

**ORDINANCE NO. 5234**

**AN ORDINANCE ALLOWING LAND THAT HAS BEEN DEDICATED FOR HIGHWAY OR ROADWAY PURPOSES AND IS UNIMPROVED TO BE INCLUDED IN THE CALCULATION OF THE TOTAL ACREAGE OF LAND FOR PURPOSES OF TRANSFERRING LAND OF FORTY ACRES OR MORE WITHOUT REQUIRING PLATTING BY AMENDING SECTION 16.04.320 OF THE RAPID CITY MUNICIPAL CODE.**

WHEREAS, the City of Rapid City has adopted an ordinance pursuant to SDCL 11-6-40 requiring that parcels of land containing less than 40 acres be platted prior to being transferred; and

WHEREAS, the ordinance does not specifically address whether unimproved land that has been previously platted for highway purposes should be included when calculating the total acreage of a parcel of land; and

WHEREAS, the Rapid City Planning Commission has recommended that unimproved land that has previously been platted for highway purposes be included in the total acreage of a parcel when determining if the parcel is forty acres or more; and

WHEREAS, the Common Council of the City of Rapid City finds that it is in the best interests of the City to adopt the Planning Commission's recommendation by amending Section 16.04.320 of the Rapid City Municipal Code.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 16.04.320 of the Rapid City Municipal Code is hereby amended to read as follows:

**16.04.320 Transfer or sale of land under 40 acres—Platting or replatting required.**

A. Pursuant to SDCL § 11-6-40 and subject to subsection B. of this section, no owner of a tract, lot, piece or parcel of land which encompasses less than 40 acres and is located within the platting jurisdiction of the city, shall transfer or sell the tract, lot, piece or parcel of land unless:

1. The land has been surveyed and platted; and
2. The owner of the property, by himself or herself or agent, has at the time of surveying and laying out of the same, planted and firmly fixed in the ground at the corners of the tract, lot, piece or parcel, permanent markers containing ferrous material, referenced to at least 2 identifiable reference points at each marker as the surveyor shall direct. The points set shall be distinguished on the plat; and
3. The plat has been approved by the Common Council.

B. An owner of a tract, lot, piece or parcel of land located within the platting jurisdiction of the city shall not have to comply with subsection A. of this section if:

1. The tract, lot, piece or parcel of land has been previously platted and the plat has been approved by the Common Council or the Board of Commissioners for the county in which the property is situated;

2. The tract, lot, piece or parcel of land was conveyed to the owner by identical description, and evidenced by a deed recorded with the Pennington County Register of Deeds prior to June 30, 1990; or

3. The tract, lot, piece or parcel of land eligible for transfer pursuant to the provisions of subsection B.1. or 2. of this section, from which a federal, state, county or municipal authority has acquired a portion of the land for highway purposes evidenced by a highway use deed recorded with the office of the Register of Deeds.

C. For purposes of determining if a tract or parcel of land is forty (40) acres or less, unimproved land that was previously dedicated or platted for highway purposes shall be included in calculating the total acreage of the tract or parcel it was dedicated from.

CITY OF RAPID CITY

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Mayor

ATTEST:

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Finance Officer

(SEAL)

First Reading:

Second Reading:  
Published:  
Effective: