

2010 Legal and Public Notices

deemed to be the principle building on the lot on which the same is situated.

B) Building - A structure having a roof supported by columns or walls for housing, shelter, or enclosure of persons, animals, movable personal property or property of a kind.

C) Building, Principle - A building in which is conducted the principle use of the lot on which it is situated. In a residential district any dwelling is deemed to be the principle building on the lot which it is situated. The principle dwelling shall meet Yankton County Zoning Ordinance #16, Article 15, Section 1527 Principle Dwelling Performance Standards.

D) Building, Accessory - A building which is subordinate, and the use of which is incidental to that of the principle building, structure or use on the same lot.

3. Collector Road - A road which carries traffic from local roads to arterial roads and highways, including the principle entrance roads of a residential development and roads for circulation in such development.

4. Comprehensive Plan - Any legally adopted part or element of the Comprehensive Plan of Yankton County.

5. County - Yankton County, South Dakota.

6. County Commission - A duly elected governing body of Yankton County.

7. Cul-de-sac Road - A local right-of-way with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic turnaround.

8. Publicly Dedicated Property - A grant of land deeded to the public for their perpetual use.

9. Developer - The owner of the property being platted or replatted or the person designated by the owner as being responsible for the development of the property. The terms "subdivider" and "developer" are synonymous and used interchangeably, and shall include any person, partnership, firm, association, corporation and/or any officer, agent, employee and trustee thereof who does or participates in the doing of any act toward the subdivision of land within the intent, scope and purview of this Ordinance. The developer shall also be defined as the builder or contractor if they are responsible for the construction of buildings and/or structures or permanent improvements.

10. Double Frontage Lot - A lot which abuts a road on two opposite sides (not a corner lot).

11. Easement - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property. For the purposes of this Ordinance the term shall primarily be used to describe utility access.

12. Final Subdivision Plan - The plan shall include final drainage and grading plans and an erosion control plan.

13. Frontage Road - A road generally located adjacent and parallel to an arterial road, used only for access to abutting property providing limited access to the arterial road.

14. Highway Superintendent - The person appointed by the County Commission to direct the operations of the County Highway Department.

15. Local Road - A road intended to provide access to arterial and collector roads from individual properties in a subdivision and to provide right-of-way for various utilities but not intended to be used for through traffic.

16. Lot - A lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and including such yards and other open spaces as are herein required. Such parcel shall have frontage on an improved public right-of-way, or approved private right-of-way, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record; in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance, unless approved by the County Commission.

17. Major Road Plan - The transportation plan adopted as part of the Comprehensive Plan by the County Commission.

18. Monument - A boundary marker of concrete, enduring stone or material, permanently planted and firmly fixed in the ground placed so that the top of the monument is flush with natural ground. The monument shall meet current professional survey standards.

19. Planning Commission - The Yankton County Planning Commission, a body of persons having the power to hear and make recommendations to the Board of Adjustment or County Commission, based on Findings of Fact, in accordance with provisions of the Subdivision Ordinance, on requests for conditional use permit, variance, amendment or change in zoning. The term Planning Commission shall be synonymous with Planning and Zoning Commission and Commission, but shall not in-

clude Board of Adjustment or Zoning Board.

20. Plat - A map, or representation on paper, depicting a piece of land subdivided into lots, parcels, tracts or blocks, including roads, right of ways, commons, and public grounds, if any, all drawn to scale and complete and showing all irrevocable offers of dedication.

21. Preliminary Plan - A map depiction consisting of the preliminary subdivision plan, and showing the preliminary drainage and grading plan.

22. Preliminary Subdivision Plan - Maps, drawings and /or writings indicating the proposed layout of the lots, blocks, and public rights-of-way within a subdivision.

23. Private Roadway - An access that has not been dedicated, but rather reserved as private access to property. The access shall be owned and maintained by the property owners which it serves, and shall be the full width of the easement including the driving surface and ditches.

24. Replat - A map depiction changing an approved or recorded subdivision plat which affects any road layout, area reserved for public use, or lot line.

25. Right-of-Way; ROW - An area of land that is legally described in a registered deed. The term right-of-way shall include any defined access route or point including but not limited to public and private accesses, road easements, streets, roads, and drives other than a private drive serving a single owner.

26. Sketch - A rough draft drawing depicting the general layout of roads, reservations of land, road improvements, drainage, and the availability of services. This depiction is intended to provide the Zoning Administrator with a reference point for discussion and review and to make recommendations. The Zoning Administrator shall review the sketches for compliance to a formal subdivision checklist.

27. Structure -

A) Anything constructed or erected which requires location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings and manufactured homes. This definition does not include semi-portable agricultural structures.

B) Anything manufactured or constructed by humans, as opposed to that occurring in nature, which is affixed, anchored, or otherwise attached to or below surface of the ground.

C) Anything manufactured or constructed by humans, as opposed to that occurring in nature, which is attached, to something else having been affixed, anchored, or otherwise attached to or below the surface of the ground.

D) Structure, Accessory - A structure which is subordinate to a principle building and the use of which is incidental to that of the principle use on the same lot.

28. Subdivision - The division of a parcel of land into more than two (2) lots; or parcels less than twenty (20) acres in size platted for the purpose of transfer of ownership, or building development, whether future or immediate; or any division of land involving a new road regardless of parcel size or the number of parcels. (SDCL 11-3-8)

29. Unconventional Septic Systems - All septic systems which are not defined as "On-site wastewater system - a system designed to contain, distribute, or treat wastewater on or near the location where the wastewater is generated, including sewers, septic tanks and absorption fields".

30. Zoning Administrator - An official of the County, hired by the Yankton County Commission, to administer and enforce the Subdivision Regulations and other provisions of the Yankton County Zoning Ordinance. This official may be given administrative authority to approve future plats in a subdivision after a final subdivision plan has been approved by the Yankton County Board of Adjustment or Yankton County Commission.

ARTICLE 1

GENERAL PROVISIONS

Section 101 Title

These regulations shall be referred to as the Subdivision Regulation Ordinance of Yankton County, South Dakota.

Section 102 Purpose

It is the purpose of this ordinance to regulate the subdivision of land so as to provide coordination of roads with other subdivisions and transportation plans; to set aside adequate areas for public uses, water and sanitation facilities, drainage and flood control; to foster efficient and orderly growth compatible with the natural environment; to prevent unauthorized land subdivision; to protect and provide for the public health, safety, and general welfare of the County; and to conform with the comprehensive plan.

Section 103 Jurisdiction

A) These subdivision regulations shall apply to all subdivisions of land, as described herein, located within the unincorporated area of the county.

B) It shall be unlawful for any person having control of any land within the jurisdiction of the

County to subdivide or lay-out such land in lots less than twenty (20) acres, unless by plat, in accordance with the laws of the State of South Dakota and the regulations contained herein.

C) No land shall be subdivided until the owner or developer has submitted the preliminary plan, if required, to the Planning Commission for its approval.

D) 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. The Register of Deeds shall not record any document of any sale or transfer of unplatted property except in accordance with this ordinance.

Section 104 Conformity With Other Plans

In addition to the requirements established herein, all subdivision plans and plats shall comply with the following laws, rules, and regulations:

A) The Comprehensive Plan for the County and the policies set forth therein.

B) The Zoning Ordinance of the County.

C) Other plans which may be or have been adopted that would affect the subdivision and use of the land. An example is the Flood Damage Prevention ordinance.

Section 105 Interpretation, Abrogation and Severability

A) In interpreting and applying the provisions of this Ordinance, these regulations are the minimum requirements for the promotion of public safety, health, and general welfare. It is not the intent of this Ordinance to uphold, repeal, abrogate or impair any existing easement, covenant, or deed restriction, or non-conforming lots of record at the effective date of adoption or amendment of the Subdivision Ordinance, where these provisions conflict or overlap.

B) Should any provision of this ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the ordinance as a whole or any portion thereof.

Section 106 Amendments

For the purpose of providing for the health, safety and general welfare of the community, the County Commission may from time to time amend the provisions imposed by these subdivision regulations. (SDCL 11-2-30) Public hearings on all proposed amendments shall be held by the Planning Commission and the County Commission in the manner prescribed by law. (SDCL 11-2-18)

Section 107 Fees (amended YC 03-18-2014)

A) A fee of \$30.00 shall be charged for the filing of a preliminary subdivision plan.

B) A fee of \$100.00 shall be charged for the filing of a subdivision variance.

C) The developer shall pay to the Planning Department a fee in the amount of \$100.00 for the final

subdivision plan, including all plats to be filed with the Register of Deeds at this approval period. All additional plats submitted after the initial final subdivision plan shall pay a fee of \$25.00 for each plat shown on the final subdivision plan. Prior to release of the plat, the developer shall also pay for the cost of all road signs as specified in Section 801(C). (approved YC #20 04-09-2014)

ARTICLE 2 ENFORCEMENT

Section 201 Powers and Duties

A) The Zoning Administrator is hereby authorized to administer and enforce this ordinance. Any appropriate actions may be taken by law or in equity to prevent any violation of this ordinance, to prevent unlawful construction, to recover damages, to correct or abate a violation, or to prevent illegal occupancy of a building, structure, or premises. These remedies shall be in addition to the penalties described below.

B) In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

Section 202 Variations and Exceptions

Whenever the tract to be subdivided is of such unusual size or shape, or is surrounded by such development or unusual conditions that the strict application of this ordinance would result in real difficulties or substantial hardship or injustice, the Planning Commission, after a report detailing the exception or variance by the Zoning Administrator, may recommend and the County Commission may approve modifications in the requirements so that the developer may develop the property in a reasonable manner, but so that, at the same time, the public welfare and interests of the County are protected and the general intent and spirit of this ordinance are preserved.

Section 203 Violations

A) No person, firm, or corporation shall transfer or sell any parcel either by reference to, exhibition of, or by the use of a final subdivision plan before such lot or subdivision has been approved by the County in accordance with this ordinance and has been filed with the County Register of Deeds.

B) The subdivision of any lot or any parcel of land, by the metes and bounds description for the

purpose of sale (pursuant to SDCL 43-21-1), transfer or lease, with the intent of evading the terms of this ordinance shall not be permitted.

C) No zoning or 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 this ordinance.

Section 204 Penalties

Any person, firm, or corporation violating the provisions of this ordinance shall be guilty of a Class 2 Misdemeanor and shall be punished pursuant to SDCL 7-18A-2. Each and every day that the violation continues may constitute a separate offense.

ARTICLE 3

SUBDIVISION PLANS IN GENERAL

Section 301 Plat Required

Whenever any subdivision of land into a lot or lots less than twenty (20) acres is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the developer, owner, or authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth below.

Section 302 Recording, Use and Selling

A) 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 in the manner prescribed by this ordinance. If any such unapproved plat is recorded, it is invalid and the County Commission shall institute proceedings to have the plat stricken from the records.

B) No owner, or agent of the owner, of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of, or by the use of a subdivision plan before a plat of said land has been approved and recorded in the manner prescribed herein.

C) No local agency shall issue any permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of this Ordinance if it is found that such real property is contrary to the public health, safety, or welfare. The authority to deny such a permit shall apply whether the applicant was the owner of record at the time of such violation or whether the applicant is the current owner of record or a vendee of the current owner pursuant to a contract of sale with, or without, actual or constructive knowledge of the violations at the time of acquisition of his interest in said real property.

Section 303 Plat Approval Process

All proposed subdivision plats must be approved through a three-phase development process. When there are five or less lots being platted, the requirements for a sketch plan and preliminary plan may be waived by the Zoning Administrator.

A) Sketch Plan - Prior to the submission of the preliminary plan to the Planning Commission, the developer shall present a sketch of the proposed plan to the Zoning Administrator for discussion and comments regarding the requirements for the general layout of roads, reservations of land, road improvements, drainage, and similar matters as well as the availability of services. The Zoning Administrator shall utilize a Yankton County Commission approved subdivision checklist to evaluate all sketch plans and shall require completion of all tasks listed on the subdivision checklist before the sketch plan / preliminary plan is submitted to the Planning Commission.

B) Preliminary Plan - Based on the discussion of the sketch plan, the applicant shall submit the preliminary plan for approval. The preliminary plan shall provide all of the information indicated in Section 401. This plan will be subject to review by the Zoning Administrator and Highway Superintendent, and approval of the Planning Commission and the County Commission.

C) Final Plans - The final plan shall consist of the proposed plat, the final drainage and grading plan, and the final erosion control plan. The plat shall provide the information indicated in Section 502 and shall require the approval of the Zoning Administrator. Either all or a portion of the preliminary plan may be platted for approval by the Zoning Administrator.

Replats

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 the preliminary plan and the plat, unless the resubdivision meets the requirements set forth in Section 601. The Zoning Administrator may waive the requirements for a preliminary plan.

Filing Fee

The developer shall pay to the Planning Department a fee in the amount of \$100.00 for the final subdivision plan, including all plats to be filed with the Register of Deeds at this approval period. All additional plats submitted after the initial final subdivision plan shall pay a fee of \$25.00 for

each plat shown on the final subdivision plan. Prior to release of the plat, the developer shall also pay for the cost of all road signs as specified in Section 801(C). (approved YC #20 04-09-2014)

ARTICLE 4

PRELIMINARY PLAN

Section 401 Information Required

Whenever a preliminary plan is proposed, the developer shall submit a plan at standard, defined scale no smaller than 8 " X 11 " and no larger than 15 " X 26 ". The preliminary plan shall be submitted to the Planning Department and shall contain the following:

A) Preliminary Subdivision Plan

1) The name of the proposed subdivision and location by quarter section, section, township and range. Subdivision names shall not duplicate, be the same spelling, or alike in pronunciation with any existing subdivision located in the same section, unless it is an extension of or adjoining an existing subdivision. All subdivision names shall be subject to approval by the Zoning Administrator.

2) The names of all adjacent subdivisions and their platting pattern. Adjoining unplatted land shall be labeled as such.

3) The correct legal description. Notations stating acreage, scale, and north arrow.

4) The owner, developer, and surveyor's names and telephone numbers.

5) Vicinity map, showing locations of the preliminary plan and surrounding property.

6) Exterior boundaries of the proposed subdivision referenced to a corner marker of the U.S. Public Land Survey, corner marker of adjacent subdivision or existing survey plat and the total acreage encompassed thereby.

7) The location and width of all proposed and existing road rights-of-way, existing structures, easements, railroad rights-of-way, standard survey notations, topography and aerial maps/photographs.

8) Existing contours at vertical intervals not greater than ten feet. A lesser interval may be required in those cases where the character or topography of the land is difficult to determine.

9) A systematic lot and block numbering pattern, lot lines and road names.

10) The dimensions and acreage of all lots.

B) Other Preliminary Plans.

Generally, the following plans shall be submitted in conjunction with the preliminary plan:

1) Preliminary Drainage and Grading. 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.

2) Erosion Control. In any proposed subdivision in which an area greater than five acres will be disturbed, or in areas where topographic features are such that erosion, siltation or temporary runoff problems may occur, a site plan shall be required showing how these problems will be resolved.

3) Wastewater and Septic System. All unconventional septic systems will provide specific details as required by South Dakota Codified Law (chapter 34A-2) and South Dakota Administrative Rules (chapter 74:53:01).

Section 402 Approval of Preliminary Plan

After the preliminary plan has been recommended for approval or disapproval by the Planning Commission, it shall be kept on file in the office of the Zoning Administrator. Approval of the preliminary plan shall indicate approval of the development concept only, and it does not constitute an acceptance or approval of the subdivision plan; therefore, no zoning or building permits shall be issued based on the approval of the preliminary plan.

Section 403 Effective Period of Preliminary Approval

The approval of a preliminary plan shall be effective for a period of 18 months with a single extension of 18 months, at the end of which time approval of the subdivision plat or a portion thereof must have been obtained from the County Commission. Any plan which has not received approval for all or a portion of it within the period of time set forth herein, shall be null and void, and the developer shall be required to resubmit a new plan for preliminary approval subject to any new subdivision regulations.

Section 404 Revisions to Preliminary Plan

Minor amendments to an approved preliminary plan may be made at the discretion of the Zoning Administrator and Highway Superintendent.

ARTICLE 5

FINAL PLANS AND THE PLAT

Section 501 Final Plans

Following the approval of the Preliminary Plan, if the developer wishes to proceed, final drainage, grading and erosion control plans shall be submitted to the Zoning Administrator and Highway Superintendent for review and approval. Any or all of these plans may be deleted at the Zoning Administrator's discretion.

Section 502 The Plat

Two copies and one reproducible Mylar of the plat shall be submitted to the Zoning Administrator for review and approval. If the plat is not approved by the Zoning Administrator within ten (10) days of submittal, the plat shall be presented to the County Commission for action. The plat shall be drawn at a scale of 100 feet to an inch from an accurate survey and on one or more sheets whose dimensions are as required by State Law. If more than two sheets are required, an index sheet of the same dimension shall be attached and filed. Plats which describe large agricultural tracts may be drawn at a scale of 200, 300, 400 or 600 feet to the inch. The plat shall contain the following information:

A) The name of the proposed subdivision and location by quarter section, section, township and range. Each plat shall be titled as follows: (Name) Addition in the quarter, Section, T, N, R, W of the 5th P.M., Yankton County, South Dakota.

B) Scale and north arrow.

C) The names of all adjacent subdivisions, all lot and block lines, type of easements, and rights-of-way.

D) A systematic lot and block numbering pattern, lot lines and road names, and the square footage or acreage of all lots.

E) The location and width of all proposed and existing rights-of-way, easements and private roadways.

F) The boundary lines of the area being subdivided with accurate angles or bearings and distances tying the perimeter boundaries to the nearest section corner, other previously described subdivision, or other recognized permanent monuments which shall be accurately described on the plat.

G) Location of all monuments and permanent control points, and all survey pins, either set or located.

H) The location and description of any portions of the property intended to be dedicated or granted for public use.

I) All dimensions, linear and angular, necessary for locating the boundaries of the subdivision lots, roads, easements and type of easement, and any other areas for public or private use. Linear dimensions are to be given to the nearest 1/100 of a foot.

J) The radii, chords, length of curve, points of tangency, and central angles for all curvilinear roads and radii for rounded corners.

K) Acknowledgment of the owner or owners of the plat of any restrictions, including dedication of all public roads, alleys, parks, or other open spaces shown thereon and the granting of easements required.

L) All formal irrevocable offers of dedication for all public roads and other uses as required.

M) Certificates as specified in Article 11.

Section 503 Road Names

A) Roads obviously in alignment with existing roads shall bear the names of those roads.

B) Provisions:

No road names shall be used which duplicate, be the same in spelling or alike in pronunciation with any other existing roads. Road names shall not exceed 12 letters, including spaces. Road name suffixes shall be applied as follows:

Street - a road running east and west

Avenue - a road running north and south

Road - a road running east and west or north and south but which is not appropriate to name as a street or avenue

Lane - a road running northeast to southwest

Drive - a road running northwest to southeast

Trail - a road which wanders in different directions

Circle - all cul-de-sacs

Court - a road with two openings which enters and exits on the same road

Place - all private roads

ARTICLE 6

REPLATS AND PLAT

VACATIONS

Section 601 Minor Plats

Requirements

The intent of this section is to provide for the timely review of minor plats and replats (including plats for transfer ownership) that do not discernibly impact surrounding properties, environmental resources, or public facilities. No concept plan, preliminary plan or final plans required. Minor plats and replats are administratively approved by the Zoning Administrator and must comply with all requirements of a plat in Section 502 - The Plat.

A) A minor plat is a plat containing not more than three lots fronting an existing road and shall meet ALL of the following requirements:

1) Does not require the dedication of right-of-way or construction of new roads;

2) Does not require the creation of easements affecting adjacent property;

3) Does not create a lot or tract eligible for any public or private improvements other than sidewalks;

4) Does not landlock or otherwise impair convenient ingress or