

SUBDIVISION ORDINANCE

CITY OF HOWARD, SOUTH DAKOTA

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ORDINANCE

AN ORDINANCE PERTAINING TO THE ESTABLISHMENT OF A SUBDIVISION ORDINANCE FOR THE CITY OF HOWARD

BE IT ORDAINED BY THE CITY OF HOWARD, MINER COUNTY, SOUTH DAKOTA

ARTICLE I GENERAL PROVISIONS

Section 101. Title

These regulations may be referred to as the Subdivision Ordinance for the City of Howard and its area of extraterritorial jurisdiction.

Section 102. Purpose

It is the purpose of this Ordinance to regulate the subdivision of land so as to coordinate streets with other subdivisions and uses, to provide water and sanitation facilities, drainage and flood control, to foster efficient and orderly urban growth compatible with the natural environment, to minimize cut and fill operations, to prevent premature land subdivision and to conform with the Comprehensive Land Use Plan for the City of Howard and its area of extraterritorial jurisdiction.

Section 103. Authority

In accordance with SDCL 11-6-26.1 and any other authority provided by law or as such statutes may be amended, the City of Howard does hereby exercise the power and authority to review and approve or disapprove plats for the subdivision of land within the City of Howard and its area of extraterritorial jurisdiction.

Section 104. Jurisdiction

1. These regulations shall apply to all subdivision of land, as defined herein, located within the City of Howard.
2. It shall be unlawful for any person having control of any land within the City of Howard to subdivide or layout such land in lots, unless by plat, in accordance with the laws of the State of South Dakota and the regulations contained herein.

3. No land shall be subdivided until the subdivider has conferred with the Administrative Official before preparing a preliminary subdivision plan in order to become thoroughly familiar with the subdivision requirements and with the proposals of the Official Comprehensive Land Use Plan affecting the territory in which the proposed subdivision lies.
4. And, no land shall be subdivided until the subdivider has submitted the preliminary plan and the plat to the Zoning Commission for its recommendation and to the City Council for its approval.
5. No plat shall be recorded in the office of the Register of Deeds and no lots shall be sold from such plat unless and until approved as herein provided.

Section 105. Enforcement, Violations, and Penalties

1. It shall be the duty of the Administrative Official to enforce these regulations and to bring to the attention of the Prosecuting Attorney any violations or lack of compliance herewith.
2. No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of such subdivision has been approved by the City Council and filed with the County Register of Deeds, in accordance with the provisions of these regulations.
3. The subdivision of any lot or any parcel of land, by the use of metes and bounds description for the purpose of sale, transfer or lease with the intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these regulations.
4. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations.
5. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.
6. No plat of any subdivision shall be allowed to be recorded with the Register of Deeds or have any validity until it has been approved by the City Council. In the event any such unapproved plat is recorded, it shall be considered invalid and the City Council shall institute proceedings to have the plat stricken from the records.

Section 106. Plat Required

Whenever any subdivision of land is proposed, before any contract is made for the transfer of any part thereof, and before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdivider, owner or his authorized agent shall apply for and secure approval of such proposed subdivision plat in accordance with the procedures set forth below. When there are only a small number of lots being subdivided, the plat may be relieved of some of the requirements and obligations set forth below at the discretion of the Administrative Official and the Zoning Commission.

ARTICLE II **DEFINITIONS**

The following words and phrases shall be as defined below:

Building -- Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind, and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Building Setback Lines -- A line parallel or approximately parallel to the lot lines at a specified distance therefrom, marking the minimum distance from the lot line that the building may be erected.

Comprehensive Land Use Plan -- Any legally adopted part or element of the Comprehensive Land Use Plan of the City of Howard.

Contractor -- The person who contracts with an individual or the developer to construct a building on a parcel of land prepared by the developer.

Developer -- The person who converts raw land into legally platted, buildable lots. The developer may or may not be the owner of the parcel or the builder of the structures which occupy the lots.

Easement -- Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of his property.

Final Plat -- A plat of a tract of land which meets the requirements of these regulations and is in form for recording in the office of the Register of Deeds.

Lot -- A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

Major Street Plan -- The Thoroughfare Plan in the adopted Comprehensive Land Use Plan.

Zoning Commission -- The Zoning Commission for the City of Howard.

Preliminary Plan -- The map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of this ordinance, to permit the evaluation of the proposal prior to detailed engineering and design.

Right-of-Way -- A strip of land occupied by a street, railroad, transmission line, oil or gas pipeline, water lines, storm or sanitary sewer lines, pedestrian walkways or other special use. The use of the term right-of-way for platting purposes shall mean that every right-of-way hereafter established and shown on a final 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. Rights-of-way shall be dedicated to public use by the owner of the plat on which such right-of-way is established.

Street -- Shall mean a way set aside for vehicular traffic, regardless of size or designation, but excluding private driveways serving only one parcel of land.

1. Arterial -- A principal traffic artery, more or less continuous across the City, which acts as a principal connecting street with state and federal highways and includes each street designated as an arterial street on the Major Street Plan.
2. Collector -- A street which carries traffic from local streets to arterial streets and includes each street designated as a collector street on the Major Street Plan.
3. Local Street -- A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for various utilities but not intended to be used for through traffic.
4. Private Street-- One that has not been dedicated, but rather reserved as an access easement to property. The private street shall be owned and maintained by the property owners which it serves.
5. Alley -- A public or private right-of-way which affords only a secondary means of access to abutting property.

Subdivider -- the person (s), firm (s), or corporation (s) owning land in the process of creating a subdivision of said land.

Subdivision -- The division of a lot, tract or parcel of land into two (2) or more lots, plots, sites or other divisions of land for the purpose of either immediate or future sale or building development. It also includes a resubdivision of lands or lots, and the establishment or dedication of a road, highway, street or alley through a tract of land.

ARTICLE III
SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS

Section 301. Advisory Meeting With the Administrative Official and Planning Commission

Prior to the submission of the preliminary plan to the Zoning Commission, the developer should present a sketch of the proposed plan to the Administrative Official for discussion and comments regarding the requirements for the general layout of streets, reservations of land, street improvements, drainage, sewerage, fire protection and similar matters as well as the availability of services. The developer may then informally present the proposed plan to the Zoning Commission.

Section 302. Preliminary Plan Approval

1. General.

After meeting informally with the Zoning Commission, the subdivider shall cause to be prepared a preliminary plan prior to the making of any street improvements or the installation of any utilities.

2. Procedure:

- a. Whenever a preliminary plan is proposed, the developers shall submit then (3) blue-line copies at a minimum scale of 100 feet to an inch. The preliminary plat shall be submitted to the City Office ten (10) days prior to the Zoning Commission meeting.
- b. The Zoning Commission shall study the said preliminary plan to see if it is consistent with the standards set forth in this ordinance. Following a public hearing before and due consideration by the Zoning Commission, The Commission shall transmit all copies of the preliminary plan to the City Council, together with its recommendations at least sixty days after receipt thereof. Said recommendations shall include approval, disapproval, or suggestions for modification and the reasons thereof, and a discussion of the effect of said plat on the Comprehensive Land Use Plan.

Said recommendations shall be of an advisory nature only. If the Zoning Commission does not act within sixty (60) days, the preliminary plan shall be deemed to have received a favorable recommendation in all respects, and shall receive due consideration by the City Council.

- c. Following a public hearing and due consideration of the preliminary plan, the City Council shall approve, disapprove, or modify the recommendations of the Zoning Commission and shall impose those requirements or grant those variances in conformance with this ordinance deemed necessary and appropriate by the City Council for final approval. The action of the City Council, together with all modifications, requirements, variances, and reasons thereof, shall be noted on all copies of the preliminary plan application. One (1) copy shall be returned to the subdivider, one copy relayed to Zoning Commission, And one copy retained by the City Council.
- d. Approval of the preliminary plan by the City Council shall indicate approval of the development concept only, and it does not constitute an acceptance or approval of the subdivision plan; therefore, no building permits shall be issued on the approval of the preliminary plan. The approval of the preliminary plan shall lapse unless a final plat, based thereon, is submitted within two (2) years from the date of such approval. An extension of time may be applied for by the subdivider and granted by the City Council.

3. Preliminary Plan Information

The Preliminary Plan shall contain the following: The preliminary plan shall meet the standards of design as set forth in Article IV and shall show the following information:

- a. The proposed name of the subdivision: the name shall not duplicate, be the same in spelling or alike in pronunciation with the name of any other recorded subdivision, unless it is an extension of or adjacent to said subdivision.
- b. The names of all adjacent subdivisions and all lot and block lines, easements and rights-of-way, adjoining unplatted property shall be labeled as such.
- c. Vicinity map to scale, showing location of the preliminary plan and other property for a least 660 feet in every direction.
- d. The owner, developer and surveyor's names and telephone numbers.
- e. The correct legal description and notations stating acreage, scale, north arrow and date of survey.
- f. A systematic lot and block numbering pattern, lot lines and street names.
- g. Location of property lines, roads, alleys, existing utilities with size of lines, underground installations and other significant features.

- h. Present zoning on and adjacent to the property, including across right-of-way.
- i. Zoning for proposed subdivision.
- j. Contours at an interval on not greater than five (5) feet; also, the locations of water courses, bridges, wooded areas, and such other topographic features as may be pertinent of the subdivision.
- k. Proposed easements, dedications, and reservations of land to be considered for sale or dedication to public use.
- l. Location of proposed culverts and other drainage provisions.
- m. Copies of proposed deed restrictions, if any, shall be attached to the preliminary plan.
- n. The existing drainage pattern for the area should be generally shown along with any proposed cut and fill operations which would alter the existing drainage patterns.
- o. Notations should be made on the plan regarding the location of the nearest available sewer and water connections, the direction of the proposed sanitary sewer flow, and the necessity for any lift stations.

4. Filing Fee.

A filing fee shall be required to be deposited at the City Finance Officer's Office for all plats and for all replats at the rate shown below:

Two lots or less.....\$50.00
 Three lots or more.....\$50.00 plus \$5.00 per platted lot.

Publishing costs for notices related to plats shall be in addition to the fees above and shall be paid by the subdividers.

Section 303. Final Plat Approval

- 1. General. The final plat shall conform substantially to the preliminary plan as approved, and it may constitute only a portion of the preliminary plan which the subdivider proposes to record and develop.

2. Procedure:

- a. Three (3) copies of the final plat and required supplemental material shall be filed with the Finance Officer, who shall transmit them to the Chairperson of the Zoning Commission. Such filing shall take place at least ten (10) days prior to the meeting of the Zoning Commission at which it is to be considered
- b. The Zoning Commission shall study the said plat to see if it is consistent with the minimum standards set forth in this ordinance. Following a public hearing before and due consideration by the Zoning Commission, The Commission shall transmit all copies of the final Plat to the City Council, together with its recommendations at least sixty days after receipt thereof. Said recommendations shall include approval, disapproval, or suggestions for modification and the reasons thereof, and a discussion of the effect of said plat on the Comprehensive Land Use Plan.

Said recommendations shall be of an advisory nature only. If the Zoning Commission does not act within sixty (60) days, the final plat shall be deemed to have received a favorable recommendation in all respects, and shall receive due consideration by the City Council.

- c. When the final plat has been approved by the City Council, one (1) copy shall be returned to the subdivider with the approval of the City Council certified thereon, for filing with the County Register of Deeds as an official plat of record within ninety (90) days. Another copy certified by the City Council will be transmitted to the Director of Equalization for his/her records.
3. Final Plat Information. The following information is required for final plats for subdivisions:
- a. The original or reproducible final plat shall be drawn in black ink upon tracing cloth or tracing vellum and shall be of uniform size, fifteen (15) inches by twenty-six (26) inches or eight and one-half (8 ½) inches by fourteen (14) inches. The scale shall be one (1) inch equals one hundred (100) feet or larger.
 - b. Date, title, name and location of subdivision, graphic scale, and magnetic and true north line.
 - c. All dimensions, angles, bearings, and similar data on the plat shall be tied to primary control points. Locations and descriptions of said control points shall be given. Except where deemed clearly unreasonable or infeasible by the City Council, these control points shall be located on section corners of the Coordinate system of the State of South Dakota.

- d. Tract boundary lines, right-of-way lines of streets, easements and other right-of-way, and property lines of residential lots and other sides with accurate dimensions to the nearest one hundredth of a foot, bearings of deflection angles, radii, arc and central angles of all curves with dimensions to the nearest minute.
- e. Name and right-of-way width of each street, easement or other right-of-way.
- f. Lot numbers, lot lines, and frontage dimensions.
- g. Purpose for which sites other than residential lots, are dedicated or reserved.
- h. Minimum building setback lines.
- i. Location and description of monuments.
- j. Names and locations of adjoining subdivisions and streets, the location of adjoining unplatted properties, and the names and addresses of the owners of adjoining unplatted properties.
- k. Certification on plat of title showing that the applicant is the owner, that the making of the plat receives his consent and is in accordance with his desires, and a statement by such owner dedicating streets, right-of-way, and any other sites for public use
- l. Certification on plat by registered engineer as to the accuracy of survey and plat.
- m. Certification by the Administrative Official, when individual sewerage disposal or water systems are to be installed
- n. Certification that the subdivider has complied with one of the following Alternatives:
 - 1) All the improvements have been installed in accordance with the requirements of this ordinance, or;
 - 2) A security bond or certified check has been posted with the City Finance Officer in sufficient amount to assure such completion of all required improvements
- o. Cross sections, profiles and grades of streets, curbs, gutters and sidewalks showing location of in-street utilities, and drawn to City standard scales and elevations shall be attached to the Final Plat.
- p. Protective covenants shall either be placed directly on the Final Plat or attached

thereto in form for recording.

- q. Certification on plat by the Mayor and the City Finance Officer that the plat has been approved for recording in the office of the county Register of Deeds.
4. Guarantee in Lieu of Completed Improvement. No final subdivision plat shall be approved by the City Council or accepted for record by the Register of Deeds until the required improvements have been installed in accordance with the preliminary plan and approved by the City Council; or in lieu of such prior construction, the City Council may accept a security bond in an amount equal to the estimated cost of installation of the required improvements, whereby improvements may be in the event of default of the subdivider.

Section 304. Replats

1. General. If the land proposed for platting is a resubdivision, it shall require a preliminary plan and a plat of the resubdivision, requiring the same review and approval procedures as for the preliminary plan and final plat, unless the resubdivision meets the requirements set forth in 305.

Section 305. Replat Approval Process

1. Replat Requirements.

a. A replat will be permitted where:

- 1) The perimeter of the tract being replatted shall not be altered by the replat.
- 2) Either the grades shall not be changed from the drainage plan which was submitted and approved with the original plat or if the grades are going to be changed, then a drainage plan shall be submitted and approved for the resubdivision.
- 3) The replat shall not significantly change any plans that have been prepared for the placement of utilities in the subdivision. If the resubdivision meets these stipulations, the replat may be submitted as a plat, provided the previous platting lines are shown.

If the subdivision meets the requirements set forth for a replat, it shall be approved or disapproved within ninety (90) days after submission to the City Council. A plat shall have been considered submitted when placed on file with the Zoning Commission and when placed on the Zoning Commission agenda. Otherwise, such plat shall be deemed to be approved and a certificate to that

effect shall be issued by the City Council on demand. Provided, however, that the applicant for the approval may waive this requirement and consent to the extension of such period.

ARTICLE IV
GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN

401. General

1. The City Council shall impose the following general requirements and compel all subdividers to comply with the principles of design in the layout of subdivisions hereinafter described.
2. All proposed subdivision regulations shall conform to the Comprehensive Land Use Plan.

402. Suitability of the Land for Subdivision Development

1. If the City Council finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, steep slopes, rock formations, and other such conditions as may increase the danger of health, life, or property or aggravate erosion or flood hazards; and, if from adequate investigations, conducted by all public agencies, concerned, it has been determined that in the best interest of the public, the land should not be platted and developed for the purpose proposed, the City Council shall not approve the land for subdivision unless adequate methods are formulated by the subdivider for meeting the problems that will be created by the subdivision and development of the land.
2. The City Council may refuse to approve what it considers to be scattered or premature subdivision of land which would necessitate an excessive expenditure of public funds for the supply of such services such as undue maintenance costs for adequate roads.

Section 403. Dedication of Right-of-way and Roadway Width

1. In undeveloped or vacant areas, streets shall be identified and classified by the Zoning Commission. The location of major streets shall conform with the current official Major Street Plan.
2. Streets shall have widths not less than as follows:

Street Type	Right-of-Way
Arterials.....	100*
Collectors.....	66'
Local	60'
Alleys.....	16'
Local	60'

* 80 feet if there is 50' of right-of-way provided for an access road on both sides of the arterial.

3. Minimum Roadway Widths.

The following roadway widths shall be required at a minimum; however, the Administrative Official can require greater roadway widths where he deems it necessary. Curbs, gutters, and streets shall be constructed in accordance with the City of Howard's specifications.

Type (Measured from Curb Faces)	Pavement Width
Arterials.....	60
Collectors.....	38
Local	32
Local (parking one side of street only)	26
Alley	16

Section 404. Private Streets and Alleys

The use of private roads shall be discouraged; however, in cases where a private road is allowed, it shall meet the following requirements:

1. Private streets shall be surfaced by the developer to a width of no less than 26', and maintained in a passable condition. Greater width may be required when necessary. All private streets must provide a height clearance of 14' 6" as a minimum and are subject to the same grade requirements as public streets.
2. The City of Howard will not subsequently accept a private street for dedication unless and until it is brought up to City standards, providing adequate right-of-way without requiring variances for setbacks.
3. Alleys may be permitted in residential districts when conditions warrant an alternative means of access.

Section 405. Lots and Blocks

1. All subdivision boundary corners shall be marked with monuments to grade and noted on the subdivision plat.
2. The lengths, widths and shapes of blocks shall be determined with regard to:
 - a. Provision of adequate building sites available to the special needs of the type of use contemplated.

- b. The need for convenient access, circulation, control and safety of traffic and utilities.
 - c. Limitations and opportunities of topography.
3. Block lengths shall be between 350 and 1,000 feet and shall normally be wide enough to allow two tiers of lots of an appropriate depth.
 4. Lot dimensions shall be appropriate for the location of the subdivision and conform to the requirements of the Zoning Ordinance.
 5. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide off-street parking and loading for the use contemplated.
 6. Corner lots for residential use shall have extra width to allow for two front yards.
 7. All interior lot lines shall be a straight line or a series of straight lines. Curved interior lot lines shall be prohibited.
 8. Side lot lines shall be at right angles to streets except on curves where they shall be radial except when otherwise approved by the Administrative Official.
 9. Each lot shall abut a dedicated public right-of-way or approved private street.

Section 406. Easement

1. All easements shall be shown on the plat.
2. Except where alleys are permitted for the purpose, The City Council shall require easements at least 20 feet in width centered on rear lot lines.
3. Where topographical or other conditions warrant side yard easements and easements across lots, easements at least 10 feet in total width shall be provided.
4. The property owner whose property is subject to such easements shall be responsible for its maintenance. The property owners shall keep the easement clear of any structure, debris, trees, shrubs or landscaping whatsoever except that lawn grass, which shall be regularly mowed, and annual vegetation may be grown thereon, and no permanent fences shall be allowed.

ARTICLE V
REQUIRED IMPROVEMENTS PREREQUISITE TO FINAL APPROVAL

Section 501. General

1. The subdivider is required to install or construct the improvements hereinafter described prior to receiving approval of his final plat or prior to having released the bonds or other securities which guarantee such required improvements.
2. All public and private water mains, sanitary sewers, laterals and storm sewers shall be installed as necessary to prevent the future cutting of pavement of any street, sidewalk, or other required pavement.
3. The subdivider is required to have a certified engineer design and inspect all proposed streets and utility installations.
4. The City of Howard may participate, at the City's discretion, by sharing in the responsibility of street and utility construction costs.

Section 502. Property Markers

The corners of all lots and the beginning and ending of all curves on property lines shall be accurately marked on the ground with three-fourths (3/4) inch diameter iron rods or pipes at least twenty-four (24) inches long.

Section 503. Streets and Alleys

The subdivider shall construct all proposed streets. The proposed streets shall be designed and inspected by a certified engineer at the cost of the subdivider and have the following minimum improvements:

- a. The removal of all top soil and grading to meet drainage requirements;
- b. A minimum of six (6) inches of crushed gravel; and
- c. If a paved street is proposed, an additional three (3) inches of crushed gravel and three (3) inches of asphalt paving is required.

Section 504. Sidewalks

1. Required Improvements.

- a. The Zoning Commission may require, in order to facilitate pedestrian access from roads to schools, parks, playgrounds or other nearby roads, the construction of sidewalks. Sidewalks shall be constructed to four (4) feet in width and to standards approved by the City .
- b. The Zoning Commission in its discretion may waive the requirement that the applicant install sidewalks prior to the signing of the subdivision plat, and that as an alternative, require the applicant for a building permit to construct sidewalks.

Section 505. Water Facilities

Where, in the opinion of the City Council, the public water supply is reasonably accessible or available to the proposed subdivision, the subdivider shall construct a complete water distribution system which shall adequately serve all lots and which shall include appropriately spaced fire hydrants, and this system shall be properly connected with the public water supply. The water facilities are to be designed and inspected by a certified engineer.

Section 506. Sanitary Sewers

Where, in the opinion of the City Council, the public sanitary sewer system is reasonably accessible or available to the proposed subdivision, the subdivider shall construct a subdivision sewer system to adequately serve all lots and connect the subdivision system to the public system after the City Council has approved the size of the lines. Each lot within a subdivision area shall be provided with a connection to an approved public sanitary sewer and which would serve at least the main floor. The sanitary sewer facilities are to be designed and inspected by a certified engineer.

Section 507. Storm Drainage

An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., for the proper drainage of all surface water shall be provided. Cross drains shall be provided to accommodate all natural water flow, and they shall be of sufficient length to permit full width roadways and required slopes. The storm water facilities are to be designed and inspected by a certified engineer.

Section 508. Oversize Facilities

The City Council may participate in the cost of "oversize" improvements within a subdivision if it is adjudged that such oversize improvements are necessary to serve large areas of land not in the subdivision and if the cost of such oversize improvements is an unreasonably ordain on the subdivider.

Section 509 Assurances for the Completion of Minimum Improvements.

No building permits will be issued until the subdivider has installed sanitary sewer, and water and graded the street past the property upon which a building is to be constructed.

Before final approval of a plat is given, the subdivider must provide a bond with the corporate surety, or other assurances satisfactory to the City, which will assure the City of Howard that the construction of water, sanitary sewer, storm sewer, gravel and asphalt paving as approved by the City Council will be completed.

The effective date of this ordinance is December 17, 1997.

All ordinances and parts of ordinances in conflict herewith are hereby repealed insofar as the conflicting portions thereof are concerned.

ATTEST


Finance Officer

APPROVED


Mayor

Placed on First Reading: October 6, 1997
Placed on Second Reading: November 10, 1997
Approved and Adopted: November 10, 1997
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