

ORDINANCE NO. 5772

AN ORDINANCE ADOPTING NEW SUBDIVISION REGULATIONS BY AMENDING CHAPTER 16 OF THE RAPID CITY MUNICIPAL CODE.

WHEREAS, pursuant to State law, the City of Rapid City has adopted a Comprehensive Plan; and

WHEREAS, pursuant to SDCL 11-6-26 and 11-6-27, the adoption of a Comprehensive Plan along with a Major Street Plan requires the City to approve the subdivision of land within its jurisdiction and adopt regulations governing the subdivision of land; and

WHEREAS, subdivision regulations promote the harmonious development of the municipality and its environs, ensure coordination of streets within a subdivision and with other existing or planned streets, provide adequate open spaces for traffic, recreation, light and air, and provide for the distribution of population and traffic in a manner which will tend to create conditions favorable to health, safety, convenience, or prosperity; and

WHEREAS, SDCL 11-6-28 further provides that the City's subdivision regulations may include requirements regarding the extent and manner in which streets shall be graded and improved, and water, sewer and other utility mains, piping, connections or other facilities shall be installed as a condition precedent to plat approval; and

WHEREAS, the City commissioned a study, commonly known as the Lehe Report, to review the performance and processes of the City's Growth Management Department; and

WHEREAS, the Lehe Report recommended that changes be made to the manner in which the City regulated and processed planning and developments; and

WHEREAS, the City appointed a committee to review the City's planning and development review process and make recommendations regarding the implementation of the Lehe Report; and

WHEREAS, the committee and City staff have reviewed the City's current subdivision regulations and are recommending that the subdivision regulations be updated and changed in a manner consistent with the recommendations which were made in the Lehe Report; and

WHEREAS, the City Council of Rapid City has reviewed the recommendations of the committee and has determined it is in the best interests of the City to adopt the recommendations of the committee by amending Title 16 of the Rapid City Municipal Code.

NOW THEREFORE, BE IT ORDAINED, by the City of Rapid City, that Title 16 of the Rapid City Municipal Code is hereby amended to read as follows:

TITLE 16: SUBDIVISIONS

Chapter

- 16.04 General Provisions
- 16.08 Application Procedures
- 16.12 Specifications for Submittal Documents
- 16.16 Standards for Improvements
- 16.20 Definitions
- 16.28 Application Fees

Chapter 16.04: General Provisions

Section

- 16.04.010 Title
- 16.04.020 Authority
- 16.04.030 Jurisdiction
- 16.04.040 Policy
- 16.04.050 Purpose
- 16.04.060 Exceptions
- 16.04.070 Amendments
- 16.04.080 Responsibilities
- 16.04.090 General Requirements
- 16.04.100 Transfer or sale of land under 40 acres.

16.04.010 Title.

This article shall be known as the "Subdivision Regulations for the City of Rapid City, South Dakota."

16.04.020 Authority.

The City Council exercises the power and authority to review, approve, and disapprove applications for the subdivision of land pursuant to the authority of the laws of the State of South Dakota, and the ordinances of the City of Rapid City and to delegate review, approval, and disapproval of such plats to the extent herein legally authorized.

16.04.030 Jurisdiction.

Pursuant to SDCL § 11-6-26, these regulations shall be applicable to all land located within the corporate limits of the City of Rapid City, and to any applicable extraterritorial area, and to land which is being processed concurrently with an annexation ordinance to the city.

16.04.040 Policy.

The provisions in this article shall be administered to supplement and facilitate the provisions in the Comprehensive Plan, the Zoning Ordinance, and the City's adopted zoning map. Land shall not be subdivided until proper provision has been made for public facilities, as required by this ordinance.

16.04.050 Purpose.

The purpose of this article is to protect the public health, safety, and general welfare while ensuring an orderly, efficient, and economical development of land.

16.04.060 Exceptions.

The Director shall have the authority to grant exceptions to submittal requirements, standards for improvements, specific design standards or other provisions contained within Title 16 of this code. An applicant shall make a written request to the Director specifically identifying the provision of the code they are seeking an exception from. The Director may request reasonable additional information from the applicant in order to assist in the decision. The Director shall have 13 working days to grant or deny the request in whole or in part. If the Director determines that the application for an exception does not contain the specified and required information the review timeline shall be suspended and the owner and/or designated agent shall be notified of the deficiency. When complete and sufficient information is provided by the owner and/or designated agent, the review timeline shall be re-engaged, with an additional three (3) working days added to the remaining balance of the review timeline. Applications suspended for more than 90 consecutive days shall be denied by the Director. Applicants may appeal to the City Council for extensions, providing that the appeal is heard within 90 days of the suspension. The Director shall communicate the reasons for denial to the applicant in writing. If the Director fails to respond within 13 days, the request will be deemed to be approved. Any applicant that disputes the denial of an exception may appeal to the City Council. In order to appeal the denial the applicant shall file a written request of appeal to the Director within 10 working days of the denial. The Director will then place the exception request on the next Public Works Committee Meeting agenda. The City Council shall have the authority to approve, reverse or amend the Director's denial in whole or in part.

16.04.070 Amendments.

The City Council may from time to time amend the provisions of these subdivision regulations. A public hearing on all proposed amendments shall be held by the Planning Commission and recommendations forwarded to the City Council for approval.

16.040.080 Responsibilities.

A. *Applicant.* The applicant shall prepare plats and shall install improvements consistent with these regulations and other referenced City ordinances, regulations, standards, and specifications in editions which are applicable at the time the subdivision application is filed. The applicant is responsible for paying all fees which are listed in these regulations at the time required.

B. *Department* The Department of Community Planning & Development Services will review all plats as to their conformity to City regulations. As a part of its examination, the Department will consult with interested public or private agencies for the purpose of determining whether or not the plat is in conformity for orderly growth and development of the City.

C. *Director.* The Director of Community Planning & Development Services and/or Director of Public Works, following criteria as hereinafter provided, shall have the authority to approve or deny all final subdivision plats, minor subdivision plats, lot line adjustment and lot consolidation plats, and vacation of easements as defined by this Title. Denial by the Director may be appealed by the applicant to the City Council.

D. *City Council.* The City Council shall have the authority to hold a public hearing for preliminary subdivision plans and instruments for the vacation of public right-of-way. The City Council shall hear and have final jurisdiction of all appeals.

E. *City Engineer.* The City Engineer shall have the authority to approve development engineering plans and development agreements for public improvements submitted by the applicant, provided a preliminary development plan has been approved by the City Council.

F. *Planning Commission.* The Planning Commission shall review Preliminary Subdivision Plans and make recommendations to the City Council after conducting a public hearing.

G. *DRT.* The Development Review Team or DRT is composed of city staff and representatives of outside agencies that have an interest in or would be affected by a proposed subdivision application. The Director shall maintain a list of current members and may revise the list. The Director or designee within the department will select members from the DRT list and forward subdivision applications to the selected members for review and comment. Copies of the list are available for inspection in the office of the Director.

16.04.090 General Requirements.

A. All Subdivision of property shall comply with this ordinance unless:

1. The division of land creates an easement, right-of-way, or site for the use of governmental agencies or public utilities possessing the power of condemnation;
2. Any division, parcel, or interest in land which creates cemetery lots shall follow South Dakota State Statutes;
3. Any division of land located within three miles of the corporate limits of Rapid City greater than forty acres pursuant to SDCL § 11-6-40 and Section 16.04.090 of this chapter;
4. Condominium ownership with no public right-of-way dedications, drainage or utility easements shall follow South Dakota State Statutes;
5. Any division of land by Judicial Survey per SDCL § 21-40-6 through 21-40-8; or
6. Any division of land by Determination of Adverse Claims per SDCL § 21-40-5.

B. *Plats straddling municipal boundaries.* Whenever access to the subdivision is required across land in another jurisdiction, the City may require proof of adequate access. Lot lines shall be laid out so as not to cross municipal boundary lines.

C. *Construction across Existing Lot Lines.* Any construction across existing subdivision lot lines is in violation of this article unless the owner enters into a developmental lot agreement that meets the criteria established by the City.

D. *Approval stipulations.* As part of the approval of any plat, the City may impose stipulations deemed necessary for the protection of the public health, safety and welfare, pursuant to City, County, State and Federal regulations. No plat shall be deemed approved, nor shall any plat be recorded, until the conditions imposed have been met in full or as otherwise provided for by agreement of the City.

E. *Public information.* The Director shall make available to any interested person all information concerning plans for the orderly growth and development of the City and its services.

F. *Vacation of easements.* A vacation of easements may be shown either on the final plat or on a separate vacation instrument.

G. *Property and Special Assessments Due.* Prior to approval by the Director or City Council as applicable, all currently due property taxes and special assessments shall have been paid on the real property subject to subdivision or re-subdivision.

H. *Violation and Penalty.* Whoever, being the owner or agent of the owner of any land located within the platting jurisdiction of the city, transfers or sells the land without having the land platted or replatted, as may be required by this Title and does so before the plat or replat has been approved by the Director or City Council, as applicable, and recorded in the office of the Register of Deeds, shall forfeit and pay a penalty of \$500 for each portion of land so transferred or sold. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from the penalties. The city may enjoin the transfer, sale or agreement by an action for injunction or may recover the aforesaid penalty by a civil action in any court of competent jurisdiction. Furthermore, The City will not issue building permits for construction on any lot so platted and shall file a building permit restriction against the deed to the property within the corporate limits of the City.

16.04.100 Transfer or Sale of Land Under 40 Acres.

A. *Description.* Pursuant to SDCL § 11-6-40 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 tract, lot, piece or parcel of land has been previously platted and the plat has been approved by the City 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 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.

B. For purposes of determining if a tract or parcel of land is 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.

Chapter 16.08: Application Procedures

Section

- 16.08.010 General Provisions
- 16.08.020 General Application Procedures.
- 16.08.030 Subdivision Approval Criteria.
- 16.08.040 Preapplication Conference
- 16.08.050 Layout Plan
- 16.08.060 Preliminary Subdivision Plan
- 16.08.070 Development Engineering Plans
- 16.08.080 Final Plat
- 16.08.090 Minor Plat
- 16.08.100 Consolidation Plats and Lot Line Adjustment Plats
- 16.08.110 Vacation of Easements
- 16.08.120 Vacation of Public Right-Of Way and Vacation of Section Line Highway
- 16.08.130 Plat Errors and Omissions

16.08.010 General Provisions.

A. All applications submitted pursuant to this chapter must be signed by the owner of the property identified in the application, or by their legally authorized representative. No subdivision application shall be approved by the Director or City Council unless it conforms to the provisions of this article.

B. Prior to final approval or disapproval by the City, any submitted plat may be withdrawn or modified. Any substantial modifications affecting the legal description of the property including the addition or subtraction of land area to be platted may require the submittal of a new application and application fee.

C. The subdivision application shall be approved or disapproved within 90 days after submission of the plat; otherwise the plat shall be deemed to have been 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 the period.

D. The applicant or applicant's representative is encouraged to attend the Planning Commission and City Council hearings (if applicable) at which the subdivision plat is considered.

E. Prior to approval of a Final Plat, Minor Plat, or Lot Line Adjustment or Consolidation Plat the applicant shall provide the number and form of copies of the plat as are currently required for filing. The Director will record the signed plat in the office of the Pennington County Register of Deeds.

F. If the subdivision application is not approved by the Director, the applicant may appeal to the City Council through a public hearing scheduled by the Director. If the plat is not approved by City Council, the disapproval may be reconsidered upon a motion duly passed, conditioned on the submission of new evidence which could not have been, with due diligence, presented at the previous City Council hearing as

set forth by affidavit. No such reconsideration shall prejudice the rights of any person who has, in good faith, acted on the previous decision prior to the reconsideration.

16.08.020 General Application Procedures.

The Director shall formulate written policies which govern the procedure for processing subdivisions. These procedures shall:

- A. Outline the responsibility of parties concerned with subdivisions and processing thereof; and,
- B. Specify the number of copies and distribution of copies of subdivision plans, plats and other information.

16.08.030 Subdivision Approval Criteria.

Approval Criteria. The Director and City Council, as applicable, shall approve subdivision applications based on the following criteria:

- A. The subdivision complies with the existing zoning district requirements or any approved rezoning, conditional use or planned development;
- B. There is no evidence to suggest that the subdivision violates any state, federal, or local laws, regulations, or requirements;
- C. The subdivision complies with all applicable city standards;
- D. The subdivision has addressed requirements for public safety, transportation, and utility facilities;
- E. As applicable, surety has been provided by the applicant to address the construction of all required improvements;
- F. As applicable within each phase of the subdivision, the infrastructure is available for development of the subdivision; and
- G. The subdivision conforms to the requirements of the city floodplain regulations and policies.

16.08.040 Pre-application Conference.

Applicants are encouraged to schedule a pre-application conference prior to submittal of an application for review. The Director will request DRT representatives, as appropriate, to attend the pre-application conference. The applicant may present a conceptual drawing of the proposed subdivision plat along with other information at the pre-application conference for the Director and DRT representatives to determine the appropriate subdivision application process required for approval.

16.08.050 Layout Plan.

A. *Description.* A Layout Plan is a generalized land use plan. This process provides an early and informal evaluation of a proposed subdivision. A Layout Plan provides the DRT and the applicant an opportunity to

determine the development's conformance with the comprehensive plan, zoning ordinance and city development requirements.

B. *Review.* The Director shall determine the number of copies of the Layout Plan and any supporting documents to be submitted by the applicant for review. The Director shall forward the Layout Plan application to the DRT for review. The DRT members have 15 working days to review the Layout Plan application and provide written comment to the applicant based upon such reviews.

C. *Approval Criteria.* The Layout Plan application process is not required and is used to provide information to the applicant regarding the design of the subdivision and future application processes. A Layout Plan is not approved by the Director or DRT and therefore there are no approval criteria. The applicant can resubmit revised Layout Plans to the Director.

16.08.060 Preliminary Subdivision Plan.

A. *Description.* A Preliminary Subdivision Plan is a tentative plan of a proposed subdivision requiring the installation of public improvements. Approval of a Preliminary Subdivision Plan by the City Council is required before an applicant can proceed with Development Engineering Plans and a Final Plat application for all or part of the area within the Preliminary Subdivision Plan application.

B. *Review.* The owner and/or designated agent shall submit the required application, number of copies of the Preliminary Subdivision Plan, and the appropriate supporting documents, reports and information to the Department for review. Upon receipt of a complete application and the required information, the Director and DRT shall have 15 working days to complete their review and provide a recommendation to be forwarded to the Planning Commission. The recommendation shall be provided to the owner and/or designated agent. Within 16 working days of receipt of the application and required information, the Director shall place the application and recommendation on the next available Planning Commission agenda, with consideration for the required public notice. The Planning Commission will review the application and DRT recommendations and forward a recommendation to the City Council for their consideration.

C. *Suspended Timelines.* If the Director determines that the application for the Preliminary Subdivision Plan does not contain the specified and required information the review timeline shall be suspended and the owner and/or designated agent shall be notified of the deficiency. When complete and sufficient information is provided by the owner and/or designated agent, the review timeline shall be re-engaged, with an additional three (3) working days added to the remaining balance of the review timeline. Incomplete applications will not be placed on the Planning Commission agenda. Applications suspended for more than 90 consecutive days shall be denied by the Director. Applicants may appeal to the City Council for extensions, providing that the appeal is heard within 90 days of the suspension.

D. *Appeal of Suspended Timelines.* When the owner and/or designated agent do not concur with the Director regarding the information required for the Preliminary Subdivision Plan, they can appeal to the City Council. The City Council may approve or deny the Preliminary Subdivision Plan in its entirety, upon the applicant's request, with consideration being given to the disputed item(s).

E. *Approval Criteria.* The Planning Commission shall recommend and the City Council shall approve the Preliminary Subdivision Plan provided the plat and supporting documents comply with the approval criteria outlined in section 16.08.030.

16.08.070 Development Engineering Plans.

A. *Description.* Development Engineering Plans are submitted by the applicant following City Council approval of a Preliminary Subdivision Plan and prior to submittal of a Final Plat. The Development Engineering Plans shall include and meet the stipulations of approval of the Preliminary Subdivision Plan and shall include Plat documents and plans for public streets, public utilities, drainage, and all other public and private improvements as required by City ordinance and/or resolution.

B. *Review.* The owner and/or designated agent shall submit the required application, fees, number of copies of the Plat document, number of copies of the designs for public and/or private improvements, and the appropriate supporting documents, reports, permits, approved exceptions and/or variances, and other specified information to the Department. Upon receipt of a complete application and the required information, the Director shall provide all information to the Public Works Department. The Public Works Department and the DRT shall have 15 working days from receipt of the application to complete their review and to approve, deny, or suspend the application. Applications not acted on within 15 working days of submittal (approved, denied or suspended) shall be deemed approved. The approval, denial, or suspension shall be provided to the owner and/or designated agent.

C. *Suspended Timelines.* If the Director or Public Works determines that the application for Development Engineering Plans does not contain the specified and required information, the review timeline shall be suspended and the owner and/or designated agent shall be notified of the deficiency. When complete and sufficient information is provided by the owner and/or designated agent, the review timeline shall be re-engaged, with an additional three (3) working days added to the remaining balance of the review timeline. Applications suspended for more than 90 consecutive days shall be denied by the Director. Applicants may appeal to the City Council for extensions, providing that the appeal is heard within 90 days of the suspension.

D. *Appeal of Suspended Timelines.* When the owner and/or designated agent does not concur with the Director of Public Works regarding the information required for the Development Engineering Plans, an appeal can be filed to the City Council. The City Council may approve or deny the Development Engineering Plans in its entirety, upon the applicant's request, with consideration being given to the disputed item(s).

E. *Approval Criteria.* The City Engineer shall approve the Development Engineering Plans provided the documents comply with Infrastructure Design Criteria Manual, Standard Specifications for Public Works Construction and all other city criteria adopted by City ordinance or resolution including exceptions to the criteria approved by the City Engineer or City Council.

16.08.080 Final Plat.

A. *Description.* A final plat provides a permanent and accurate record of the exact size and location of the lots, blocks, streets, drainage areas, easements, and other parcels of land within a subdivision. When filed with the County Register of Deeds a Final Plat becomes the legal instrument whereby the location and boundaries of separate land parcels within the subdivision are identified. If the applicant plans to develop a property in phases, the property may be divided into separate final plats or filings. Each final plat requires a separate application and review.

B. *Review.* The owner and/or designated agent shall submit the required application, signed original plat document (mylar), the specified number of copies of the Final Plat document, surety for subdivision improvements, inspection fees, and other specified information to the Department. Upon receipt of a complete application and the required information, the Director shall provide all information to the DRT. The DRT shall have 13 working days from receipt of the application to complete their review and to approve, deny, or suspend the application. Applications not acted on within 13 working days of submittal (approved, denied or suspended) shall be deemed approved. The plat document shall be signed by the Director and recorded at the Pennington County Register of Deeds. The approval, denial, or suspension shall be provided to the owner and/or designated agent.

C. *Suspended Timelines.* If the Director determines that the application for the Final Plat does not contain the specified and required information, the review timeline shall be suspended and the owner and/or designated agent shall be notified of the deficiency. When complete and sufficient information is provided by the owner and/or designated agent, the review timeline shall be re-engaged, with an additional three (3) working days added to the remaining balance of the review timeline. Applications suspended for more than 90 consecutive days shall be denied by the Director. Applicants may appeal to the City Council for extensions, providing that the appeal is heard within 90 days of the suspension.

D. *Appeal of Suspended Timelines.* When the owner and/or designated agent do not concur with the Director regarding the information required for the Final Plat, an appeal can be filed to the City Council. The City Council may approve or deny the Final Plat in its entirety, upon the applicant's request, with consideration being given to the disputed item(s).

E. *Approval Criteria.* The Director shall approve the Final Plat application provided the plat and supporting documents comply with the approval criteria outlined in section 16.08.030.

16.08.090 Minor Plat.

A. *Description.* The purpose of this section is to allow property to be platted into 12 or fewer lots without being subject to the procedural provisions of the Preliminary Subdivision Plan regulations of this Title. No Minor Plat shall be approved in any case in which the extension of public water, sewer or streets or any other physical improvement (with the exception of the installation of public sidewalks) is required by the subdivision regulations of this title. No minor plat shall dedicate any public right-of-way.

B. *Review.* The owner and/or designated agent shall submit the required application, fees, the signed plat document (mylar), the specified number of copies of the Minor Plat document, and the appropriate supporting documents, reports, permits, approved exceptions and/or variances, and other specified information to the Department. Upon receipt of a complete application and the required information, the Director shall provide all information to DRT. The DRT shall have 13 working days from receipt of the application to complete their review and to approve and record, deny, or suspend the application.

Applications not acted on within 13 working days of submittal (approved, denied or suspended) shall be deemed approved. The plat document shall be signed by the Director and recorded at the Pennington County Register of Deeds. The approval, denial, or suspension shall be provided to the owner and/or designated agent.

C. *Suspended Timelines.* If the Director determines that the application for the Minor Plat does not contain the specified and required information, the review timeline shall be suspended and the owner and/or designated agent shall be notified of the deficiency. When complete and sufficient information is provided by the owner and/or designated agent, the review timeline shall be re-engaged, with an additional three (3) working days added to the remaining balance of the review timeline. Applications suspended for more than 90 consecutive days shall be denied by the Director. Applicants may appeal to the City Council for extensions, providing that the appeal is heard within 90 days of the suspension.

D. *Appeal of Suspended Timelines.* When the owner and/or designated agent do not concur with the Director regarding the information required for the Minor Plat, an appeal can be filed to the City Council. The City Council may approve or deny the Minor Plat in its entirety, upon the applicant's request, with consideration being given to the disputed item(s).

E. *Approval Criteria.* The Director shall approve the Minor Plat application provided the plat and supporting documents comply with the approval criteria outlined in section 16.08.030.

16.08.100 Consolidation Plats and Lot Line Adjustment Plats.

A. *Description.* Consolidation Plats are used to consolidate two or more lots or parcels. Lot Line Adjustments involve the relocation of lot lines between no more than 5 lots or parcels.

B. *Review.* The owner and/or designated agent shall submit the required application, fees, signed plat document (mylar), the specified number of copies of the Consolidation Plat or Lot Line Adjustment Plat and other specified information to the Department. Upon receipt of a complete application and the required information, the Director shall provide all information to DRT. The DRT team shall have 13 working days from receipt of the application to complete their review and to approve, deny, or suspend the application. Applications not acted on within 13 working days of submittal (approved, denied or suspended) shall be deemed approved. The plat document shall be signed by the Director and recorded at the Pennington County Register of Deeds. The approval, denial, or suspension shall be provided to the owner and/or designated agent.

C. *Suspended Timelines.* If the Director determines that the application for a Consolidation Plat or a Lot Line Adjustment Plat does not contain the specified and required information, the review timeline shall be suspended and the owner and/or designated agent shall be notified of the deficiency. When complete and sufficient information is provided by the owner and/or designated agent, the review timeline shall be re-engaged, with an additional three (3) working days added to the remaining balance of the review timeline. Applications suspended for more than 90 consecutive days shall be denied by the Director. Applicants may appeal to the City Council for extensions, providing that the appeal is heard within 90 days of the suspension.

D. *Appeal of Suspended Timelines.* When the owner and/or designated agent do not concur with the Director regarding the information required for the Consolidation Plat or Lot Line Adjustment Plat, an appeal

can be filed to the City Council. The City Council may approve or deny the Consolidation Plat or Lot Line Adjustment Plat in its entirety, upon the applicant's request, with consideration being given to the disputed item(s).

E. *Approval Criteria.* The Director or City Council as applicable shall approve a Consolidation Plat or Lot Line Adjustment Plat if the plat and all supporting documents comply with the following approval criteria:

1. The adjustment does not increase the number of lots or parcels;
2. The adjustment does not alter a recorded easement without the prior approval of the easement holder;
3. The correction or revision will not create any nonconformities, or increase the degree of nonconformity of any existing structure or use; and
4. The street right-of-way locations will not be changed.

16.08.110 Vacation of Easements.

A. *Description.* A Vacation of Easement is a process used to eliminate all or a portion of an easement for utilities, drainage, access, non-access, planting screens or any other easement designated on a plat. The Vacation of Easement is reviewed by the DRT and approved by the Director.

B. *Review.* The prospective applicant shall meet with the Departments Staff to discuss the proposed vacation. Staff shall determine the type of easement application(s) that are required and provide the necessary application information. Generally, Vacation of Easement applications can be classified into three categories:

1. *Vacation of Utility Easement.* The applicant receives a sample utilities letter from the Department. The applicant sends out the utility letter and vacation instrument to all utility companies in order to determine the impact of the proposed vacation on utilities. The utility companies shall be instructed within the letter to respond directly to the Department.
2. *Vacation of Drainage Easement.* The applicant submits a Drainage Report prepared by a Licensed Professional Engineer. The report shall determine the impact of the proposed vacation on the existing and future drainage. A site plan may be required.
3. *Vacation of Access, Non-access, Planting Screen or Other Easements.* An application for vacation of an access, non-access, planting screen, or other vacation easement shall be signed by all affected property owners requesting the easement vacation.

The applicant shall submit the required application, fees, the specified number of copies of the Vacation of Easement exhibit and other specified information to the Department. The Vacation Instrument shall be prepared by a Licensed Professional Land Surveyor and marked "Exhibit A". The Vacation Instrument shall include the book and page number of the original document dedicating the easement. Upon receipt of a complete application, the Director shall provide all information to DRT. The DRT team shall have 13 working days from receipt of the application to complete their review and to approve, deny, or suspend the application. Applications not acted on within 13 working days of submittal (approved, denied or suspended) shall be deemed approved. The exhibit shall be approved by the Director and recorded at the Pennington County Register of Deeds. The approval, denial, or suspension shall be provided to the owner and/or designated agent.

C. *Suspended Timelines.* If the Director determines that the application for the Vacation of Easement does not contain the specified and required information, the review timeline shall be suspended and the owner and/or designated agent shall be notified of the deficiency. When complete and sufficient information is provided by the owner and/or designated agent, the review timeline shall be re-engaged, with an additional three (3) working days added to the remaining balance of the review timeline. Applications suspended for more than 90 consecutive days shall be denied by the Director. Applicants may appeal to the City Council for extensions, providing that the appeal is heard within 90 days of the suspension.

D. *Appeal of Suspended Timelines.* When the owner and/or designated agent do not concur with the Director regarding the information required for the Vacation of Easement an appeal can be filed to the City Council. The City Council may approve or deny the Vacation of Easement Plat document in its entirety, upon the applicant's request, with consideration being given to the disputed item(s).

E. *Approval Criteria.* The Director or City Council as applicable shall approve a Vacation of Easement provided that the utility companies consent to the vacation of the easement and/or the City Engineer determines that the drainage is not adversely affected, and/or the vacation of the easement does not alter a recorded easement without the prior approval of the easement holder.

16.08.120 Vacation of Public Right-Of Way and Vacation of Section Line Highway.

A. *Description.* A Vacation of Public Right-Of-Way or Vacation of Section Line Highway is used to eliminate public rights-of-way that are no longer needed for public improvements or access. The vacation requires the approval of a resolution by City Council including an exhibit showing the area to be vacated.

B. *Review.* The owner or the designated agent shall submit an application which includes the legal description of the property for which the Vacation is requested and which is signed by the property owner along with 4 copies of a Vacation Instrument marked "Exhibit A" prepared by a Licensed Professional Land Surveyor. The Vacation Instrument shall include book and page number of the original plat dedicating right-of-way if applicable. A Petition for Right-of-Way Vacation or Vacation of Section Line Highway must be signed by property owners whose property adjoins that part of the street, alley or public ground to be vacated. The petition for vacation must be notarized. The applicant shall send out utility letters and the vacation instrument to all utility companies in order to determine the impact of the proposed vacation on utilities. The utility companies are notified within the letter that they are to reply directly to the Department. Upon receipt of the Vacation Instrument and the letters from the utility companies, the Director and DRT shall have 15 working days to complete their review and provide a recommendation and Resolution prepared by the City Attorney's Office to the Planning Commission. The Planning Commission will review the Resolution and DRT recommendations and forward a recommendation to the City Council for their consideration. The Resolution is set for hearing at the following City Council meeting with formal action being taken at the next regularly scheduled meeting (approximately 30 days after Planning Commission). The Vacation of Right-of-Way and/or Vacation of Section Line Highway petition is a public hearing requiring publication of legal notice once each week for at least two successive weeks with the City Council taking formal action on the petition not less than 10 days from expiration of such publication. This publication requirement will result in formal action being taken by the City Council approximately 30 days following the action taken by the Planning Commission.

C. *Suspended Timelines.* If the Director determines that the application for the Vacation of Public Right-Of-Way does not contain the specified and required information, the review timeline shall be suspended

and the adjacent landowner or landowners, as applicable, shall be notified of the deficiency. When complete and sufficient information is provided by the owner or designated agent, the review timeline shall be re-engaged, with an additional three (3) working days added to the remaining balance of the review timeline. Incomplete applications will not be placed on the Planning Commission agenda. Applications suspended for more than 90 consecutive days shall be denied by the Director. The adjacent landowner or landowners may appeal to the City Council for extensions, providing that the appeal is heard within 90 days of the suspension.

D. *Appeal of Suspended Timelines.* When the owner or designated agent does not concur with the Director regarding the information required for the Vacation of Public Right-Of-Way, an appeal can be filed to the City Council. The City Council may approve or deny the Vacation of Public Right-Of-Way, upon the applicant's request, with consideration being given to the disputed item(s).

E. *Approval Criteria.* The Public Works Committee shall recommend and the City Council shall approve the Vacation of Public Right-Of-Way provided the Exhibit and supporting documents comply with the following approval criteria:

1. The vacation serves the interest of the city by removing maintenance or liability risks;
2. The property interest being vacated is no longer necessary for city operations;
3. The land to be vacated is no longer necessary for the public use and convenience;
4. The vacation will not create any landlocked properties;
5. The vacation will not render access to any parcel unreasonable; and
6. The vacation will not reduce the quality of public services to any parcel of land.

F. *Zoning.* Notwithstanding any provision in this section to the contrary, the zoning on any property vacated by the city shall be changed without further action as of the effective date of the vacation to that zoning of the property to which ownership of the vacated property attaches as a result of such vacation by the city. When possible, a separate Consolidation Plat application to replat the vacated area into a larger usable piece of land should be submitted by the landowner receiving the vacated parcel.

16.08.130 Plat Errors and Omissions.

Corrections of errors and omissions on a plat document shall follow the South Dakota State Statutes requirements per SDCL § 43-18-11.

Chapter 16.12: Specifications for Submittal Documents

Section

- 16.12.010 General Specifications for Submittal Documents
- 16.12.020 Layout Plan
- 16.12.030 Preliminary Subdivision Plan
- 16.12.040 Development Engineering Plans
- 16.12.050 Final Plat
- 16.12.060 Minor Plat
- 16.12.070 Lot Line Adjustment and Consolidation Plat
- 16.12.080 Vacation of Easements
- 16.12.090 Vacation of Public Right-Of-Way and Vacation of Section Line Highway

16.12.010 General Specifications for Submittal Documents.

The Director shall prepare written materials to assist applicants with the creation of subdivision plats and supporting plat application documents that comply with City, State and Federal requirements. At a minimum these materials shall specify:

- A. The format of the subdivision plat, subdivision application, and supporting documents.
- B. The number of copies of the subdivision plat and supporting documents necessary for distribution, review, and recording as required by the City and Pennington County.

16.12.020 Layout Plan.

- A. The following information is required for Layout Plans:
 - 1. A completed and signed application;
 - 2. Site Plan;
 - 3. Vicinity map;
 - 4. Lot configurations with approximate areas designated in square feet and the location of streets within the subdivision boundary;
 - 5. Topography at 5-foot contour intervals; and
 - 6. Adjacent development information including property lines, roads, and watercourses.

16.12.030 Preliminary Subdivision Plan.

The following information is required for Preliminary Subdivision Plans:

- A. A completed and signed application;
- B. Site Plan showing existing development and proposed subdivision lot layout;
- C. Vicinity map;

- D. Lot configurations with areas designated in acres and square feet and the location of streets within the subdivision boundary;
- E. Topography at five-foot contour intervals;
- F. Land Uses;
- G. Street Layout;
- H. Sidewalks and walkways;
- I. General Utility layout;
- J. Initial Grading Plan;
- K. Drainage areas;
- L. Master plan;
- M. Phasing plan; and
- N. Traffic Impact Study, if applicable.

16.12.040 Development Engineering Plans.

The following information is required for Development Engineering Plans:

- A. A completed and signed application and fees;
- B. Plat including lot configurations, lot areas, easements, and signature blocks;
- C. Street Plan and Profiles;
- D. Utility Design for water and sanitary sewer services;
- E. Utility Distribution Plan;
- F. Drainage Report;
- G. Storm Drainage Plans;
- H. Flood Zones;
- I. Sidewalks and walkways;
- J. Cost estimate for subdivision improvements; and
- K. Additional public agency permits or agreements as required.

16.12.050 Final Plat.

The following information is required for final plats of subdivisions:

- A. A completed and signed application;
- B. Signed mylar of the plat document;
- C. Surety for subdivision improvements; and
- D. Inspection fees.

16.12.060 Minor Plat.

The following information is required for minor plats of subdivisions:

- A. A completed and signed application and fees;

- B. Site Plan showing existing development and proposed subdivision lot layout;
- C. Vicinity Map;
- D. Lot configurations with areas designated in acres and square feet;
- E. Topography at 5-foot contours;
- F. Easement locations (standard, required and previously platted); and
- G. Signed Mylar of the plat document.

16.12.070 Lot Line Adjustment and Consolidation Plat.

The following information is required for lot line adjustments and consolidation plats:

- A. A completed and signed application and fees;
- B. Vicinity map;
- C. Site Plan (to scale);
- D. Lot configurations and areas;
- E. Easement locations (standard, required and previously platted); and
- F. Signed mylar of the plat document.

16.12.080 Vacation of Easements.

The following information is required for vacation of easements:

- A. A completed and signed application and fees;
- B. Copies of a site plan showing all the existing development including building footprints, driveways, curb cuts, utility service lines, sidewalks, etc. The site plan must be drawn to a scale such as 1"=10' or 1"=20'. One copy of the site plan at 8 ½" x 11" must be furnished;
- C. The original vacation instrument shall be prepared by a Licensed Professional Land Surveyor and titled "EXHIBIT A". The vacation instrument shall include the book and page number of the original document dedicating or granting the easement;
- D. Vacation of Drainage Easement – The applicant shall submit a Drainage Report prepared by a Licensed Professional Engineer. The report shall determine the impact of the proposed vacation on the existing and future drainage;
- E. Vacation of Utility Easement – The applicant shall submit letters from the utility companies consenting to the proposed vacation;
- F. Vacation of Access Easement – The application shall be signed by all affected property owners requesting vacation of an access easement; and
- G. Vacation of Planting Screen and Non-Access Easement – The applicant shall submit a site plan with the locations of the existing and adjacent approach locations, spacing and clearance, and street intersections as indicated in the Infrastructure Design Criteria Manual.

16.12.090 Vacation of Public Right-Of-Way and Vacation of Section Line Highway.

The following information is required for vacation of Public Right-of-Way and vacation of Section Line Highway:

- A. A completed and signed application and fees;
- B. Petition of vacation signed by property owners;
- C. Configuration and dimensions of the area being vacated;
- D. Lot configurations and areas adjacent to the vacated right-of-way; and
- E. Exhibit "A" prepared by a Licensed Professional Land Surveyor showing area of vacation.

Chapter 16.16: Standards for Improvements

Section

- 16.16.010 General Requirements
- 16.16.020 Blocks
- 16.16.030 Lots
- 16.16.040 Streets
- 16.16.050 Sidewalks
- 16.16.060 Street Names
- 16.16.070 Subdivision Names
- 16.16.080 Easements
- 16.16.090 Drainage and Flood Control
- 16.16.100 Oversize Facilities

16.16.010 General Requirements.

A. All improvements required under these regulations shall be designed in accordance with the standards contained herein, and constructed in accordance with the following municipal codes and design and criteria manuals as adopted and amended unless an exception has been granted:

1. Infrastructure Design Criteria Manual (current edition);
2. Standard Specifications for Public Works Construction (current edition);
3. Title 12: Streets, Sidewalks, and Public Places;
4. Title 13: Public Utilities and Services; and
5. All other city criteria adopted by City ordinance or resolution including exceptions to the criteria approved by the City Engineer or City Council.

B. Where possible, all public and private water mains, sanitary sewers and storm sewers shall be installed as necessary to prevent the future cutting of pavement of any street, sidewalk or other required pavement.

C. The improvements the owner proposes to make off-premises, outside the boundaries of the proposed subdivision, pursuant to the development of the subdivision shall be clearly noted on the Preliminary Subdivision Plan. These improvements shall relate to drainage, utilities and other improvements necessary to permit development in the subdivision.

16.16.020 Blocks.

A. *Block Depths.* Blocks shall have sufficient width to provide for two (2) tiers of lots of appropriate depths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to railroads, state or federal highways, arterial roadways, waterways or as otherwise authorized by the Director or City Council for good cause.

B. *Block Lengths.* In blocks, more than twelve hundred (1,200) feet long, the Director or City Council may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.

C. *Pedestrian Access.* Pedestrian crosswalks, not less than 10 feet wide, may be required by the Director or City Council as applicable where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, bus stops and other community facilities.

16.16.030 Lots.

A. *Arrangement.* The lot arrangement shall take into account topography or other conditions, so that there will be no issues in securing building permits to build on all lots, in compliance with the laws of Rapid City and in providing driveway access to buildings on the lots from an approved street.

B. *Lot Dimensions.* Lot dimensions shall comply with the minimum standards of the City Zoning Ordinance. Where lots are more than double the minimum required area for the zoning district, the Director or City Council, as applicable, may require that the lots be arranged so as to allow further subdivision and the opening of future streets where necessary to serve the potential lots, all in compliance with the Zoning Ordinance and this article. Side lot lines shall be substantially perpendicular. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum setback from both streets, and allowing for cross-lot visibility for motorists on both intersecting streets.

C. *Access.* Each lot shall be provided with access to a public street or other access as provided by the Infrastructure Design Criteria Manual.

16.16.040 Streets.

A. The configuration, location and grade of all proposed streets shall be in accordance and with good land planning principles and shall meet the intent of the Major Street Plan. Streets shall be provided in relation to existing and proposed streets, topographical conditions, public convenience and safety, in appropriate relation to the proposed uses of land to be served by the streets, and in relation to provision for gravity sanitary sewer service to all lots.

B. Where appropriate, proposed streets shall be extended to the boundary lines of the tract or parcel to be subdivided in order to ensure access to adjoining parcels of land. Property abutting a proposed subdivision shall not be left land-locked by such proposed subdivision. Unusable reserve strips controlling access to streets shall be prohibited.

C. Alleys may be required in commercial and industrial districts. The Director or City Council may waive this requirement where other provision is made for service access, such as off-street loading, unloading and parking consistent with ordinance requirements.

16.16.050 Sidewalks.

The responsibility for constructing sidewalks shall be divided as follows:

- A. The subdivider/developer will be responsible for constructing all corner ramps, sidewalk connecting the corner ramps along the radius and all sidewalks on lots which no building permit is anticipated (drainage lots, utility lots, other common lots, or lots within the City's three mile platting jurisdiction).
- B. All other sidewalks will be installed prior to the issuance of a Certificate of Occupancy for the structure on the lot.

16.16.060 Street Names.

Street names shall not be duplicated by spelling or sound, such that they may be confused with the names of existing streets. Street names are subject to the approval of the Emergency Communications Services Center.

16.16.070 Subdivision Names.

Subdivision names shall not duplicated or be deceptively similar to any other subdivision name. Subdivision names are subject to the approval of the Pennington County Register of Deeds.

16.16.080 Easements.

Standard and/or specific utility, drainage or other easements shall be provided in accordance with City criteria, or as needed.

16.16.90 Drainage and Flood Control.

- A. Consideration and provision for drainage shall be in accordance with the City of Rapid City Drainage Criteria Manual, Stormwater Quality Manual, the City Infrastructure Design Criteria Manual and all other City, State and Federal requirements.
- B. If subdivision improvements are required, a drainage plan and report shall be prepared for each subdivision by the applicant's engineer. Adequate provisions shall be made to provide drainage facilities needed within the subdivision, taking into account the ultimate development of the tributary area, or offsite drainage provisions shall be verified or established.
- C. Primary consideration shall be given to gravity flow improvements for storm and sanitary sewer improvements.
- D. Off-premise drainage easements and improvements may be required.
- E. The City Engineer may require additional engineering information necessary to make a decision on subdivisions and other development which are in areas of questionable drainage.
- F. Development within designated areas of the flood plain shall comply with all requirements of the Flood Area Construction Regulations.

G. Minimum floor elevation requirements may be established to ensure compliance with Flood Area Construction Regulations.

16.16.100 Oversize Facilities.

A. The City Council may participate in the cost of oversize improvements within a subdivision if it is determined that the oversize improvements are necessary to serve large areas of land not in the subdivision.

B. The developer shall not be required to pay the full cost of any highway or arterial street, but shall participate in the cost of these improvements in the amount that a collector street (including all utility and drainage improvements) would cost if situated where the highway or arterial street is located.

C. Request for oversize improvement reimbursement shall be submitted and approved by City Council prior to final plat approval. The developer shall enter into an agreement prior to City Council approval of the final plat. The agreement shall include oversize improvements to be completed, the allocation of costs and timing of reimbursement.

A.

Chapter 16.20: Definitions

[Definitions]

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Alley. Shall mean a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant. Shall mean any person, firm, partnership, joint venture, association, or corporation who shall participate as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale, or lease of a subdivision.

Applicant's Engineer. Shall mean a Professional Engineer licensed and in good standing with the South Dakota Board of Technical Professions who is the agent of the owner of land which is proposed to be subdivided or which is in the process of being subdivided.

Block. Shall mean an area of land generally bounded by streets, or by a combination of streets and railroad rights-of-way, waterways, or boundary lines of municipalities.

Certificate of Occupancy. Shall mean the instrument issued by the Building Official of the City or designee when a building has been inspected and found to meet city codes and ordinances relating to construction. The certificate authorizes occupancy of the building.

City. Shall mean the City of Rapid City, South Dakota.

City Comprehensive Plan. Shall mean any legally adopted part or element of a development plan of the City of Rapid City or its environs designed to provide development policies for the City. This may include, but is not limited to: the Zoning Ordinance, Subdivision Ordinance, Community Facilities Plan, Major Street Plan, Capital Expenditures Program and land use plans.

City Specifications. Shall mean the city specifications of the City of Rapid City, which have been adopted by the City Council.

City Engineer. Shall mean the duly designated City Engineer of the City of Rapid City, South Dakota.

Developer. Shall mean the person(s), firm(s) or corporation(s), in the process of creating a subdivision of property.

Director. Shall mean the Director of Community Planning & Development Services of the City of Rapid City, South Dakota, or the Public Works Director when applicable.

Easement. Shall mean a grant by a property owner for use of a designated portion of land by another person or agency, public or private.

Improvements. Shall mean streets, curbs, gutters, drainage facilities, sidewalks, pedestrian walks, water mains, sanitary and storm sewers, underground gas lines, underground and overhead utility lines, telecommunication lines and facilities, street trees, ornamental street lights, and such other items as may be designated by the Director of Public Works.

Land Surveyor. Shall mean a Professional Land Surveyor, licensed and in good standing and legally authorized to practice land surveying under the provisions of the South Dakota State Statutes.

Lot. Shall mean a portion of a subdivision or other parcel or tract of land intended as a unit for the transfer of ownership and/or for development.

Major Street Plan. Shall mean the Major Street Plan as adopted by the City Council as an element of the city development plans and/or Comprehensive Plan.

Parcel. Shall mean a lot or contiguous group of lots or other pieces of land in single ownership or under single control and usually considered a unit for purposes of development.

Plat. Shall mean a map of a piece of land subdivided into lots, parcels, tracts, or blocks, including streets, commons, and public grounds, if any, all drawn to scale.

Public Utility. Shall mean improvements which include gas lines, water mains, sanitary storm sewerage, electrical cables and lines, telephone cables and lines, telecommunication facilities and lines or other facilities of a similar nature.

Rapid City Utilities. Shall mean the municipal and franchised utilities which have been approved by the City Council.

Register of Deeds. Shall mean the duly designated Register of Deeds for the County in which the property is located.

Street. Shall mean a dedicated public or non-dedicated private thoroughfare that affords the principal means of access to abutting property. The term "*Street*" includes the right-of-way or easement which conveys the street when it is open to use.

Subdivision. Shall mean the division by plat of a lot, tract, or parcel of land. The term shall also include and refer to any division of land subdivided or platted prior to the effective date of this subdivision ordinance.

Surety. Shall mean any form of security including cash deposit, surety bond, property, or instrument of credit in an amount and form satisfactory to the Director of Public Works and City Attorney.

Zoning Ordinance. Shall mean the zoning ordinance of the City of Rapid City, South Dakota.

Chapter 16.28: Application Fees

16.28.010 Subdivision Application Fees

A. The City Council shall set by resolution the application fees for subdivision plats.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer
(SEAL)

First Reading:
Second Reading:
Published:
Effective: