planning & Zoning Coordinator, of all of the improvements to be furnished and installed by the developer pursuant to the agreement and which have not been completed prior to the approval of the plat. For road improvements the amount of \$50,000 per one half (1/2) mile of road shown on the plat shall be provided to insure the proper construction. The letter of credit shall be irrevocable, and shall provide for thirty (30) days' notice to the County and approval of any change, amendment, or termination. The letter of credit shall be accepted as a financial guarantee only after review and approval by the States Attorney.
2. Bond. When roads or other improvements within the subdivision are not constructed prior to the plat being recorded in the office of the County Recorder, surety bond, or other security, in the amount of \$50,000 per one half (1/2) mile of frontage road shown on the plat shall be provided to insure the proper construction of improvements. For other improvements the required financial guarantee shall be the sum equal to the total cost as estimated by the Planning & Zoning Coordinator. If all of the proceeds of the bond, or other security, are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by the security, the Board of County Commissioners may install part of such improvements in all or part of the subdivision and may institute appropriate legal or equitable action to recover the money necessary to complete the remainder of the improvement. All of the proceeds,

whether resulting from the security or from any legal or equitable action brought against the subdivider, or both, shall be used solely for the installation of the improvements covered by such security and not for any other purpose. All bonds or other security deposited with the County as required hereby shall continue in effect until the improvements have been made according to County specifications.

Section 7. COMPLETION OF IMPROVEMENTS

1. Governmental Units. Governmental units to which these guarantee and agreement provisions apply may file, in lieu of said agreement or financial guarantee, a certified Ordinance or Ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this section.

2. Failure to Complete Improvement. For a subdivision for which no financial guarantee has been posted, if the improvements are not completed within the period specified by the County in the approval process, the approval shall be deemed to have expired. In those cases where a financial guarantee has been posted and required improvements have not been installed within the terms of such financial guarantee, the County may declare the financial guarantee to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the financial guarantee is declared to be in default.

3. Release of Financial Guarantee. Certification of Satisfactory Completion. The County shall not release a financial guarantee for those improvements required until the Planning & Zoning Coordinator has certified that all required improvements have been satisfactorily completed.

Section 8. MAINTENANCE OF IMPROVEMENTS

The developer shall be required to maintain all improvements in the subdivision or on the individual subdivided lots and provide for snow removal and maintenance of streets until a homeowner association is set up to maintain the improvements. The County is not liable for maintenance of improvements or snow removal. In addition, the County will not be responsible to enforce private protective covenants.

Section 9. DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS

1. The County may defer or waive at the time of plat approval, subject to appropriate conditions, the provision of any or all such improvements that, in its judgment, are not requisite to the interests of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

2. Whenever it is deemed necessary by the County to defer the construction of any required improvement because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the developer may post a financial guarantee ensuring completion of said improvements upon demand of the County.