

APPENDIX B
SUBDIVISIONS*

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***Editor's note**—Included herein are the subdivision regulations adopted on August 4, 1986. Amendments to the regulations will be indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision derives unchanged from the original regulations. A uniform system of punctuation, numbers and capitalization has been used. Obvious misspellings have been corrected without notation and material in brackets [] has been added for clarity.

Cross references—Planning commission, § 2-91 et seq.; streets and sidewalks, ch. 14; trees and shrubs, ch. 18; utilities (city-owned), ch. 19; zoning, app. A.

AN ORDINANCE FOR SUBDIVISION REGULATIONS FOR DEVELOPMENT OF PROPERTIES AND CONSTRUCTION RELATED THERETO UNDER THE JURISDICTION OF THE CITY OF BERESFORD, SOUTH DAKOTA.

BE IT HEREBY ORDAINED by the City Council of the City of Beresford, South Dakota:

Section 1. That Title 10 of the Revised Ordinances of the City of Beresford, South Dakota be amended by adding thereto the following: Chapter 10.02—Beresford Subdivision Ordinance.

10.0201. General provisions.

a) *[Title.]* This ordinance shall be known and referred to as "The Subdivision Regulations of Beresford, South Dakota."

b) *Purpose.* The purpose of these regulations is to promote the orderly development of Beresford, and to protect and provide for the public health, safety and general welfare of the community.

c) *Jurisdiction.* The provisions of these regulations shall apply within the area established on the official zoning map as adopted by the city council.

d) *Compliance.* After adoption of these regulations, no plat or subdivision of land within the jurisdiction of this ordinance shall be recorded or filed with the Union or Lincoln County Register of Deeds, nor shall any plat or subdivision have any validity until it complies with the provisions of this ordinance and has received final approval in writing from the city council.

These regulations shall not apply to any lot or lots forming a part of a subdivision recorded with the register of deeds prior to the effective date of this ordinance except in the case of a resubdivision. The recording of a property conveyance by metes and bounds shall not be prohibited if a conveyance by the same metes and bounds has been made and recorded prior to the adoption of these regulations.

e) *Penalty.* The owner or the agent of the owner of any land within the jurisdiction of these regulations shall forfeit and pay to the city the sum of \$100.00 for each lot or part of lot sold or otherwise disposed of, leased, or offered for sale or lease be-

fore a plat of the lot has been approved by the city council as provided in 10.0202.

f) *Conflict.* These regulations are not intended to interfere with or annul any other ordinance, regulation or property restrictions. Where any of these regulations are at variance with other rules, statutes, ordinances or regulations, those imposing more restrictive standards shall prevail.

g) *Separability.* Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole.

h) *Effective date.* These regulations including any amendments shall take effect and be in force from and after passage and publication according to South Dakota law.

i) *Definitions.* For the purpose and clarification of this ordinance, the following words and terms are used, interpreted, and defined as set forth in this section.

1. *Arterial street:* Streets designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic.
2. *Block:* A tract of land bounded by streets, or by a combination of streets, public parks, railroad right-of-ways, shoreline of waterways or municipal boundaries.
3. *Building setback line:* A line parallel to a street between which line and the nearest street right-of-way line no building may be constructed or placed.
4. *Collector street:* A street intended to move traffic from local streets to arterial streets.
5. *Deed restriction:* Contracts entered into between private parties and constituting a restriction on the use of private property within a subdivision for the benefit of the property owners.
6. *Frontage street:* A minor street or frontage road which is parallel and adjacent to an arterial street or highway and provides limited access onto abutting properties.
7. *Lot:* A tract, plot, outlot or portion of a subdivision or other parcel of land intended as

a unit for transfer of ownership or development whether immediate or future.

8. *Local street*: A minor street which is designed and used primarily for access to abutting properties.
9. *Metes and bounds*: A method of description of real property by means of direction and description from an easily identifiable location.
10. *Performance bond*: A form of security including cash deposit, surety bond, collateral, property, or instrument of credit in an amount or form satisfactory to the city council.
11. *Plat*: A map or representation on paper, of a piece of land subdivided into lots, parcels, tracts or blocks, including streets and public grounds, if any, all drawn to scale.
12. *Subdivider*: A person, corporation, partnership, association or any group who prepares or causes to be prepared a subdivision plat.
13. *Subdivision*: A parcel or parcels which has [or have] been divided into two or more separate units for the purpose or subsequent sale or building development. Subdivision includes the division or development of residential and nonresidential zoned land, and also includes a resubdivision of land or lots, and the establishment or dedication of a road, highway, street or alley through a tract of land.

10.0202. Procedure for plat approval.

The procedure for review and approval of a subdivision plat shall consist of three steps:

1. Preplatting discussion with the planning commission;
2. Preparation and submission of a preliminary plat;
3. Preparation and submission of a final plat with a performance bond as required.

a) *Preplatting discussion*. The subdivider shall meet and consult informally with the planning commission before preparing a preliminary plat

for the purposes of determining the locations of proposed major streets, parks and other planned projects which may affect the property being considered for subdivision. The subdivider shall also review with the planning commission the general design standards as discussed in 10.0204.

b) *Preliminary plat review*. After the preplatting discussion the subdivider shall prepare a preliminary plat for review and consideration by the planning commission.

- [1] Three copies of the preliminary plat and any supplementary material shall be filed with the finance officer who shall transmit the information to the planning commission chairperson. Each filing shall be made at least ten days before the meeting of the planning commission at which the plat is to be considered. Following a review of the preliminary plat and supplementary material at a public hearing, the planning commission shall approve or disapprove the plat within 30 days. If the plat is approved the planning commission shall express its approval; if the plat is disapproved the planning commission shall return the plat to the subdivider with the reasons for the disapproval attached in writing.
- [2] Approval of the preliminary plat shall not be considered as approval of the final subdivision plat, rather it shall establish a guide for the preparation of the final plat.
- [3] Approval of the preliminary plat is revocable at any time and shall become void after 12 months from the date of approval if no progress has been made in the development of the final plat.

c) *Final plat review*. The final plat shall conform to the preliminary plat as approved although it may include only a portion of the preliminary plat which the subdivider proposes to record and develop.

- [1] Five copies of the final plat and required supplementary material shall be filed with the finance officer who shall transmit the information to the planning commission chairperson. Each filing shall be made at least ten days before the meeting of the

planning commission at which the plat is to be considered.

- [2] Following a public hearing on the final plat and supplementary material, the planning commission shall forward its recommendations to the city council within 30 days.

Following a public hearing and review, the city council shall approve or disapprove the final plat within 60 days. Notice of the time and place of hearing shall be sent by mail to the subdivider at least five days before such hearing. If the plat is disapproved, the reasons shall be stated in writing with a duplicate copy forwarded to the subdivider. If the plat is approved, one copy shall be returned to the subdivider with the certified approval of the city council for filing with the county register of deeds as an official plat of record.

d) *Plat review fee.* A fee shall be levied by the city council for the examination and review of every plat.

- [1] At the time any plat is filed with the finance officer, the subdivider shall make payment to the town in the amount of \$10.00 for each plat plus \$1.00 for each lot shown on the plat.
- [2] No work shall be done on the subdivision, including the making of street improvements or installation of utilities, and no lots sold before the final plat is approved and recorded. Approval of a final plat does not constitute acceptance or dedication of streets or other public lands.

10.0203. Plat requirements—Preliminary plat.

The preliminary plat shall be clearly and legibly drawn to a minimum scale of one inch to 100 feet, plainly marked as "Preliminary Plat," and shall show the following information:

- a) Name of proposed subdivision, name and address of owner, and name of engineer or registered land surveyor preparing the plat.
- b) The legal description and location of the area being platted including section, township and range.

- c) The date, scale, northpoint and vicinity sketch of proposed subdivision.
- d) Boundary lines, dimensions and acreage of land area to be subdivided, including contour intervals of five feet or less.
- e) Names and locations of adjacent subdivisions, and owners of adjoining parcels of unplatted land.
- f) Location of existing and proposed property lines, streets, easements, buildings, utilities and other features affecting the plan including a statement of proposed storm drainage including erosion and sedimentation controls if necessary.
- g) The layout, numbers and approximate dimensions of proposed lots and building setback lines.
- h) Copies of any deed restrictions proposed to be included with the plat.
- i) Sites for public, semipublic, commercial or multifamily uses, and their acreages.
- j) A soils map and vicinity map of the proposed subdivision.
- k) Any additional information on additional water and sewer loads created by the proposed subdivision including confirmation that existing facilities or proposed additions can accommodate the additional loads.

10.0204. Plat requirements—Final plat.

The final plat shall be 15 by 26 inches or 8½ by 14 inches, drawn on drafting linen or mylar, with waterproof black ink to a minimum scale of one inch to 100 feet, and clearly marked as a "Final Plat," with the following information:

- a) Date, title of subdivision, legal description, scale and northpoints.
- b) Boundary lines, street names, right-of-way lines for streets and easements and property lines with accurate dimensions within one hundredth of a foot, bearings of deflection angles, radii, arcs and length and central angles of all curves with dimensions to the nearest minute.

- c) Lot and block numbers, lot lines and frontage dimensions, building setback lines and total acreage.
- d) Names and locations of adjoining subdivisions, streets and adjoining unplatted property.
- e) Certification on the plat of title showing that the applicant is the owner, and a statement by such owner dedicating streets, right-of-ways and other sites for public use.
- f) Certification by a registered land surveyor that the plat as shown is a correct representation of the survey as made.
- g) Any covenants or deed restrictions shall be attached and filed with the final plat.
- h) Locations of all survey monuments and benchmarks together with their description.
- i) Signature blocks and resolution of approval by the planning commission and city council including certification by any county officials concerned with recording of the plat.
- j) Certification by county officials that all taxes which are liens upon any land included in the plat have been fully paid.
- k) A certified performance bond shall be posted with the finance officer in sufficient amount to assure completion of all the required improvements at least ten days prior to the meeting at which the final plat is scheduled to be reviewed by the city council.
- l) Name and address of a person to whom notice of hearing may be sent.

10.0205. Vacation of a plat.

[a] Any plat or part of a plat may be vacated under the provisions and subject to the conditions of this section provided such vacating does not abridge or destroy any of the benefits of other proprietors in said plat. Nothing contained in this section shall authorize the closing or obstructing of any public roadways laid out according to law.

[b] A new plat shall be filed with the finance officer which specifically describes all previous

plats sought to be vacated including the book and page or document number of all existing plats in the register of deeds office. The new plat shall specifically state that all previous plats so listed are to be vacated in whole or in part and shall include the following information:

1. Names and addresses of the record owner of the plat or part of the plat to be vacated.
2. Legal description of plat.
3. Names of the legal voters residing on the same.
4. Character and use of same, description of any public highway located there.
5. Any other facts pertinent to the application.

[c] The proposed plat shall be reviewed and approved or disapproved in accordance with the procedures in 10.0202.

10.0206. Large lot subdivisions.

Whenever a subdivision is platted into lots of five acres or less in area and more than twice the minimum lot area required for the zoning district in which the parcel is located, the city council may require such plat to be arranged and dimensioned to provide for resubdivision of any lot and opening of future streets in accordance with the provisions of this ordinance and the zoning ordinance of the city.

10.0207. General design standards.

1. *Land suitability.*
 - a) If the planning commission or the city council finds that the land to be subdivided is unsuitable for development and if from adequate investigations it has been determined that in the best interests of the public the land should not be subdivided, the planning commission or the city council shall not approve the subdivision unless adequate methods are found by the subdivider for meeting the problems.
 - b) The planning commission or the city council may refuse to approve what it considers scattered or premature subdivision of land

by reason of lack of adequate water supply and sewerage treatment, schools, proper drainage, good roads or other public services which would necessitate an excessive expenditure of public funds for the supply of such services.

2. *Streets.*

- a) The street layout of the proposed subdivision shall provide for the continuation or projection of streets already existing in areas adjacent to the areas being subdivided. In addition, streets in the proposed subdivision shall correspond in name, direction and width to existing streets and shall be in conformance with the major street plan and comprehensive plan as adopted.
- b) Street right-of-ways measured from lot line to lot line shall not be less than the following:
 - All section line street right-of-way shall be 100 feet.
 - Arterial streets—100 feet.
 - Collector streets—80 feet.
 - Local streets—60 feet.
 - Cul-de-sacs—130 feet in diameter for turnaround.
 - Alleys—20 feet.
 - Frontage streets—40 feet.
- c) Subdivisions platted along existing streets shall dedicate additional right-of-way if necessary to meet the minimum street width requirements set forth in this article [section].
- d) Private streets shall not be approved nor shall public improvements be approved for any private street. All streets shall be dedicated for public use.
- e) Cul-de-sacs shall not be longer than 500 feet except as considered necessary, and approved by the city council.
- f) Street jogs with centerline offsets of less than 125 feet shall not be made without conditional approval of the city council.
- g) Streets shall not be approved which will be subject to flooding or erosion hazards.

Where such conditions exist, the city council may require profiles and evaluations of streets in order to determine the advisability of approving the proposed subdivision.

- h) Dead-end streets and half streets as permanent features shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with other requirements of these regulations.
- i) Where the proposed subdivision abuts upon or contains an existing or proposed arterial street or highway on which traffic volumes and vehicular speeds warrant special safety considerations, the city council may require that frontage streets be provided in order that no lots front on such existing or proposed arterial street or highway.

3. *Blocks.*

- a) Block lengths shall not exceed 600 feet or be less than 300 feet except as considered necessary and approved by the city council.
- b) All blocks shall have two tiers of lots. However, where unusual roadway or topographical conditions exist, a single tier of lots may be approved.
- c) The size and area of blocks shall be sufficient to provide for convenient access, circulation, and safety of street design.

4. *Lots.*

- a) All lot sizes shall conform with zoning ordinance requirements including provisions for off-street parking and loading.
- b) The lot arrangement and design shall provide satisfactory and desirable building sites properly related to topography, adjacent development and street orientation.

5. *Easements.*

- a) Easements across lots or centered on rear or side lot lines shall be provided for public and private utilities where necessary and for such purposes shall be at least ten feet wide.
- b) When the city council deems it necessary for proper drainage within or through a sub-

division, a stormwater easement or drainage right-of-way shall be provided.

6. *Public open spaces.*

- a) Where a proposed park, recreation area, or other public area which is shown on the comprehensive plan is located in whole or in part in a residential subdivision, the city council may require the dedication or reservation of such area within the proposed subdivision for public purposes.
- b) The city council may require for public use, dedication of up to ten percent of a residential subdivision land area for park, recreation or other public purposes required as a result of the subdivision. Dedication of lands for public open spaces shall not include street right-of-ways, utility easements, and yard requirements, and shall be subject to approval by the planning commission.

7. *Flood hazards.* Land subject to flooding and determined to be unsuitable for residential development shall not be platted for residential use or for any other use which may increase the danger to health, life, or property or aggravate erosion or flood hazards. Such land within the subdivision shall be set aside on the plat for such uses as will not be endangered by periodic or occasional flooding.

8. *Community assets.* In all subdivisions, due regard shall be shown for natural features, existing vegetation, and historical and scenic sites, and for similar assets which if preserved will add attractiveness and value to the subdivision and to the community. No natural waterway, ditch, stream or other similar drainageway shall be deepened, widened, filled or altered without approval by the city council.

10.0208. *Required improvements.*

1. *Completion and approval of improvements.* Before the final plat of any subdivided area is accepted for public dedication, the subdivider shall be required to complete to the satisfaction of the city council all improvements as required by these regulations and as specified in the final plat.

- [a] In lieu of actual completion of such improvements, the subdivider may file with the city

council a certified performance bond, conditioned to secure the construction of such improvements in a satisfactory manner and within a period specified by the city council. No such bond shall be accepted unless it be enforceable by or payable to the city in a sum at least equal to the cost of constructing the improvements and in form with surety and conditions approved by the city council.

- [b] In lieu of either the actual completion of the improvements or the filing of a bond, the subdivider shall make an agreement with the city council whereby the city is put in an assured position that such work shall be completed at the cost of the owners of the property within the subdivision. Such agreements for future improvements shall be filed with the register of deeds at the time of the recording of the plat.
- [c] The subdivider may prepare and secure tentative approval of a subdivision plat of an entire area and may install the required improvements in only a portion of such area, provided that such improvements shall be designed and built in such a manner that they can be easily expanded or extended to serve the entire area.

2. *Monuments.* The subdivider shall place permanent monuments in the subdivision as required below.

- a) All external boundaries of the subdivision shall be marked by iron or concrete monuments not less than 36 inches in length, four inches square or five inches in diameter, and shall be marked on the top by a suitable center point.
- b) Iron monuments three-fourths inch in diameter and 24 inches long on street right-of-way lines, street intersections, block corners and all lot corners.

3. *Streets.* All street right-of-ways shall be graded and surfaced to the full width by the subdivider.

- a) All right-of-way to be dedicated for public use shall be properly graded and surfaced from curb to curb, surfacing shall be a min-

imum of six-inch gravel basecourse material constructed in accordance with designs and specifications approved by the city council.

- b) Minimum driving surface widths as measured from curb to curb shall be provided as follows:

<i>Street Types</i>	<i>Minimum Widths</i>
Arterial (each lane)	12 feet
Collector	44 feet
Local	32 feet
Cul-de-sac (diameter)	100 feet
Frontage	26 feet
Alley	16 feet

- [c] Subdivider shall pay for all street construction, except in the case of 38-foot local streets. Where 38-foot streets are deemed necessary by the city council, the city shall pay the marginal cost difference between a street width of 32 feet and the 38-foot street width.

4. *Curb and gutter.* Curb and gutter, or rolled and valley gutter as needed, shall be installed by the subdivider on all streets on the plat being dedicated to public use, and shall be constructed in accordance with engineering designs and specifications approved by the city council. Ramped or dropped curbs shall be required at all new or replacement intersections.

5. *Sidewalks.* The subdivider shall install sidewalks on both sides of all new streets in the subdivision. Sidewalk construction shall include base material of three inches in thickness, of approved materials. Sidewalks shall be no less than 3½ inches in thickness, of Portland cement construction, and not less than four feet nor more than five feet wide in residential areas, with slope toward the street of one-fourth inch per foot.

6. *Street signs and lights.* The subdivider shall provide for the installation of street signs and street lighting according to specifications provided by the city council. Such signs and lights shall be located at each street intersection and at such interior block spacing as required by the city council.

7. *Storm water drainage facilities.* The subdivider shall provide for storm drainage runoff with

a surface drainage system including drainageway easements and culverts. Such required improvements shall extend to the boundaries of the subdivision to provide for extension by adjoining properties, and shall be constructed in accordance with engineering designs and specifications approved by the city council.

8. *Water and sanitary sewer facilities.* The subdivider shall install all public water distribution and sanitary sewer facilities in accordance with engineering plans and specifications approved by the city council. Such improvements shall include fire hydrants, with water and sewer mains installed to each lot line within the subdivision. No individual disposal or treatment systems shall be permitted and no improvements shall be made until approved by the sanitary district board. The subdivider shall pay for all public water distribution and sanitary sewer facilities in new subdivisions, except in the case where oversized water and sewer mains (greater than six and eight inches in diameter, respectively) are deemed necessary by the city council. In these cases, the city shall pay the additional marginal cost for mains larger than these sizes.

9. *Public utility installation.* When it is necessary to install any utility in a public right-of-way, the following shall apply: after grading is complete and before a driving surface is constructed, all in-street work (water and sewer mains, gas mains, etc.) and all service connections shall be completely installed. All such utilities from which lots are individually served shall be installed underground. If any required improvement installed within the subdivision will be of substantial benefit to property beyond the boundaries of such subdivision, provision may be made for a portion of the costs of such improvements to be assessed against the benefiting properties in accordance with procedure approved by the city council.

10. *Construction standards.* The subdivider shall comply with all other local ordinances whenever necessary during the planning and construction phase of the subdivision to insure compliance with soil erosion and sedimentation control standards. The subdivider shall provide for all grading, excavations, open cuts, side slopes, and other land surface disturbances to be mulched, seeded, sodded

or otherwise protected to prevent erosion, siltation and sedimentation.

from and after their passage and publication as provided by law.

10.0209. Exceptions and amendments.

1. *Exceptional conditions.* The planning commission may recommend and the city council may grant a variance to these regulations, by reason of the unusual shape of a piece of property, or where, by reason of other such conditions, the strict application of these regulations would result in extreme practical difficulties and undue hardship to the owner of such property; provided, however, that such relief may be granted without detriment to the public good and without impairing the intent and purpose of these regulations. Financial disadvantage to the property owner shall not be proof of hardship within the purpose of these regulations.

2. *Procedural variance.* Where a proposed subdivision would contain five acres or more of land and no street right-of-way, the procedure of preparing a preliminary plat may be waived.

3. *Amendment.* Any provisions of these regulations may from time to time be amended, supplemented, changed, modified, or repealed by the city council according to law; however, such amendments, supplements, changes or modifications shall not become effective until after study or recommendation by the planning commission and final approval by the city council at a public hearing, notice of which shall be published once a week for two consecutive weeks before such hearing.

Section 2. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. These regulations shall be in full force and effect

Bill Muller, Mayor

Attest:

Marilynn Johnson
Municipal Finance
Officer

(seal)