

Pastoral Instruction on Marriage

Guide to Theology and Canon Law



Diocese of Grand Island
First Edition 2024

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Abbreviations:

CIC = Code of Canon Law

CCC = Catechism of the Catholic Church

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I. Introduction

The purpose of the Pastoral Instruction on Marriage is to outline the universal law, the diocesan policy, and the theology regarding the sacrament of marriage. It aims to communicate the laws and teachings of the Church on marriage. Given the contemporary Pastoral situation and the state of marriage in our society, it is imperative that we assist those preparing for marriage with solid catechesis and formation and that we provide the truth about the teachings of the Church on divorce and declarations of nullity. Through sound teaching and Pastoral guidance, we can work towards the salvation of souls.

The sources for the information in this Pastoral Instruction and Policy on Marriage are the Catechism of the Catholic Church, the Code of Canon Law, documents of the Second Vatican Council, and other official pronouncements of the Apostolic See. From the teachings and laws of the Church come the specific policies and procedures regarding marriage for the faithful of this diocese.

Any questions about the Pastoral Instruction on Marriage should be directed to the Judicial Vicar and Chancellor.

II. What is Marriage?

Pope Francis, in his Address to the Officials of the Tribunal of the Roman Rota for the Inauguration of the 2023 Judicial Year, said this about marriage:

We might ask ourselves: how is it possible for there to be such a captivating union between a man and a woman, a union that is faithful and everlasting, from which a new family is born? How is this possible, taking into account the limits and fragility of human beings? It is worthwhile to ask ourselves these questions and to allow ourselves to wonder at the reality of marriage. Jesus gives us a simple yet at the same time profound answer: ‘What God has joined together, let not man put asunder’ (Mt 19:6). ‘God himself is the author of matrimony’, as Vatican Council II affirms (cf. Pastoral Constitution *Gaudium et spes*, 48), and this can be understood as referring to every single conjugal union. Indeed, spouses give life to their union, with free consent, but only the Holy Spirit has the power to make a man and woman a sole existence. Moreover, ‘the Savior of men and the Spouse of the Church comes into the lives of married Christians through the sacrament of matrimony’ (ibid., 48). All this leads us to recognize



that every true marriage, even non-sacramental, is a gift of God to the spouses. Matrimony is always a gift! Conjugal fidelity rests on divine fidelity; conjugal fruitfulness is based on divine fruitfulness. Man and woman are called to accept this gift and freely correspond to it with the reciprocal gift of self.

The Code of Canon Law states: “The matrimonial covenant, by which a man and a woman establish between themselves a partnership of the whole of life and which is ordered by its nature to the good of the spouses and the procreation and education of offspring, has been raised by Christ the Lord to the dignity of a sacrament between the baptized” (CIC, 1055 §1). It further indicates that the essential elements of marriage are unity and indissolubility (CIC, 1056).

This understanding of marriage is foundational and applies to all marriages, whether it is a marriage in the Catholic Church between two Catholics or a ceremony between two unbaptized people before a justice of the peace. This is because marriage is rooted in human nature. The Catechism of the Catholic Church states,

The intimate community of life and love which constitutes the married state has been established by the Creator and endowed by him with its own proper laws. God himself is the author of marriage. The vocation to marriage is written in the very nature of man and woman as they came from the hand of the Creator. Marriage is not a purely human institution despite the many variations it may have undergone through the centuries in different cultures, social structures, and spiritual attitudes (CCC, 1603).

Canon 1057 of the Code states, §1. The consent of the parties, legitimately manifested between persons qualified by law, makes marriage; no human power is able to supply this consent. §2. Matrimonial consent is an act of the will by which a man and a woman mutually give and accept each other through an irrevocable covenant in order to establish marriage.”

Therefore, the ministers of the Sacrament of Matrimony are the man and the woman, and not the cleric. The cleric is the official witness for the Church and asks for and receives the consent of the couple in the name of the Church. Therefore, it is the consent of the parties, in freedom and knowledge, that creates the bond of marriage.



III. Who Can Marry?

Those who can marry in the Catholic Church are couples who request marriage at an appropriate time, are properly disposed, and are not prohibited by law (cf. CIC, 843).

Being properly disposed for marriage means that “persons must possess at least the minimal psychological capacity to establish and nurture an intimate partnership of life, sufficient knowledge of the nature of this partnership, and the intention to undertake it. If these psychological, intellectual, or volitional requirements are lacking, a person’s consent is deficient and fails to give rise to a marriage” (John Beal, *New Commentary on the Code of Canon Law*, 1250).

The Holy Father, Pope Benedict XVI, stated in his 2011 Address to the Roman Rota that,

The right to marry, *ius connubii*, ... is not a subjective claim that Pastors must fulfill through a merely formal recognition independent of the effective content of the union. The right to contract marriage presupposes that the person can and intends to celebrate it truly, that is, in the truth of its essence as the Church teaches it. No one can claim the right to a nuptial ceremony. Indeed, the *ius connubii* refers to the right to celebrate an authentic marriage.

Those who are prohibited from marriage by canon law are those with impediments. Some impediments to marriage can be dispensed, but those of divine or natural law cannot be dispensed. The impediments that the Church recognizes are:

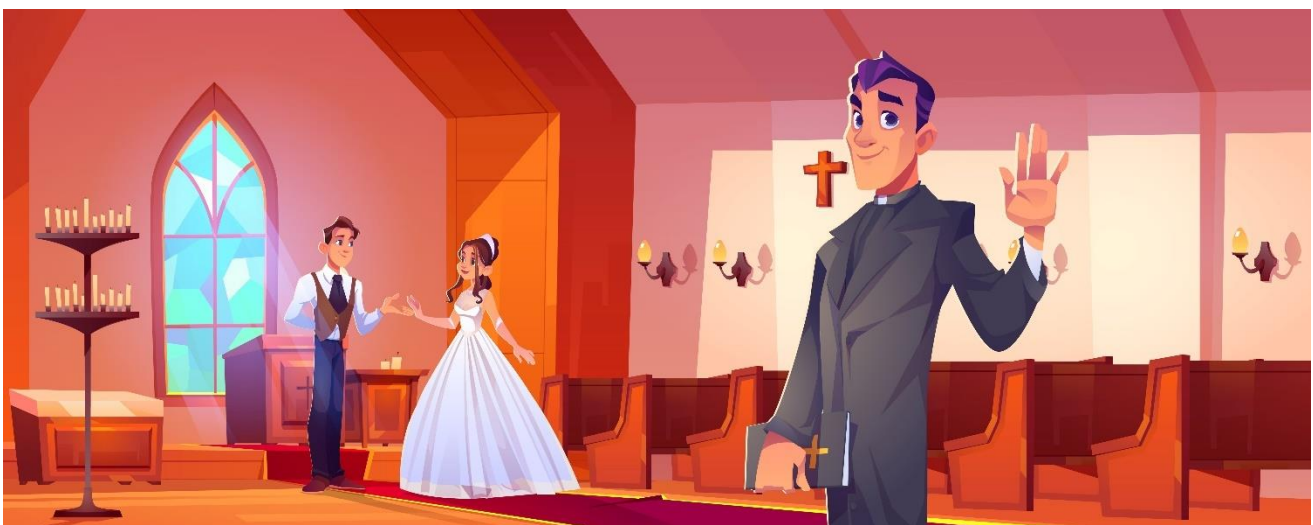
1. Insufficient age: the minimum age is 16 for men and 14 for women
2. Impotence (note of explanation follows)
3. Prior Bond/Ligamen (note of explanation follows)
4. Disparity of Cult (one Catholic and one unbaptized party)
5. Holy Orders
6. Public Perpetual Vow of Chastity in a Religious Institute
7. Abduction (a man cannot marry a woman he abducts or vice versa)
8. Crime (when a person conspires to kill his/her spouse in order to be free to marry again)
9. Consanguinity (the couple is too closely related by blood)
10. Affinity (the couple is too closely related by another's marriage, i.e. in-laws)
11. Public Propriety (allowing a particular marriage could cause scandal)
12. Adoption (the couple is too closely related due to an adoption)

NOTE ON IMPOTENCE: to enter validly into marriage, both parties **MUST BE ABLE** to complete the sexual act. This impediment is **NOT** sterility, which is the inability to have children. The couple does not have to engage in the sexual act

(Mary and Joseph), but they have to be capable of completing the act. Incapacity does not mean performing the sexual act is uncomfortable or dangerous for health reasons (heart problems, etc.). It means that in no way, even with the help of medication or other moral medical means, is one or both of the parties capable of performing the sexual act. Should one or both parties be incapable of completing the sexual act, they are prohibited from entering into the Sacrament of Marriage. **This is a natural law impediment and cannot be dispensed.**

A **vasectomy** will often be mistakenly put in the category of impotence. Canon 1084, §3 states clearly that sterility neither forbids nor invalidates a marriage. So, a vasectomy itself does not affect the validity of the couple's marriage. The Catholic Church allows individuals who already know in advance that he/she is unable to have children to marry. This is based on the fact that vasectomies are not 100% full proof.

NOTE ON LIGAMEN: the impediment of prior bond is when one or both of the parties have already contracted marriage with another person. Since the Church does not recognize civil divorce, even if the person has a civil divorce decree the Church recognizes them as still married. The person must have his/her marriage declared invalid through an ecclesiastical process by the Tribunal before setting a date for a new marriage or starting marriage preparation.



IV. Preparing for the Wedding

Several important things need to be accomplished before a couple is married in the Catholic Church. This includes preparing the couple with catechesis and life skills, and ensuring the canonical requirements for a valid and licit ceremony are completed before the wedding.

Marriage Preparation: In the Diocese of Grand Island, there is a six-month process that is required for all marriages involving at least one Catholic. This requirement extends to those who have been married previously. It is also required for those Catholics already in a civil union needing to get married in the Catholic Church. Latin Catholics who live in the territory of the Diocese of Grand Island, regardless of the location of the wedding ceremony, are bound to the marriage preparation policy of the diocese. For example, if a Catholic couple lives in the territory of the Diocese of Grand Island but will be married in the Archdiocese of Kansas City Kansas, the couple is bound to follow the marriage preparation policy of the Diocese of Grand Island and **NOT** the policy of the Archdiocese of Kansas City Kansas. Should both parties be Catholic, and they live in different dioceses, they can choose either diocese for marriage preparation.

If a couple from another diocese has scheduled a wedding at one of the churches of the Diocese of Grand Island, the couple is to do the marriage preparation of the diocese in which they live, not the preparation of the Diocese of Grand Island.

Prenuptial Files: It is required that there is a prenuptial file for each couple preparing for marriage. This file includes:

1. Prenuptial Investigation Paperwork (PNI)
2. Affidavits of Freedom to Marry
3. Baptismal Certificate with notations for Catholics issued in last six months.
4. Affidavit of Baptism for baptized non-Catholics
5. Copy of the couple's civil marriage license (if married civilly)

if applicable, the file would also contain:

1. A letter of delegation
2. Dispensations or Permissions including Dispensation from Canonical Form
3. Freedom to Marry Certificate from Tribunal or Letter granting nullity
4. Decree releasing *monitum/vetitum* (a *Caution/Prohibition to marry*).
5. Death Certificates or Obituaries

Being prepared in one parish and being married in another—what to do with the Prenuptial File: For couples preparing for marriage at a parish in the Diocese of Grand Island but getting married in another parish within the Diocese of Grand Island, the file is transferred from the parish of preparation to the parish of marriage unless a permission/dispensation is needed. Then, the file must be sent to the Judicial Vicar/Chancellor to grant the necessary permission/dispensation. The file will then be forwarded to the parish where the marriage will take place.

If a couple living in the Diocese of Grand Island is getting married in another diocese, the couple must complete the marriage preparation for the Diocese of Grand Island, and the prenuptial file must be sent to the Tribunal of the Diocese of Grand Island for transfer to the diocesan offices in the Diocese of the parish that will perform the marriage. This is required so that the parish where the marriage takes place is assured that the couple is free to marry and properly prepared for marriage.

The prenuptial file CANNOT be transferred from parish to parish when the parish of marriage preparation is in one Diocese and the parish the wedding will take place is in another Diocese!

When the wedding is taking place outside of the Diocese of Grand Island the couple CANNOT hand carry the file to the parish, nor can they have a copy of the file. The exception to this is when the marriage is to take place outside the United States. Then the couple will receive a copy of the marriage file to travel with from the Judicial Vicar or Chancellor.

The Judicial Vicar or Chancellor should receive the prenuptial files for weddings outside the diocese at least **30** days in advance for weddings within the United States, and at least **90** days for weddings outside the United States. For marriages outside the United States, a civil marriage ceremony may be required before the wedding in the Catholic Church. If the couple is already in a civil union, they will need to produce a copy of the civil marriage certificate for the prenuptial file. It is the responsibility of the couple to inquire as to the laws of the country in which they will be married so that the civil effects of their marriage are attained.

If a couple from another diocese has scheduled a wedding at one of the churches of the Diocese of Grand Island, the parish who prepared them is to send the marriage preparation file to their diocesan offices for review of the file and that

diocesan office will send it to the Diocese of Grand Island Judicial Vicar or Chancellor for review. Once the file has been reviewed and all necessary permissions/dispensations have been granted, the file will be transferred to the parish where the wedding will occur. Again, a parish in another diocese may not send a marriage preparation file directly to a Diocese of Grand Island parish.

Prenuptial Investigation (PNI): It is vitally important that the Prenuptial Investigation is done with the couple at the beginning of the marriage preparation process. This document is designed to identify any impediments or other issues that could lead to an invalid or illicit marriage.

Freedom to Marry: Through the PNI, it must be determined if either party has ANY previous marriages, including whether they were civil or religious weddings involving Catholics or non-Catholics. It is also important to verify the status of the couple's freedom to marry. Use the Freedom to Marry Affidavits to assist in this process.

If a person has received an annulment, ask him/her to provide you with a letter granting the nullity or a Freedom to Marry Certificate. Also, ask if the Tribunal placed a *monitum/vetitum* on the person and get a letter stating the *monitum/vetitum* has been released. These documents **MUST** be placed in the prenuptial file. If a person's previous spouse is deceased, a death certificate or obituary **MUST** be added to the prenuptial file.

If one or both of the parties to the marriage have previous marriages and the spouse is still living or the Tribunal has not been asked to look at the previous marriage(s), the couple must be referred immediately to your parish's nullity minister (see the section on nullity ministers).



Also note that **Marriage preparation MAY NOT continue, and a wedding date MAY NOT be set until they are free to marry.** Allowing a couple to participate in marriage preparation when they are not free to marry may give the couple false hope about their ability to marry in the future. **Negative decisions** on nullity cases are given, which would mean that the parties are not free to marry. The Tribunal will not be able to give a definite time frame for when a case will be finished due to a number of issues that may come up during the investigation of the marriage.

Permissions & Dispensations: Impediments and possible permissions are discovered through completing the PNI. In the Diocese of Grand Island, all matrimonial dispensations and permissions are ordinarily granted by the Judicial Vicar and the Chancellor, with the exception of the dispensation from canonical form and Sanations. The Diocesan Bishop has reserved those to himself. The paperwork for both of those processes will be handled through the Tribunal.

The following are the possible dispensations or permissions that can be granted:

- **Permission for Mixed Marriage:** This is required when a Catholic marries a BAPTIZED non-Catholic. This permission is required for the marriage to be licit (lawful). A marriage between a Catholic and a baptized non-Catholic may be performed within the context of a Mass with permission. However, as the *Directory for the Application of Principles and Norms on Ecumenism* states, this type of marriage “ordinarily takes place outside the Eucharistic liturgy” (41).
- **Dispensation for Disparity of Cult:** This is required for the **validity** of the marriage of a Catholic and an UNBAPTIZED person. A Mass is not said in the liturgy for a marriage between a Catholic and an unbaptized person (see *The Order of Celebrating Matrimony Between a Catholic and a Catechumen or a Non-Christian*).
- **Dispensation for Disparity of Cult Ad Cautelam:** This dispensation is required for a Catholic to marry non-Catholic parties whose baptism is in question because it cannot be verified.
- **Permission for Marriage Outside an Approved Place:** The Code of Canon Law states in canon 1118 §1 that weddings are normally to be celebrated in a parish church. The diocesan Bishop has the authority to determine other approved places for weddings in his diocese.

The Diocese of Grand Island will not approve or allow a marriage to be performed outdoors.

Few Bishops in the United States allow outdoor weddings at this time. From the experience of many Bishops, priests, and laity involved in marriage preparation and wedding liturgies, they have found that such settings tend to give the wrong message about the seriousness and sacredness of the vows. In addition, outdoor weddings have to deal with many more difficulties and distractions. For example, there is the concern of the threat of inclement weather such that alternate plans have to be made and the focus becomes the place and not the sacred event. Also, should the ceremony have to move, the priest or deacon receiving the vows may run the risk of no longer having the faculty to validly receive those vows, therefore rendering the marriage invalid.

- **Dispensation from Canonical Form:** The Code of Canon Law defines the canonical form of marriage in this way: “Only those marriages are valid which are contracted before the local ordinary, Pastor, or a priest or deacon delegated by either of them, who assist, and before two witnesses “ (*CIC* c.1108 §1). This requirement applies whenever there is at least one Catholic in the marriage. And, once a Catholic, always a Catholic. Therefore, even if an individual no longer considers himself/herself a Catholic, if he/she was baptized or received into the Catholic Church, he/she **MUST** be married according to the canonical form of the Catholic Church. The requirement for Catholics to be married according to canonical form affects the **validity** of the marriage.

If there is a good reason for a couple not to be married according to the canonical form of marriage, the Catholic party can ask for a dispensation from canonical form. **If granted, this dispensation means that a Catholic minister will not perform the wedding, but the Catholic Church will consider the marriage valid and binding. This dispensation is never granted for two Catholics.**

Just as with the permission for marriage outside an approved place, there must be a good reason why the couple is not able to be married according to canonical form and the reasons must accompany the request for the dispensation.

If a dispensation from canonical form is granted, Catholic clergy are prohibited from asking for and/or receiving the consent of the couple in the

marriage ceremony. Since the couple has requested to be free from the canonical form of marriage, it would be very confusing for the Catholic cleric to be involved in the ceremony. If a Catholic cleric wishes to attend the marriage ceremony, he should refrain from vesting or reading any prayers at the wedding ceremony. A Catholic priest or deacon may offer a blessing to the couple after the ceremony is complete.

In addition, **“It is forbidden to have another religious celebration of the same marriage to give or renew matrimonial consent before or after the canonical celebration. Likewise, there is not to be a religious celebration in which the Catholic who is assisting and a non-Catholic minister together, using their own rites, ask for the consent of the parties” (CIC, 1127 §3).** Therefore, it is prohibited to have “joint ceremonies” with multiple ministers of different faiths or denominations. It is also prohibited for couples to have more than one wedding ceremony unless, for example, a civil union is required in order to gain civil recognition of a marriage when a couple has a destination wedding.

Civil Prenuptial Agreements: If a couple reveals during marriage preparation that they have signed or will be signing a civil prenuptial agreement, it is necessary that it be reviewed. This can be reviewed by the Parish Pastor, or it can be sent to the Judicial Vicar and/or Chancellor, who, after a formal review of the document, will send a written analysis of the agreement to the Pastor, which should be shared with the couple.

Convalidation: For various reasons, couples marry civilly instead of in the Catholic Church. Whether there are complicated factors such as a Declaration of Nullity need, or they simply did not understand the value of marrying in the church. Canon Law requires that baptized Catholics are married before a priest or deacon with two witnesses. The exception to this law is if the couple received a “Dispensation from Canonical Form.” This means that couples who exchange vows in the presence of ministers from other religious traditions or civil officials are not considered validly married in the eyes of the Church. The couple will need to convalidate their marriage.

Convalidation is very distinct. It specifically refers to the process through which a marriage that was initially not recognized by the Catholic Church becomes valid and recognized in the eyes of the Church.

The same prerequisites, such as the prenuptial investigation and the six-month marriage prep, are required prior to the convalidation ceremony. This allows for proper catechesis for the couple regarding Catholic marriage. They must understand that the convalidation ceremony is their true wedding, on which their wedding anniversary will be celebrated. It should be made clear that this is **not a formality or a blessing**, but their actual wedding and the Church looks at it as their only wedding. This is because, unlike the other sacrament, the Priest/Deacon is a witness to the exchange of consent and not the minister of the sacrament. The man and woman exchanging free consent in front of the Priest/Deacon are the ministers of the sacrament of marriage.

**NO BLESSING CAN BRING INTO EXISTENCE A VALID MARRIAGE!
ONLY VALID CONSENT EXCHANGED IN CANONICAL FORM CAN
BRING INTO EXISTENCE A MARRIAGE!**

Faculties: A priest's or deacon's faculty to celebrate weddings can be found in the Diocesan *Pagellae* (the Greenbook) and the priest's or deacon's individual decree of appointment.

A faculty is a power granted that enables a person the ability to act. By ordination, a priest or deacon does not have the faculty to witness marriages. A cleric acquires the faculty to witness marriages by office, by mandate of a diocesan Bishop, or by delegation. A priest or deacon who has the faculty to witness marriages can exercise that faculty only within the territorial boundaries of the parish to which he is assigned. A cleric who has an assignment to a personal parish or has personal jurisdiction (military chaplain, for example) can exercise his faculty only over his own subjects. Clergy who have the faculty to witness marriages by office (within their territory) are diocesan Bishops, vicars general, episcopal vicars, and Pastors.

When there is a visiting Bishop, priest, or deacon presiding at a wedding, the Pastor of that parish must delegate the faculty to the visiting cleric in writing. If a cleric does not have the faculty to witness the vows of a couple, the marriage is invalid. Please consult the Judicial Vicar or Chancellor if you have questions about faculties.

The marriage rite presumes that the priest who celebrates a wedding Mass is also the cleric who asks for and receives the vows of the couple. If it is the desire of the couple to have a wedding Mass, the presiding priest must be the one to receive the vows. *The General Instruction of the Roman Missal*

states in number 108, “One and the same Priest must always exercise the presidential function in all of its parts, except for those parts which are proper to a Mass at which the Bishop is present.” Therefore, in general, it is not appropriate for a deacon to receive a couple's vows during a wedding Mass. However, in highly unique and rare circumstances, the diocesan Bishop may grant an exception to this. Contact the Judicial Vicar or Chancellor to make such a request. (Please also refer to *Inter Oecumenici*, 72 for when multiple priests participate in the liturgy.)

Eastern Catholics: There are 24 churches *sui iuris* in the Catholic Church; the largest of these is the Latin Church. The other 23 are Eastern Churches. These churches are in full communion with the Pope, and their sacraments are valid and licit. The Diocese of Grand Island is a LATIN Catholic Diocese, and in most cases, we do not have jurisdiction over other Eastern Churches. Therefore, if an Eastern Catholic couple approaches a Latin cleric for marriage, the Latin cleric does not have the faculty to witness their marriage. The couple needs to be sent to their Church *sui iuris*, or the *Latin cleric needs to contact the Eastern Catholic Eparchy and request a written delegation to perform the ceremony*. If you have any questions about this, please contact the Judicial Vicar or Chancellor.

A Latin Catholic may marry an Eastern Catholic in that Catholic's Eastern Church and vice versa. This is completely acceptable, and no dispensation or permission is needed. All parties are Catholic, and the marriage is valid as long as the priest belongs to the Church *sui iuris* of at least one of the parties. However, a priest must receive the vows if an Eastern Catholic is a party to a marriage. **A deacon is not able to witness the vows of an Eastern Catholic** due to the form requirement of the priestly blessing, which is required for validity.

Orthodox Christians: The Eastern Orthodox Churches are not in union with Rome. However, all of their sacraments are valid. If a Catholic wants to marry an Orthodox Christian in the Orthodox Church, they must petition for a dispensation from canonical form and permission for mixed marriage. However, these dispensations and permissions are only for liceity, not validity.

If a Catholic wants to marry an Orthodox Christian in the Catholic Church, they must request permission for mixed marriage.

Recording the Marriage in Sacramental Records: The Code of Canon Law states:

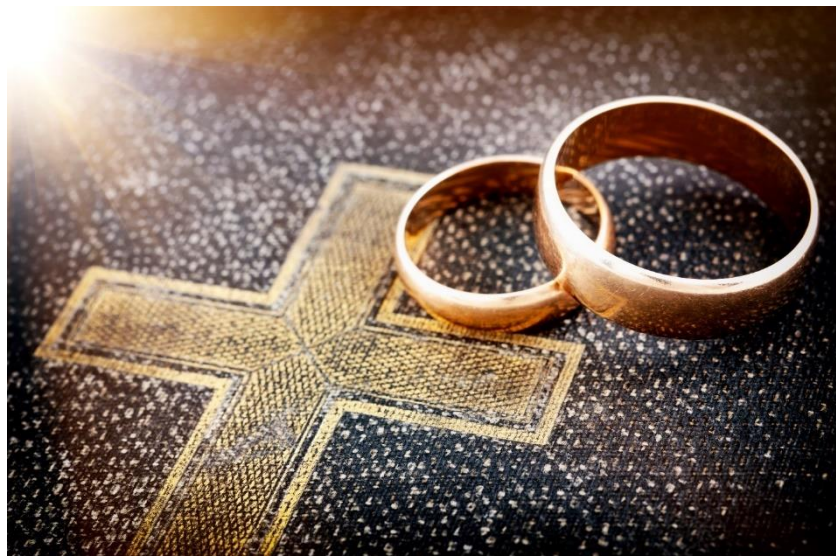
Can. 1121 §1. After a marriage has been celebrated, the Pastor of the place of the celebration or the person who takes his place, even if neither assisted at the marriage, is to note as soon as possible in the marriage register the names of the spouses, the person who assisted, and the witnesses, and the place and date of the celebration of the marriage according to the method prescribed by the conference of Bishops or the diocesan Bishop...

§3. For a marriage contracted with a dispensation from canonical form, the local ordinary who granted the dispensation is to take care that the dispensation and celebration are inscribed in the marriage register...of the proper parish of the Catholic party whose Pastor conducted the investigation about the free status...

Can. 1122 §1. The contracted marriage is to be noted also in the baptismal registers in which the baptism of the spouses has been recorded.

§2. If a spouse did not contract marriage in the parish in which the person was baptized, the Pastor of the place of the celebration is to send notice of the marriage, which has been entered into as soon as possible to the Pastor of the place of the conferral of baptism.

For more detailed information regarding recording marriages in the parish's sacramental registers, please refer to the Diocese of Grand Island Sacramental Recording Keeping Book.



V. Catholics in Invalid Unions

As previously stated, a Catholic, either baptized Catholic or received into the Church by profession of faith, must marry according to the canonical form of the Catholic Church for the validity of that marriage. Therefore, if a Catholic marries in a ceremony without a Catholic priest or deacon, or “outside of the Catholic Church”, without a dispensation, the marriage is invalid, and the couple is not considered to be married. Living in a state such as this is contrary to the teachings and laws of the Catholic Church and renders a person ineligible to receive sacraments.

Catholics in civil unions are also not permitted to be involved in public ministry (e.g., the Extraordinary Minister of the Eucharist, Lectors, Ushers, Parish Council, etc.; see CCC, 1650). Ministers are witnesses to all of the Church's teachings, and so their marital status must be in accordance with the Church's teachings.

There are three possible solutions for a Catholic in an invalid union:

1. Get married in the Catholic Church: To have a valid marriage and be eligible to receive sacraments, both parties must make a new act of marital consent according to the canonical form of the Church. In other words, they must get married (provided that they are free to marry. See the section on Annulments for more information). Furthermore, the full marriage preparation process is required for all couples, even if they already are in a civil union, as are any permissions and dispensations. It is common to hear the term “convalidation” for this situation, however, this term can cause confusion. It leads people to believe that their civil union is being “validated” or “recognized” by the Church, which is not the case. It is only their consent exchanged in accordance with canonical form that makes, for the first time, the couple married. A “convalidation” is not retroactive.

There is a misunderstanding that couples have gotten “their marriage blessed”. This concept is also incorrect. A blessing cannot create anything but is given to something that already exists. Therefore, it is only possible to bless a valid marriage. If one or both of the parties intend the marriage in the Catholic Church as merely a “blessing” ceremony or a recognition of their civil union, it can cause their marriage to be invalid. In essence, the parties must know and accept that their marriage in the Church is the true and actual beginning of their marriage, and that their civil union was invalid.

2. Sanatio in Radice (Sanation): canon law defines a sanation as the following:

“The radical sanation of an invalid marriage is its convalidation without the renewal of consent, which is granted by competent authority and entails the dispensation from an impediment, if there is one, and from canonical form, if it was not observed, and the retroactivity of canonical effects” (CIC, 1161 §1).

For some couples in an invalid civil union, who are free to marry, getting married in the Catholic Church is not possible. This could be that one is now impotent, or a non-Catholic party does not accept that their civil union is invalid and could not make a new act of the will by marrying in the Catholic Church. In those situations, requesting a sanation of the marriage may be an option. Unlike getting married in the Church (a.k.a. convalidation), a sanation is retroactive and renders the marriage valid from the moment of the original consent. A sanation can never fix broken consent but can only “heal” invalidity caused by an undispensed impediment or the lack of canonical form. The Bishop, himself, grants this. Contact the Tribunal for this application.

3. Brother/Sister (*Frater/Soror*): If getting married in the Church or a sanation is not possible for a couple in an invalid civil union, and it would be burdensome for the couple to separate, it may be possible for the couple to request a Brother/Sister Agreement. This is when the couple promises to refrain from sexual intercourse in order to receive sacraments. The issue preventing a couple from the reception of sacraments is a sexual relationship with someone who is not their true spouse in the eyes of the Church. If the couple promises to live a continent life, they thereby remove the sin preventing them from the reception of the sacraments (except for marriage due to the impediment of a prior bond. However, the concern of the Church is two-fold: sin and scandal. The return to the sacraments of a couple who promised to live as brother/sister can only be permitted if it would not cause a scandal in the community in which they belong (Matthew. 18:6). Meaning if a couple would suddenly start receiving Holy Communion at Mass where their invalid marital situation is known, it could cause people to think that the rules on divorce and remarriage had changed, thus leading the community into error about the Church’s teachings. These requests are an arrangement with a particular Pastor and the couple and, in the Diocese of Grand Island, are reviewed and granted by the Bishop. Should a couple move to a new community, a new Brother/Sister request must be submitted with the new Pastor. Contact the Tribunal for this application.

What is NOT a solution—Internal Forum: There appears to be a lot of misunderstanding and outright error amongst some clergy as to how to deal with the situations of divorced and remarried Catholics. (The three options explained above, marriage in the Church, sanation, and Brother/Sister are all the normal and permitted solutions for assisting Catholics in these situations, as they are in accord with the teachings and laws of the Catholic Church, and God’s plan for marriage. For some years, however, there has been a mistaken practice by some clergy in the United States to attempt to reconcile divorced and remarried Catholics to the Church by using what is sometimes called the “Internal Forum Solution.” The so called “solution” alleges that a divorced and civilly remarried Catholic can feel free to approach Holy Communion, either without having petitioned for an annulment, or after having received a negative decision. Couples often feel betrayed and hurt when they realize a member of the clergy gave them wrong information. It is not a “solution” at all but a misinterpretation of Church law and moral practice that, in truth, solves nothing.

The “Internal Forum Solution” usually manifests itself in one of three ways:

1. a priest, in advising divorced and remarried Catholics regarding their eligibility to receive Holy Communion, tells a person that they should follow their conscience, despite the decision of an ecclesiastical tribunal as to their marital status;
2. a priest “absolves” such Catholics in Confession without the intention of the Catholic to remedy their present situation;
3. a cleric secretly witnesses a marriage of people not free to marry giving the impression that the Church is sanctioning the union. These three practices will be addressed below.

Part of the reason that this Pastoral practice is impossible is because the married state is a public reality and is not, therefore, a matter of the internal forum that remains secret. Therefore, this cannot be only a matter of the conscience since marriage is a public institution.

When a cleric agrees to witness a marriage of a couple where one or both of the parties has been married previously but does not have an annulment and a prior spouse is still living, the cleric does so contrary to the teachings and laws of the Church (Matthew 19:1-12). This action by a member of the clergy gives the couple the impression that the Church now accepts their union as valid and that they can approach Holy Communion. Despite the fact that their consent was “received” by a cleric, the marriage would be invalid and not sanctioned by the Catholic Church if

one or both of the parties were prevented from marrying due to the impediment of a prior marital bond.

It must be stressed that although the “Internal Forum Solution” may seem like a Pastoral and merciful solution to enable the faithful to reconcile with the Catholic Church, it is actually misleading, compromises the integrity of the sacraments, and does not assist in the salvation of souls. Ultimately, clergy who claim to use the “Internal Forum Solution” do more harm to the faithful than good in these difficult situations.

If there are any concerns or questions about these issues, especially regarding particularly difficult Pastoral issues, please contact the Judicial Vicar or Chancellor for assistance.

Same-Sex Unions: It’s actually easy to answer questions regarding this topic by examining Catholic teaching on the sacrament of marriage and then applying it to the same-sex unions that are taking place.

Canon 1055, §1 contains a very fundamental, theological statement about what marriage is all about. It states that marriage is a covenant by which a man and a woman establish between themselves a partnership of their whole life, and which of its own very nature is ordered to the wellbeing of the two spouses and to the procreation and upbringing of children. This wording wasn’t concocted out of thin air—it is based on the Second Vatican Council’s teaching on marriage, found in the 1965 Pastoral Constitution on the Church in the Modern World, *Gaudium et Spec* (GS 48).

The Church’s definition of marriage makes clear that a marriage’s validity and indissolubility hinge on its having been both ratified by the Church and consummated by subsequently engaging in an act “apt for the procreation of children” (canon 1061,§1). The Church also teaches that marriage is between a man and a woman, not because it randomly invented that definition in centuries gone by, but because God made marriage that way. The Church cannot “redefine marriage” in such a way that it would now include civil unions for either opposite-sex couples or same-sex couples.

Additionally, a same-sex couple living together and engaging in unnatural (not apt for the procreation of children) sexual activity runs counter to the way God made marriage. Consequently, it is theologically impossible for the Catholic Church ever to accept that two persons of the same gender are “married.”

Complicating the topic is the Vatican's statement that Priest may bless same-sex couples. Unfortunately, the American Catholic Church has allowed people to believe that their civil union is being blessed so that it is recognized in the eyes of the Church (see the section on convalidation in this booklet).

NO BLESSING CAN BRING INTO EXISTENCE A VALID MARRIAGE!

A blessing is a prayer asking for God's favor and protection or giving thanks for something/someone. In the Catholic Church, blessings are sacramentals, not sacraments. Sacramentals may be given to the baptized and non-baptized alike to bestow a spiritual effect on an object or person of sanctification. Examples of blessings are the dedication of churches and altars, chrism, institution of lectors and acolytes, scapulars, holy water, etc. A typical blessing families say is Grace over a meal before eating.

Unlike Sacraments, which were instituted by Christ and cannot be substantially changed or abolished, sacramentals are instituted by the Church; new ones can be created, and old ones suppressed.

Sacramentals can bring individuals peace when they cannot participate in the sacraments of the Church. For example, the sacrament of the anointing of the sick is intended only for seriously ill people, but other sick people who are not eligible for the sacrament can find spiritual comfort in a sacramental such as a blessing.

A Catholic priest can bless a same-sex couple as long as it is not a formal liturgical blessing and does not give the impression that the Catholic Church is blessing the union as if it were a marriage. If this blessing is requested, care must be taken to ensure that the couple is requesting the blessing in accordance with the intention of the Church, and the blessing must be given in a manner that avoids any appearance that could be misconstrued or cause scandal to the Catholic people. The Vatican has stated that Same-sex couples in a civil union may NEVER participate in the sacrament of marriage.

The request for a blessing can express and nurture "openness to the transcendence, mercy, and closeness to God in a thousand concrete circumstances of life, which is no small thing in the world in which we live. It is a seed of the Holy Spirit that must be nurtured, not hindered," the Dicastery for the Doctrine of the Faith said in a formal declaration, ***Fiducia Supplicans*** (On the Pastoral Meaning of Blessings), published Dec. 18.

VI. Declarations of Nullity (Annulments)

According to the laws and teachings of the Church, all marriages, of anyone Catholic or not, are presumed to be valid and binding until proven otherwise. A declaration of nullity (annulment), is a determination, after a thorough investigation, that a particular marriage is invalid. Therefore, every attempt at marriage, whether it was in the Catholic Church or not, must be investigated through a process (unless a previous spouse has died) if someone desires to be free of that marriage.

A Declaration of Nullity (annulment) is NOT:

- Catholic divorce
- Simply the permission to marry again in the Catholic Church
- The Sacrament of Confession.

The nullity process is an investigation into whether or not the bond of marriage was formed at the time of consent. Because this investigation is a judicial process, it is required that a petitioner present witnesses, evidence, and testimony.

Receiving A Declaration of Nullity can **NEVER** be presumed! Negative decisions are given, which means the Catholic Church considers the parties of the annulment to still be married despite their civil divorce. Therefore, a wedding date should not be set until the parties are declared free to marry. Because the annulment process can be lengthy and it is not guaranteed that the annulment will be granted, the couple must wait until the court has made its decision before setting a date.



The following are likely to petition for an annulment (this is not an exhaustive list):

- A divorced Catholic
- A divorced non-Catholic who would like to marry a Catholic
- A divorced and remarried non-Catholic who wishes to enter the Catholic Church.
- A civilly married Catholic who wishes to correct their irregular status

Non-Catholics: The Catholic Church upholds the permanence of all marriages, whether they are Catholic or not. Thus, in any case of a marriage between two non-Catholics, the presumption is that the marriage is valid. Before a person can marry a Catholic, he/she must petition for an annulment because it is assumed that he/she is still married and is not free to marry again unless it can be proven that the first marriage was invalid. According to Catholic teaching, divorce does not have any effect on the binding nature of a marriage, for anyone, Catholic or not. Therefore, despite the desire of the couple to divorce civilly and to separate themselves and their belongings, in the eyes of the Church the bond of marriage is presumed to remain binding upon the two parties. As a result, in order to be free to marry it must be proven that the bond of marriage did not exist in the first place, thus making it necessary for a person to present an application to the Tribunal of the Diocese of Grand Island requesting an investigation of the marriage.

Nullity Ministers: The Diocese of Grand Island naturally recognizes the Pastor as the proper individual to help the couple request the Tribunal to investigate their marriage. As a means of supporting the Pastor and all that he does for the Catholic Community of the parish, the Judicial Vicar and Chancellor have encouraged each parish to have at least one Nullity Minister available to assist people with submitting their application to the Tribunal. The Tribunal will provide a training program so that Nullity Ministers are knowledgeable about the requirements for the application.

Ministering to those who cannot receive an annulment: Assisting those who are in an irregular marital situation is a particularly delicate Pastoral situation, especially if they cannot get married in the Catholic Church due to a prior bond. When someone receives a negative decision on their marriage investigation process with the Tribunal, or they are not able to apply for an annulment, they are not eligible to marry in the Catholic Church due to the impediment of a prior

bond. As they are considered to be married to someone else, they cannot get married again.

For couples in this situation, they have the option of the Brother/Sister (*Frater/Soror*) arrangement if they desire to receive sacraments. This does not allow them to get married, as they are already married to someone else, but their promise to not engage in sexual relations with each other would render them eligible to receive all other sacraments (except marriage and orders), including becoming Catholic. See the section in the Tribunal Handbook on the *Brother/Sister* for more information.

VII. Resources

The Diocesan Policy states that the couple must participate in an introductory course to Natural Family Planning. The following introductory courses are approved by the USCCB.

The Marriage Group: (<https://themarriagegroup.com>) offers marriage preparation program (Pre-Cana), Natural Family Planning, and Relationship Inventories all on-line.

- The cost for marriage prep is \$195.00, Natural Family Planning is \$50.00, and the Relationship Inventories are \$35.00.
- Parishes are able to purchase voucher codes and then hand them out to the couple. Discounts are given if vouchers are purchased in groups of 10 or more.
- Here is a link with the cost breakdown and how to order them
<https://themarriagegroup.com/clergy/vouchers>
- Once the payment is submitted, the unique codes are sent.

NFP Basics: (<https://nfpbasics.com>) is an online Natural Family Planning basics course that walks couples through their first steps when it comes to integrating Natural Family Planning.

- The of Natural Family Planning Basics is \$30.00
- Invoicing for a parish is available, and they have a high-volume discount for parishes or dioceses that consistently have more than 20 couples per month.
- This website allows the pastor to sign up for a free sample version of the program so that you can see what the couples will be learning.

Diocese of Grand Island Website: (<https://gidiocese.org/naturalfamilyplanning>) This is a no-cost introduction to natural family planning offered exclusively to the diocese's parishes. It is a video-based program with an accompanying book for the couple.

- Can be done in the comfort of the home and is a work-at-your-own-pace system.
- The workbook is in downloadable PDF format, so the couple may print it or work on it on the computer.
- A Certificate of Completion template for the Priest to fill in and place in the marriage file.