

SUBDIVISION ORDINANCE

FOR

DEUEL COUNTY

PREPARED BY

THE DEUEL COUNTY PLANNING COMMISSION

**WITH ASSISTANCE FROM
THE FIRST DISTRICT ASSOCIATION OF LOCAL GOVERNMENTS**

SUBDIVISION ORDINANCE

Deuel County, South Dakota

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**ORDINANCE B2004-02, AN ORDINANCE ESTABLISHING SUBDIVISION REGULATIONS
AND REPEALING ALL RESOLUTIONS AND ORDINANCES IN CONFLICT THEREWITH**

ARTICLE I

GENERAL PROVISIONS

Section 101. Title

These regulations may be referred to as the 2004 Subdivision Ordinance of Deuel 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 premature 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. Applicability

In accordance of South Dakota Codified Law and any other authority provided by law or as such statutes may be amended, Deuel County does hereby exercise the power and authority to review and approve or disapprove plats for the subdivision of land within the unincorporated areas of Deuel County.

1. These subdivision regulations shall apply to all subdivisions of land, as described herein, located within the unincorporated area of the county, which are subdivided after the adoption of this ordinance.
2. 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, 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 owner or developer has submitted the preliminary plat, if required, to the Planning Commission for its approval.
4. 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.

- (2) The variance is necessary for the reasonable and acceptable development of the property in question.
- (3) The granting of the variance will not be detrimental to the public welfare or injurious to adjacent property.
- (4) The variance will not permit or encourage uses contrary to zoning regulations.
- c. Conditions. In approving variances, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.
- d. Procedures. A petition for any such variations shall be submitted in writing by the subdivider at the time when the petition is filed for the consideration of the County Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

Section 108. Enforcement

1. It shall be the duty of the Administrative Official to enforce these regulations and to bring to the attention of the States Attorney any violations or lack of compliance herewith.

Section 109. Violations

1. No person, firm, or corporation shall transfer, sell, or negotiate to sell any parcel either by reference to, exhibition of, or by the use of a subdivision plan before a plat of such subdivision has been approved by the County in accordance with this ordinance and has been filed with the County Register of Deeds.
2. The subdivision of any lot or any parcel of land, by the metes and bounds description for the purpose of sale, transfer or lease, with the intent of evading the terms of this ordinance shall not be permitted.
3. 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 110. Penalties

Any person, firm, or corporation violating the provisions of this ordinance shall be subject to a maximum penalty of a \$200 fine, 30 days in jail, or both; or up to the maximum penalty allowed by law. Each and every day that the violation continues may constitute a separate offense.

ARTICLE II

SUBDIVISION PLANS IN GENERAL

Section 201. Plat Required

Whenever any subdivision of land 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 202. Recording, Use and Selling

1. 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.
2. 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 has been approved and recorded in the manner prescribed herein.
3. 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.
4. 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 intent of evading these regulations, shall not be permitted.

Section 203. Plat Approval Process

1. All proposed subdivision plats must be approved through a three-phase development process. Where a proposed subdivision would contain no more than two (2) parcels or plots of land and no new roads, the procedure of preparing a sketch plan and preliminary plat may be waived by the County Commission.

ARTICLE III

PRELIMINARY PLAT

Section 301. Preliminary Plat Approval

1. General.

After meeting informally with the Planning and Zoning Commission or Administrative Official, the subdivider shall cause to be prepared a preliminary plat prior to the making of any street improvements or the installation of any utilities. The preliminary plat shall provide all of the information indicated in Section 301.3 below. The preliminary plat will be subject to review and revision by the Administrative Official and Planning and Zoning Commission.

2. Procedure:

- a. One (1) copy of the preliminary plat and the required supplemental material shall be filed with the Administrative Official who shall transmit them to the Planning and Zoning Commission. Such filing shall take place at least ten (10) days prior to the meeting of the Planning and Zoning Commission at which it is to be considered.
- b. The Planning and Zoning Commission shall study the said preliminary plat to see if it is consistent with the standards set forth in these regulations. Following a hearing and due consideration of the preliminary plat, the Planning and Zoning Commission shall transmit all copies of the preliminary plat to the County Commission together with its recommendation, within sixty (60) days after receipt thereof. Said recommendation shall include approval, disapproval, or suggestions for modification and the reasons thereof, and a discussion of the effect of said plat on the comprehensive plan. Said recommendation shall be of an advisory nature only. If the Planning and Zoning Commission does not act within sixty (60) days, the preliminary plat shall be deemed to have received a favorable recommendation in all respects, and shall receive due consideration by the County Commission.
- c. Following a hearing and due consideration of the preliminary plat, the County Commission shall approve, disapprove, or modify the plat and shall impose those requirements or grant those variances in conformance with this ordinance deemed necessary and appropriate by the County Commission for final approval. The action of the County Commission, together with all modifications, requirements, variances, and reasons thereof, shall be noted on all copies of the preliminary plat application. One (1) copy shall be returned to the subdivider and one (1) copy retained by the Administrative Official. Approval of the preliminary plat 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 plat.

l. Names of new streets.

m. Copies of proposed deed restrictions, if any, shall be attached to the preliminary plat.

n. Certificates of approval for endorsement by the Planning Commission and County Commission.

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 and shall be 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. The final plat shall show the following information:

(1) Date, title, name and location of subdivision, graphic scale, and true north line.

(2) 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 County Commission, these control points shall be the located section corners of the Coordinate System of the State of South Dakota.

(3) Name and right-of-way width of each street, easements, or other right-of-way.

(4) Lot numbers, lot lines, and frontage dimensions.

(5) Location and description of monuments.

(6) Purpose for which sites are dedicated or reserved.

c. The final plat shall be accompanied by:

(1) 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, rights-of-way, and other sites for public use.

(2) Certification on plat by registered engineer as to the accuracy of survey and plat.

(3) Certification that the subdivider has complied with one of the following alternatives – alternative to be determined by the County Commission:

(a) All improvements have been installed in accordance with the requirements of this ordinance, or;

(b) A security bond or certified check has been posted with the Auditor, per the requirements of Section 403, to assure such completion of all required improvements, or;

an escrow deposit or in lieu thereof to furnish a performance bond, the amount of the deposit and penal amount of the bond to be equal to one hundred (100) percent of the Engineer's estimate of the total cost of the improvements to be furnished under the contract, including the cost of inspection. On request of the subdivider the contract may provide for completion of part or all of the improvements covered thereby prior to acceptance of the plat, and in such event the amount of the deposit or bond shall be reduced in a sum equal to the estimated cost of the improvements so completed prior to acceptance of the plat only. The time for completion of the work and several parts thereof shall be determined by the County Commission upon recommendation of the Engineer after consultation with the subdivider and shall be reasonable in relation to the work to be done, the seasons of the year, and proper correlation with construction activities in the subdivision.

a. If The County Requires A Financial Guarantee: The contract (Letter of Assurance) provided above shall require the subdivider to make an escrow deposit or in lieu thereof furnish a performance bond as follows:

1. Escrow Deposit: An escrow deposit shall be made with the Auditor in a sum equal to one hundred (100) percent of the total cost as estimated by the Engineer, including cost of inspection by the County, of all the improvements to be furnished and installed by the subdivider pursuant to the contract and which have not been completed prior to approval of the final plat.

The County shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by the County for completion of the work in case of default of the subdivider under said contract, and for any damages sustained on account of any breach thereof. Upon completion of the work and termination of any liability, the balance remaining in said deposit shall be refunded to the subdivider.

2. Performance Bond: In lieu of making the escrow deposit above described, the subdivider may furnish a public contractor's performance bond in form prescribed by statute, with corporate surety in a penal sum equal to one hundred (100) percent of the total cost as estimated by the Engineer, including cost of inspection by the County, of all of the improvements to be furnished and installed by the subdivider pursuant to the contract and which have not been completed prior to approval of the final plat. The bond shall be approved by the States Attorney and filed with the Auditor.

ARTICLE VI

GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN

Section 601. General

1. The County Commission shall impose the following general requirements and compel all subdividers to comply with the principles of design in the layout of subdivisions hereinafter described.

Section 602. Suitability of the Land for Subdivision Development

1. If the County Commission 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 County Commission 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 County Commission 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 603. Arrangement and Design

1. The arrangement, character, extent, location and grade of all streets shall be in accordance with good planning principles and shall be considered in their relation to existing and planned streets, topographical conditions, to public convenience and safety, and in appropriate relation to the proposed uses of land to be served by such streets.
2. The arrangement of streets in a new subdivision shall conform to the Major Street Plan and shall make provisions for the continuation of existing streets in adjoining areas or their proper projection where adjoining land is not subdivided.
3. Roads shall be related appropriately to the topography and arranged so that building sites are at or above the road grade.
4. All new subdivision roads shall be properly integrated with the existing system of roads. There should be a road connecting adjacent subdivisions where topographical and land use considerations permit.

shall be sixty (60) feet and the length of the road shall be generally limited to 500 feet. This shall also apply to private roadways.

b. Minimum roadway widths:

| <u>Street Type</u> | <u>Pavement Width (Measured from Curb Faces)</u> |
|--------------------------------|--|
| Arterial (State Roads) | 60 feet |
| Collector (County Paved) | 36 feet |
| Local (County/Township Gravel) | 24 feet |

Section 605. Access to Arterials and Collectors.

1. Where a subdivision borders on or contains an existing or proposed arterial or collector road, access to such roads may be limited. The County Commission upon recommendation from the Planning and Zoning Commission may require that access to such streets be limited by one of the following means:
 - a. Access shall be limited to no more than one (1) non-farm access per one thousand three hundred and twenty (1,320) feet on a single side of a public road. This shall be determined on a mile by mile basis according to section lines.
 - b. The subdivision of lots so as not to back onto the arterial or collector road and front onto a parallel local street; no access shall be provided from the arterial or collector road, and screening shall be provided in a strip of land along the rear property line of such lots.
 - c. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to such parallel streets, with the rear lines of their terminal lots backing on the arterial or collector road.
 - d. A marginal access or service road (separated from the arterial by a planting or grass strip and having access thereto at suitable points).
 - d. Reverse frontage with screen planting contained in a non-access reservation along the rear property line, or;
 - e. Deep lots with rear service drives, or;
 - f. Other treatment as may be necessary to adequately protect residential properties and to afford separation of through and local traffic.

7. The size of culverts shall be determined by a drainage study for the entire subdivision. The minimum culvert diameter shall be 18 inches.
8. A cross slope (crown) shall be provided on all roads at a rate of .04 feet per foot.
9. The road ditch shall be at least 3 1/2 feet below the road grade.
10. Seeding of ditches and other erosion protection measures shall be employed after grading is completed to minimize erosion.

Section 608. Street Grades and Elevations

1. Street grades shall conform to the following:

| <u>Street Type</u> | <u>Maximum Percent Grade</u> |
|--------------------|------------------------------|
| Arterial | 7 |
| Collector | 8 |
| Local | 10 |

2. Minimum grades of any roadway shall not be less than 0.5 percent unless otherwise approved by the County Commission.

Section 609. Private Streets

1. Private roadways shall be indicated on the plat and shall not be included as part of any required lot area or setback.
2. Any private roadway approved by the County shall provide permanent unobstructed access to the area it serves. The erecting of any structure within the private roadway easement which would in any way interfere with the use of such private roadway by the public or any governmental agency will not be permitted.
3. Any plat presented for approval which shows a private roadway as a means of access shall provide language in the Owner's Certificate in accordance with Section 802 reserving the private road for permanent unobstructed access to abutting property and establishing private responsibility for maintenance of the roads.
4. All road standards specified in Section 607 shall also apply to private roadways.

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

Section 706. Sanitary Sewers

The subdivider shall construct a subdivision sewer system to adequately serve each lot and connect the subdivision system to the public system after the County Commission and the South Dakota Department of Environment and Natural Resources has approved the design of the system.

Section 707. Grading

The final grading plan for the subdivision shall be submitted to and approved by the County Commission.

1. Final Site Grading Plan

The grading plans shall show the contours with intervals acceptable to the County Commission. The site-grading plan shall also show the drainage arrows for each lot.

2. Final Road Grading Plan

The road grading plan shall show percent slope for all proposed roads, drainage arrows, and location and size of culverts.

Section 708. Drainage Plan

1. All drainage facilities including on-site detention, drainageways, detention ponds and drainage channels shall be shown on the drainage plan and is subject to the approval of the County Commission. The developer may be required to expand the drainage plan to include other properties within the drainage basin when the County determines that the potential exists for impact beyond the development area, both upstream and downstream. The plan shall provide the following information:
 - a. Existing and proposed contour lines and the surface water drainage system, including any major alteration of the existing drainage pattern. Drainageways and detention ponds shall be designed for a 25-year storm occurrence. The contour interval shall be of such detail that the final drainage pattern is adequately illustrated.
 - b. The boundaries of all drainage easements and detention ponds. A maintenance agreement for the upkeep of the detention ponds shall be filed with the plat.
 - c. Individual lot drainage shall be coordinated with the general surface drainage pattern for the area. Drainage shall be designed so as to avoid a concentration of storm drainage water from each lot to adjacent lots.
 - d. Surface water shall not be carried across or around any intersection.

Section 710. Electric Power and Telephone Service.

The subdivider shall arrange with the appropriate utility and shall file his request at the earliest feasible date for electric power and telephone service to his subdivision.

Section 711. Inspection.

Each facility constructed in the subdivision shall be designed and installed under inspection of a certified engineer at the cost to the subdivider.

Section 712. Payment for Installation of Improvements

The required improvements to be furnished and installed by the subdivider, which are listed and described, are to be furnished and installed at the sole expense of the subdivider; provided, however, that if any improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, provision may be made for causing a portion of the cost of the improvement, representing the benefit to such lands, to be assessed against the same and in such case the subdivider will be required only to pay for such portion of the whole cost of said improvement as will represent the benefit to the property within the subdivision.

SURVEYOR'S CERTIFICATE

I, (Name), a Registered Land Surveyor of the State of South Dakota do hereby certify that I did on or before (Date), survey that parcel of land described as _____(Legal Description).

Dated this ___day of ___, 20__.
(SEAL)
Registered Land Surveyor

OWNER'S CERTIFICATE

We do hereby certify that we are the owners of all land included in the above plat and that said plat has been made at our request and in accordance with our instructions for the purposes (indicated herein), and that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations. We hereby dedicate to the public for public use forever, the streets, roads, alleys and parks and public grounds, if any, as shown on said plat, including all sewers, culverts, bridges, water distribution lines, sidewalks and other improvements on or under the streets, roads, alleys, parks and public grounds, whether such improvements are shown or not. We also here by grant easements to run with the land for water, drainage, sewer, gas, electric, telephone or other public utility lines or services under, on or over those strips of land designated hereon as easements. If the plat does not include a certificate for Township Acceptance of Road Dedication, include:

We also certify that construction and maintenance, including snow removal, of (name of roads) as shown on said plat shall be provided by (name) in accordance with the covenants filed with the Deuel County Register of Deeds, and said roads shall be kept and preserved at all times in a good condition of repair and maintenance. This shall remain in effect until a public entity accepts the maintenance of said roads.

OWNER'S CERTIFICATE FOR PRIVATE MAINTENANCE OF FACILITIES

We do hereby certify that we are the owners of all land included in the above plat and that said plat has been made at our request and in accordance with our instructions for the purposes (indicated herein), and that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations. We also certify that ownership and maintenance of streets, roads, and alleys, parks and other open space, drainageways and detention areas, if any, as shown on said plat, and any improvements thereto, shall be provided by the (Name) Homeowners Association except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. We also hereby grant easements to run with the land for water, drainage, sewer, gas, electric, telephone or other public utility lines or services under, on or over those strips of land designated hereon as easements.

TOWNSHIP ACCEPTANCE OF ROAD DEDICATION

I hereby certify that the Board of Supervisors of _____ Township, at an official meeting conducted on the ____ day of ____, 20____, accepted the roads indicated on the plat of (Name of subdivision).

Clerk, Township
Deuel County, South Dakota

COUNTY AUDITOR CERTIFICATE

I do hereby certify that the above certificate of approval is true and correct including the signature thereon.

Dated this ____ day of _____, 20____.
County Auditor
Deuel County, South Dakota

DIRECTOR OF EQUALIZATION

I, the Director of Equalization of Deuel County, South Dakota, do hereby certify that a copy of the above plat has been filed in my office.

Director of Equalization
Deuel County, South Dakota

COUNTY TREASURER'S CERTIFICATE

I, Treasurer of Deuel County, South Dakota, hereby certify that all taxes, which are liens upon any land shown in the above plat, as shown by the records of my office, have been paid in full.

Treasurer, Deuel County, South Dakota

REGISTER OF DEEDS

Filed for record this ____ day of ____, 20____, at O'clock, M., and recorded in Envelope ____.

Register of Deeds, Deuel County, South Dakota

SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION CERTIFICATE

I, the South Dakota Department of Transportation Area Engineer, hereby certify that the owner of the parcel of land described on this plat has received an access permit and the proposed access to an abutting state highway does meet the requirements of the State of South Dakota.

South Dakota Department of Transportation Area Engineer

Street – A tract of land, dedicated to public use, which affords the primary means of access to the abutting property, but excluding private driveways serving only one (1) parcel of land.

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 parcel of land into two (2) or more lots or parcels for the purpose of transfer of ownership or building development (whether immediate or future); provided that a division of land into lots or parcels of more than twenty (20) acres which can be legally described using the United States Rectilinear Land Survey System and not involving a new street shall not be deemed a subdivision. The term includes the establishment or dedication of a road, highway, street or alley through a tract of land, a resubdivision of land or lots; and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

Utilities – Municipal and franchised utilities.

Zoning Ordinance – The Zoning Ordinance of Deuel County.

Adopted this 6th day of July 2004

DEUEL COUNTY


Chairperson

ATTEST:


Auditor