

**2014 REVISED SUBDIVISION ORDINANCE  
OF  
CLAY COUNTY, SOUTH DAKOTA**

PREPARED BY CLAY COUNTY PLANNING COMMISSION  
UNDER AUTHORITY OF SDCL CHAPTER 11-2

ADOPTED BY ORDINANCE OF  
CLAY COUNTY BOARD OF COUNTY COMMISSIONERS  
DATE: September 9, 2014  
PUBLISHED: September 19, 2014 & September 26, 2014  
EFFECTIVE DATE: October 16, 2014

Ordinance No. 2014-01

ORDINANCE NO. 2014-01

AN ORDINANCE ADOPTING THE 2014 REVISED SUBDIVISION REGULATIONS FOR CLAY COUNTY, SOUTH DAKOTA.

BE IT ORDAINED BY CLAY COUNTY, SD:

*Section 1. That this Ordinance adopts the subdivision regulations, as set forth in the attached document titled 2014 Revised Subdivision Ordinance of Clay County, South Dakota; this document provides for the regulation of the subdivision of land within the unincorporated area of Clay County outside any municipal jurisdiction as set forth under SDCL 11-6-26 and 11-6-26.1; and also provides for the repeal of all prior ordinances or parts thereof in conflict therewith.*

Adopted this 9<sup>th</sup> day of September, 2014.



*Raymond Parik*  
Chairman, Board of County Commissioners

ATTEST:

*Cam R. Crum*  
Auditor

(SEAL)



First Reading: August 26, 2014  
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# TABLE OF CONTENTS

ARTICLE 1: GENERAL PROVISIONS .....	1
Section 101. Title .....	1
Section 102. Purpose.....	1
Section 103. Jurisdiction.....	1
Section 104. Conformity.....	1
Section 105. Interpretation.....	1
Section 106. Amendments .....	1
Section 107. Enforcement, Violations and Penalties .....	2
ARTICLE 2: SUBDIVISION PLANS APPROVAL PROCESS.....	4
Section 201. Overview of Approval Process .....	4
Section 202. Filing Fee .....	4
Section 203. Subdivision Plan Exemptions - Minor Plat.....	4
ARTICLE 3: CONCEPT PLAN.....	6
Section 301. Submission.....	6
ARTICLE 4: PRELIMINARY PLAN.....	7
Section 401. Submission.....	7
Section 402. Approval of Preliminary Plan .....	8
Section 403. Effective Period of Preliminary Plan Approval .....	9
Section 404. Revisions to Preliminary Plan.....	9
ARTICLE 5: FINAL PLANS AND THE PLAT.....	10
Section 501. Final Plans.....	10
Section 502. The Plat .....	10
ARTICLE 6: PLAT VACATIONS .....	12
Section 601. Vacation of Plats .....	12
ARTICLE 7: LOTS AND BLOCKS .....	13
Section 701. Blocks .....	13
Section 702. Lots .....	13
ARTICLE 8: MINIMUM ROAD IMPROVEMENTS AND DESIGN STANDARDS .....	14
Section 801. Road Arrangement and Design.....	14
Section 802. Minimum Road Right-of-Way.....	15
Section 803. Road Construction .....	15
Section 804. Road Names .....	16
ARTICLE 9: GRADING AND DRAINAGE.....	17
Section 901. Grading Plan .....	17
Section 902. Drainage Plan.....	17

ARTICLE 10: EROSION CONTROL PLAN.....	18
Section 1001. Specifications.....	18
Section 1002. Existing Features.....	18
ARTICLE 11: ASSURANCES FOR COMPLETION OF MINIMUM IMPROVEMENTS .....	19
Section 1101. Assurances for Subdivisions .....	19
Section 1102. Maintenance Agreements.....	19
Section 1103. Easements .....	19
ARTICLE 12: CERTIFICATES REQUIRED.....	20
Section 1201. Certificates for Preliminary Plan .....	20
Section 1202. Certificates for Plats and Replats .....	20
ARTICLE 13: DEFINITIONS.....	24

# **ARTICLE 1: GENERAL PROVISIONS**

## **Section 101. Title**

These regulations shall be referred to as the 2014 Revised Subdivision Ordinance of Clay County, South Dakota.

## **Section 102. Purpose**

It is the purpose of these regulations to govern the subdivision of land so as to provide for coordination of roads and transportation plans; to set aside adequate areas for public uses, water and sewer facilities, drainage and flood control; to foster efficient and orderly growth compatible with the natural environment; to prevent premature land subdivision; to protect and provide for the public health, safety, and general welfare; and to conform with other plans and regulations.

## **Section 103. Jurisdiction**

These subdivision regulations shall apply to all subdivisions of land, as described herein, located within the unincorporated area of Clay County outside any municipal jurisdiction as set forth under SDCL 11-6-26.

## **Section 104. Conformity**

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

- A. The Comprehensive Plan for the County and the policies set forth therein.
- B. The Zoning Regulations, as amended or revised.
- C. The Official Zoning Map, as amended or revised.
- D. Flood Damage Protection Ordinance, as amended or revised.
- E. Other plans and regulations, such as any nuisance ordinance.

## **Section 105. Interpretation**

These regulations are the minimum requirements for the promotion of public safety, health, and general welfare. It is not the intent of these regulations to repeal, abrogate or impair any existing easement, covenant, or deed restriction, where these provisions conflict or overlap. Whichever imposes the more stringent restrictions shall prevail.

## **Section 106. Amendments**

Any provisions of these regulations may from time to time be amended, supplemented, changed, modified or repealed by the Board of County Commissioners according to law; however, such amendments, supplements, changes or modifications shall not become effective until after study and recommendation by the Planning Commission and final approval by the Board of County Commissioners as follows:

- Proposed change(s) in Subdivision Regulations drafted and sent to State's Attorney for review;

- Letter received from State’s Attorney confirming legality of proposed change(s);
- Planning Commission holds a public hearing on the proposed change(s) with notice to be published in the County’s official newspaper at least ten days prior to the scheduled date of the public hearing;
- Planning Commission recommends adoption of the proposed change(s) to the Board of County Commissioners;
- Board of County Commissioners holds a public hearing on the proposed change(s) with notice to be published in the County’s official newspapers at least ten days prior to the scheduled date of the public hearing;
- First reading of ordinance changing the regulations held;
- Second reading and adoption of the ordinance changing the regulations held;
- Notice of adoption published; and
- Revised Subdivision Regulations become effective twenty days after publishing the notice of adoption, unless the referendum is invoked.

**Section 107. Enforcement, Violations and Penalties**

- A. The Zoning Administrator is hereby authorized and directed to enforce all the provisions of these regulations and establish procedures for its administration. For such purposes, the Zoning Administrator shall have the powers of a law enforcement officer. Any appropriate actions may be taken by law or in equity to prevent any violation thereof, to prevent unlawful construction, to recover damages, to correct or abate a violation, or to prevent illegal occupancy of a building, structure, or premises. These remedies shall be in addition to the penalties described in Section 107(C).
- B. No owner, or developer of any parcel of land located in a proposed subdivision shall transfer or sell any part of the parcel before a final plat of the subdivision has been approved in accordance with the provisions of the regulations and filed with the Clay County Register of Deeds unless provisions of plat exemptions apply as within (Section 203) Subdivision Plan Exemptions - Minor Plat.
- C. It shall be unlawful for any person having control of any land within the jurisdiction of the Clay County to subdivide or layout such land in lots, unless by plat, in accordance with the laws of the State of South Dakota and the regulations contained herein.
- D. Any person violating any provisions of these regulations shall be punishable by a fine not to exceed the fine established by SDCL 22-6-2(2). Each day in which a violation of these regulations continues shall constitute a separate offense.
- E. Whenever any work is done contrary to the provisions of these regulations, the Zoning Administrator may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done; and any such persons shall forthwith stop such work until authorized by the Zoning Administrator to proceed with work.

- F. The Zoning Administrator shall have the authority to make interpretations of these regulations and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions.
  
- G. No zoning permit or building permit shall be issued for the demolition or construction of any building or structure located on a lot or parcel subdivided or sold in violation of the provisions of these regulations. The authority to deny such a permit shall apply whether the applicant was the owner of record at the time of such violation or is the current owner of record or a vendee of the current owner pursuant to a contract of sale with, or without, actual or constructive knowledge of the violations at the time of acquisition of interest in said real property.

# ARTICLE 2: SUBDIVISION PLAN APPROVAL PROCESS

## Section 201. Overview of Approval Process

Proposed subdivision development plans must be approved by the County in accordance with the following procedures which include three principal steps.

<b>Step 1:</b>		Concept Plan ( <i>in preparation for preliminary subdivision plan</i> )
	Review by	Zoning Administrator
	Approval by	None

<b>Step 2:</b>		Preliminary Plan ( <i>in coordination with rezoning</i> )
	Review by	Zoning Administrator and Highway Superintendent
	Approval by	Planning Commission and Board of County Commissioners

<b>Step 3:</b>		Final Plan and the Plat ( <i>before a building permit is approved</i> )
	Approval by	Zoning Administrator

## Section 202. Filing Fee

A schedule of fees, charges, and expenses for matters pertaining to these Subdivision Regulations shall be established by resolution of the Board of County Commissioners. The current fee schedule shall be available from the Zoning Administrator of Clay County. All fees shall be the property of the County and shall be paid over to the Zoning Administrator of Clay County for credit to the General Fund of the County which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

## Section 203. Subdivision Plan Exemptions - Minor Plat

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

A. Minor Plats Requirements.

1. A minor plat is a plat containing not more than three lots and meets ALL OF the following requirements:
  - a. Does not require the dedication of right-of-way or construction of new roads;
  - b. Does not require the creation of easements;
  - c. Does not landlock or otherwise impair convenient ingress or egress to or from the rear side of the subject tract or any adjacent property;
  - d. Does not significantly change any plans that have been prepared for the placement of any other utilities in the subdivision;
  - e. Does not adversely affect the remainder of the parcel or adjoining property; and
  - f. Does not conflict with any provision or portion of the comprehensive plan, official map, zoning ordinance, or these regulations.
  
2. Replat. A replat includes all the requirements of a minor plat and shall also include the vacation of existing platted lines to achieve either a reconfiguration of the recorded plat or change the number of recorded lots in the subdivision. The perimeter of the tract being replatted may not be altered by the replat. The replat shall certify that the replat vacates the existing plat.

# ARTICLE 3: CONCEPT PLAN

## Section 301. Submission

A concept plan is a process designed to help a developer save time and expense in preparing a preliminary plan and a plat. The advantage of a concept plan is that County staff will provide important information that may significantly affect the development. It is recommended that at least some preliminary drainage engineering be completed during the concept plan stage. All concept plans for review shall be submitted to the Zoning Administrator.

- A. Prior to the submission of the preliminary subdivision plan and, if needed, rezoning to the Planning Commission, the developer shall submit a concept plan to the Zoning Administrator. Zoning Administrator comments on the concept plan shall be sent to the developer within 15 working days. A developer may choose to submit a concept plan for comments that has all elements of a preliminary subdivision plan.
- B. The concept plan shall contain the following information:

1.	The name of the proposed subdivision and location by quarter section, section, township and range. Subdivision names shall not duplicate or be alike in pronunciation with any existing subdivision, unless it is an extension of or adjoining an existing subdivision. All subdivision names shall be approved by the Zoning Administrator.
2.	The general layout of roads; reservations of land; road improvements, drainage, floodplain; availability of services; and agreement with the County's comprehensive plan goals and policies.
3.	The owner and developer addresses and telephone numbers.
4.	Vicinity map, showing locations of the concept plan and other property for at least 660 feet in every direction.

# ARTICLE 4: PRELIMINARY PLAN

## Section 401. Submission

Whenever a preliminary plan is proposed, the developer shall prepare such plan at a scale of 100 feet to an inch, or 200 feet to an inch, on sheets 11 by 17 inches in size. Three copies of the preliminary plan shall be filed with the Zoning Administrator.

A. The preliminary plan shall contain the following information if applicable:

1.	The name of the proposed subdivision and location by quarter section, section, township and range. Subdivision names shall not duplicate or be alike in pronunciation with any existing subdivision, unless it is an extension of or adjoining an existing subdivision. All subdivision names shall be approved by the Zoning Administrator.
2.	The names of all adjacent subdivisions and their platting pattern. Adjoining unplatted land shall be labeled as such.
3.	The correct legal description. Notations stating acreage, scale, and north arrow.
4.	The owner, developer, engineer and surveyor's names and telephone numbers.
5.	Vicinity map, showing locations of the preliminary plan and surrounding property for at least one mile in every direction.
6.	Exterior boundaries of the proposed subdivision referenced to a corner marker of the U.S. Public Land Survey, and the total acreage encompassed thereby.
7.	The location and width of all proposed road rights-of-way, existing structures, easements, railroad rights-of-way, streams and water courses, lakes, wetlands, rock outcroppings, wooded areas, and other similar significant features.
8.	The boundary lines of the floodway and 100-year flood zones as delineated on the Flood Insurance Rate Maps (FIRM) or as amended by Letter of Map Revision (LOMR).
9.	Existing contours at vertical intervals not greater than five feet. A lesser interval may be required in those cases where the character or topography of the land is difficult to determine.
10.	A systematic lot and block numbering pattern, lot lines, setbacks and road names.
11.	Approximate dimensions and acreage of all lots.
12.	Location of all existing roads abutting or serving the proposed subdivision, an estimate of the vehicular traffic to be created by full development of the subdivision, a statement regarding the effect thereof on such roads, and the nature of all improvements as may be required for such roads to properly serve the proposed subdivision.
13.	Certificate of approval for endorsement by the Planning Commission.

B. The following plans, documents or instruments may be submitted with the preliminary plan:

1.	<u>Preliminary Drainage and Grading</u> . The existing drainage pattern for the area shown along with any proposed cut and fill operations which would alter the existing drainage patterns.
2.	<u>Erosion Control</u> . In any proposed subdivision in which an area greater than five acres will be disturbed, or in areas where topographic features are such that erosion, siltation or temporary runoff problems may occur, a site plan shall be required showing how these problems will be resolved.
3.	<u>Covenants</u> . Proposed covenants to run with the land providing restrictions or other limitations on land use or development within the subdivision, including road maintenance agreement for all roads not accepted by a governmental entity within the subdivision.
4.	<u>Agreements</u> . Proposed agreements between the developer and township outlining the assumed or agreed responsibility of the developer to undertake directly, or to pay or reimburse the township for cost of improvements to roads, bridges, culverts, drainage ways, etc.

## Section 402. Approval of Preliminary Plan

Based on the comments from the concept plan, the developer shall submit the preliminary subdivision plan to the Zoning Administrator for review. The Zoning Administrator will review the preliminary plan to determine whether it contains all elements required by Section 401 within ten working days.

If the Zoning Administrator determines that the preliminary plan does not contain all elements as required by Section 401(A), the Zoning Administrator will notify the applicant in writing of the specific deficiencies. The application shall not be scheduled for public hearing until all elements of the application are submitted as required.

When the Zoning Administrator determines that the preliminary plan contains all elements as required by Section 401(A), the preliminary plan will be scheduled for public hearing at a regularly scheduled Planning Commission meeting as determined by the rules, policies, and regulations as adopted or which may hereafter be adopted by the Planning Commission for holding public hearings.

If the Zoning Administrator determines that the preliminary plan is in adequate compliance with Section 401(A), but there are specific design, improvement or other compliance deficiencies, the Zoning Administrator may recommend conditions for approval of the preliminary plan to the Planning Commission.

The Planning Commission shall make recommendations to the Board of County Commissioners regarding the preliminary plan. The Board of County Commissioners shall consider the preliminary plan and recommendations of the Planning Commission in public hearing at a regularly scheduled meeting. It shall then approve, disapprove or approve with conditions based upon the criteria in Section 401(A). Approval of the preliminary plan shall indicate the Board of County Commissioners approval of the general location of the lots, blocks, and streets, including the interrelationship to proposed zoning districts or land uses, which shall be noted on the preliminary plan's certificate of approval.

The approved plan shall be kept on file in the office of the Zoning Administrator. Any conditions included by the Board of County Commissioners shall be resolved on a revised preliminary plan which

will be submitted to the Zoning Administrator for administrative approval before any development engineering plans and plats are submitted.

### **Section 403. Effective Period of Preliminary Plan Approval**

The approval of a preliminary plan shall be effective for a period of three years, at the end of which time approval of the subdivision plat or a portion thereof must have been obtained from the Board of County Commissioners. Any plan which has not received approval for all or a portion in that time shall be null and void and the developer shall be required to resubmit a preliminary plan for approval subject to any new subdivision regulations.

Upon written request to the Zoning Administrator and prior to the Preliminary Plan expiration date, a one-year extension for the Preliminary Plan may be granted by the Zoning Administrator, providing the land uses for land within the preliminary plan have not significantly been altered since the original approval date.

### **Section 404. Revisions to Preliminary Plan**

Amendments to an approved preliminary subdivision plan may be requested by the developer. The Zoning Administrator may request an updated preliminary subdivision plan for review and approval when changes to the plan are proposed.

- A. Amendments to a preliminary plan shall consist of external impacts, including changes in major (collectors) street pattern, change of zones, drainage facility location, other public open space location, or perimeter boundaries.
  - 1. Amendments to an approved preliminary subdivision plan shall follow the procedures for approval of a preliminary subdivision plan as required in Section 402.
  - 2. The approved plan [and any amendments] shall be kept on file with the Zoning Administrator.

# ARTICLE 5: FINAL PLANS AND THE PLAT

## Section 501. Final Plans

Following the approval of the preliminary plan, if the developer wishes to proceed, three copies of final drainage, grading, and utility plans shall be submitted to the Zoning Administrator for review and approval. Any or all of these plans may be deleted at the Zoning Administrator's discretion.

- A. Grading Plan. The grading plan shall show existing and proposed contours with intervals acceptable to the Zoning Administrator. The site grading plan shall show drainage arrows for each lot and lot corner elevations. The plan shall also show the right-of-way width for all proposed roads. Construction documents indicating road grades and alignment using Clay County and industry accepted standards shall be prepared.
- B. Drainage Plan. The drainage plan shall show proposed drainageways and drainage facilities. The plan shall make a determination of approximate watershed boundaries and land use to be used in estimating runoff potentials. Drainage facilities shall be designed to handle the determined flow volumes. Pipe sizes, inlet sizes, and inlet locations based on industry accepted standards for accepted storm frequency and inundation levels shall be illustrated in the drainage plan. Detailed construction plans showing pipe size, slopes, inlet types and size, including the profile of the storm sewer with rim and invert elevations shall be prepared.
- C. Utility Plan. The utility plan shall include utility systems for the development. All utility plans shall conform to industry accepted standards. Detailed construction drawings with stationing, plan and profile section for all water and sanitary sewer layouts shall be prepared.

## Section 502. The Plat

One signed Mylar plat, and two paper copies, one reduced 11 x 17 copy and an electronic PDF shall be submitted to the Zoning Administrator for review and approval. If the plat is not approved by the Zoning Administrator within ten days of submittal, the plat shall be presented to the Board of County Commissioners for action. If more than two sheets are required, an index sheet of the same dimension shall be attached and filed. No work shall be done on the subdivision including the making of any road improvements or installation of any utilities, and no lots sold before the final plat is approved and recorded. The plat shall contain the following information:

A.	The name of the proposed subdivision and location by quarter section, section, township and range. Subdivision names shall not duplicate, be the same spelling, or alike in pronunciation with any existing subdivision located in the same section, unless it is an extension of or adjoining an existing subdivision. Each plat shall be titled as follows: <u>    (Name)    </u> Addition in the _____ quarter, Section _____, T _____N, R _____W of the 5th P.M., Clay County, South Dakota.
B.	Scale and north arrow.
C.	The names of all adjacent subdivisions if any, all lot and block lines, type of easements, and rights-of-way.

D.	A systematic lot and block numbering pattern, lot lines and road names, and the square footage or acreage of all lots.
E.	The location and width of all proposed and existing rights-of-way, easements and private roadways.
F.	The boundary lines of the area being subdivided with accurate angles or bearings and distances tying the perimeter boundaries to the nearest established street line, section corner, other previously described subdivision, or other recognized permanent monuments which shall be accurately described on the plat as required by SDCL 43-18, 43-20 and 43-21.
G.	Location of all monuments and permanent control points, and all survey pins, either set or located as required by SDCL 43-18, 43-20 and 43-21.
H.	The location and description of any portions of the property intended to be dedicated or granted for public use.
I.	All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision lots, roads, easements and type of easement, and any other areas for public or private use. Linear dimensions are to be given to the nearest 1/100 of a foot.
J.	The radii, chords, length of curve, points of tangency, and central angles for all curvilinear roads and radii for rounded corners.
K.	The boundary lines of the floodway and 100-year flood zones as delineated on the Flood Insurance Rate Maps (FIRM) or as amended by Letter of Map Revision (LOMR).
L.	Acknowledgment of the owner or owners of the plat of any restrictions, including dedication to public use of all roads, alleys, parks, or other open spaces shown thereon and the granting of easements required.
M.	All formal irrevocable offers of dedication for all roads and other uses as required.
N.	Protective covenants or deed restrictions shall be filed with the County Register of Deeds.
O.	Certificates as specified in Article Twelve.
P.	Approved assurance agreement(s).

## **ARTICLE 6: PLAT VACATIONS**

### **Section 601. Vacation of Plats**

Any plat or any part of a plat intended to be vacated shall be governed by the requirements of SDCL Ch. 11-3.

# ARTICLE 7: LOTS AND BLOCKS

## Section 701. Blocks

The length, width and shape of blocks shall be determined with regard to provision of adequate building sites suitable to the needs of the use contemplated; the need for convenient access, circulation, and safety of traffic; and topographic conditions.

Block lengths shall generally not exceed 1300 feet in length and shall be normally wide enough to provide for two tiers of lots.

## Section 702. Lots

- A. Lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing permits to build on all lots in compliance with the zoning regulations in applicable district.
- B. The minimum lot width required by the zoning regulations shall be measured along the building setback line.
- C. Corner lots for residential use shall have extra width to permit adequate building setbacks from both roads.
- D. All interior lot lines shall be a straight line or a series of straight lines. Curved interior lot lines shall be prohibited.
- E. Side lot lines shall be at right angles to roads except on curves where they are radial, or when otherwise approved.
- F. Double frontage and reverse frontage lots shall be avoided except where essential to separate a development from traffic arteries, or to overcome specific disadvantages of topography and orientation. Driveways for such lots shall have access only to an interior subdivision road. Where double frontage lots are used, an extra lot depth or width shall be required to provide for an extra setback to offset the impact of higher traffic volumes.
- G. Plats for residential development adjacent to functioning railroad rights-of-way shall provide additional lot depth or width to provide for sufficient setback to offset the impact of the railroad traffic.
- H. Each lot shall abut a dedicated right-of-way, mutual access, common area or private street. Private streets or roads shall be indicated as a private roadway easement and shall not be included as part of any required lot area or setback.
- I. Minimum lot size required by the zoning regulations shall not include any public right-of-way or private roadway easement.

# ARTICLE 8: MINIMUM ROAD IMPROVEMENTS AND DESIGN STANDARDS

## Section 801. Road Arrangement and Design

A.	Roads shall be related to topography and arranged so building sites are at or above road grade.
B.	Roads shall be properly integrated with the existing system of roads, including connecting adjacent subdivisions where topographical and land use considerations permit.
C.	Roads shall extend to subdivision boundary lines, unless prevented by topography or other physical conditions.
D.	All subdivision roads shall be permanently dedicated as public rights-of-way or shown as private roadways. For the dedication of public right-of-way, the plat shall include a certificate for township acceptance of the road dedication or the owner's certificate shall describe the legal responsibilities for construction, repair and maintenance of said roads (see Section 1202).
E.	Where a subdivision abuts or contains an existing or proposed arterial road, the following may be required: frontage roads, reverse frontage lots with screen planting along the rear property line, or other such treatment as may be necessary for adequate protection of residential properties.
F.	Subdivisions platted along existing roads shall dedicate additional right-of-way if necessary to meet minimum road width requirements.
G.	Road jogs with center line offsets of less than 125 feet shall not be made.
H.	Dead end roads as permanent features shall be prohibited.
I.	Roads subject to inundation or flooding shall not be approved unless essential for unusual circumstances which exist. Where flooding appears possible, road profiles and elevations shall be required in order to determine the advisability of approving the proposed subdivision.
J.	The road layout of the proposed subdivision shall provide for the continuation or projection of roads already existing in areas adjacent to the area being subdivided. In addition, roads in the proposed subdivision shall correspond in name, direction and width to existing roads and shall be in conformance with the Comprehensive Plan as adopted.
K.	Intersections:
1.	Acute angles are to be avoided if possible, but no angle of less than 80 degrees shall be permitted.
2.	Not more than two roads shall intersect at one point unless specifically approved.

3.	Intersection offsets of less than 250 feet shall be avoided.
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### **Section 802. Minimum Road Right-of-Way**

A.	Roads shall have a minimum publicly dedicated right-of-way of 80 feet. An easement of 80 feet shall be reserved for private roadways. A maximum right-of-way of 100 feet may be required on any roads designated as arterial and collector.
B.	Cul-de-sacs shall be approved on a case by case basis but will be allowed where, due to physical constraints, they are necessary for the reasonable development of the subdivision. The minimum radius of a turnaround at the end of a cul-de-sac shall be 65 feet and the length of the road shall be generally limited to 500 feet. This shall also apply to private roadways.

### **Section 803. Road Construction**

A.	Access from individual lots within a subdivision onto an arterial road shall be prohibited. Frontage roads are not encouraged but may be considered when special circumstances exist.
B.	Driveway spacing and sight distance requirements shall be in accordance with SDDOT standards.
C.	Minimum roadway width shall be twenty-eight feet from shoulder to shoulder. There will be a minimum of twenty-four feet width driving surface. Ditches and driveways shall have a maximum side slope of 4:1.
D.	If access to the subdivision is not a hard surfaced road, the subdivision roads may have a gravel driving surface. If access to the subdivision is hard surfaced or planned for hard surfacing, or if the size of development creates a significant traffic impact, the subdivision roads shall be hard surfaced.
E.	Gravel roads shall have an initial three inch lift of gravel spread over the driving surface. This lift shall be allowed to settle over one winter season. A second three inch lift of gravel shall be spread over the driving surface within one year of the first lift. Asphalt and Portland cement concrete surfaces shall be constructed in accordance with specifications of the Highway Superintendent. At a minimum, there shall be a nine inch granular base course with a three inch asphalt surface for a residential development and an eight inch granular base course with a four inch thickness of asphalt for a commercial or industrial development. If Portland cement is used the granular base as a minimum should be six inch with a seven inch thickness of Portland cement.
F.	Culverts under roadways and driveways shall be R.C.P. Flared end sections are required on all culverts within the road right-of-way.
G.	The size of culverts shall be determined by a drainage study for the affected watershed area.
H.	A cross slope (crown) shall be provided on all roads at a rate of .04 feet per foot.
I.	The road ditch shall be at least 3½ feet below the road grade.

J.	Seeding of ditches and other erosion protection measures shall be employed after grading is completed to minimize erosion.
K.	Private roadways shall be indicated on the plat and shall not be included as part of any required lot area or setback.
L.	Any private roadway approved by the County shall provide permanent unobstructed access to the area it serves. The erecting of any structure within the private roadway easement which would in any way interfere with the use of such private roadway by the public or any governmental agency will not be permitted.
M.	Any plat presented for approval which shows a private roadway as a means of access shall provide language in the Owner's Certificate in accordance with Section 1202 reserving the private road for permanent unobstructed access to abutting property and establishing private responsibility for maintenance of the roads.
N.	Road standards for commercial or industrial developments may be increased by the Zoning Administrator and Highway Superintendent. An increase of these standards will be based on relevant information such as a comprehensive plan or subdivision regulations, driveway access widths, speed limit, number and types of vehicles using the road, parking availability, sound engineering judgment and any other pertinent information.
O.	It is the County's responsibility to install all of the road signage on both public and private roads. The owner or developer shall pay the county for all material and installation costs as determined by the Highway Superintendent.

## Section 804. Road Names

- A. Roads in alignment with existing roads shall bear the names of those roads.
- B. No road names shall be used which duplicate or are like in pronunciation with any other existing roads. Road names shall not exceed twelve letters, including spaces. Except as may be otherwise required, road name suffixes shall be applied as follows:
1. *Street* - a road running east and west
  2. *Avenue* - a road running north and south
  3. *Road* - a road running east and west or north and south but which is not appropriate to name as a street or avenue
  4. *Lane* - a road running northeast to southwest
  5. *Drive* - a road running northwest to southeast
  6. *Trail* - a road which wanders in different directions
  7. *Circle* - all cul-de-sacs
  8. *Court* - a road with two openings which enters and exits on the same road
  9. *Place* - all private roads

# ARTICLE 9: GRADING AND DRAINAGE

## Section 901. Grading Plan

The final grading plan for the subdivision shall be submitted to and approved by the Zoning Administrator and Highway Superintendent. The plan shall include the following information:

- A. *Final Site Grading Plan:* The grading plans shall show the contours with intervals acceptable to the Zoning Administrator. The site grading plan shall also show the drainage arrows for each lot.
- B. *Final Road Grading Plan:* The road grading plan shall show percent slope for all proposed roads, drainage arrows, and location and size of culverts.

## Section 902. Drainage Plan

All drainage facilities, including on-site detention, drainageways, detention ponds and drainage channels shall be shown on the drainage plan and approved by the Zoning Administrator and Highway Superintendent in accordance with state and federal regulations. The developer may be required to expand the drainage plan to include other properties within the drainage basin when the County determines that the potential exists for impact beyond the development area, both upstream and downstream. The plan shall provide the following information:

- A. Existing and proposed contour lines and the surface water drainage system, including any major alteration of the existing drainage pattern. Drainageways and detention ponds shall be designed for a 25-year storm occurrence. The contour interval shall be of such detail that the final drainage pattern is adequately illustrated. A natural or established watercourse requires a minimum of a forty foot easement.
- B. The boundaries of all drainage easements and detention ponds. A maintenance agreement for the upkeep of all drainage facilities, including on-site detention, drainageways, detention ponds and drainage channels, and natural or established watercourses shall be filed with the plat.
- C. Individual lot drainage shall be coordinated with the general surface drainage pattern for the area. Drainage shall be designed so as to avoid a concentration of storm drainage water from each lot to adjacent lots.
- D. Surface water shall not be carried across or around any intersection.
- E. Driveways shall not inhibit or restrict the flow of surface water. It shall be the responsibility of each lot owner to install and maintain a culvert under the driveway when construction commences.

# **ARTICLE 10: EROSION CONTROL PLAN**

## **Section 1001. Specifications**

Measures used to control erosion on a development site shall, as a minimum, meet the standards and specifications of the Clay County Conservation District. Stripping of vegetation, regrading and cut and fill operations should be kept to a minimum, as should the amount of land and the duration of exposure. Whenever feasible, development plans should be made in conformance with topography in order to create the least erosion potential. Similarly, as much as possible natural vegetation shall be retained, protected and supplemented. The Zoning Administrator, with assistance of the Conservation District, shall require any further measures as necessary to prevent erosion on building sites and developments from depositing wastes or sediments on roads or other property. Every effort shall be made to retain the natural vegetation on all ditches and drainageways. Ditches and drainageways will not be disturbed without the approval of the Zoning Administrator. Erosion control plans shall show:

- A. All proposed land disturbance including areas of excavation, grading, filling, removal, or destruction of topsoil and spreading of earth material.
- B. Provisions for erosion control during construction. Such provisions shall include the sequence of the operations listed above, with an estimated time of exposure. The proposed temporary measures to control erosion will be designed to withstand the two year frequency, twenty-four duration storm event and be shown on the plan.

## **Section 1002. Existing Features**

Existing natural features which would add value to the development or to the county as a whole, such as trees, water courses, historical and/or scenic sites, and similar irreplaceable assets, shall be preserved in the design of the subdivision.

# **ARTICLE 11: ASSURANCES FOR COMPLETION OF MINIMUM IMPROVEMENTS**

## **Section 1101. Assurances for Subdivisions**

No plat of any subdivision shall be approved unless the improvement(s) required by this Ordinance have been installed prior to such approval, or unless the developer shall have posted a surety bond or irrevocable letter of credit or acceptable cash deposit assuring completion of all required improvements.

No building permits shall be issued until assurances have been filed or all required road improvements have been completed.

## **Section 1102. Maintenance Agreements**

Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, storm drainage systems, road systems, or other facilities or services which are necessary to or desirable for the area, and which are of common use or benefit and which are not accepted for maintenance by an existing public agency, provisions shall be made by trust agreement for the proper and continuous maintenance and supervision of such facilities. A final and signed copy of the agreement shall be attached to each and every plat having a facility or service covered by such an agreement.

## **Section 1103. Easements**

Easements shall be provided and dedicated where necessary for wires, cables, conduits, fixtures, and equipment for distribution of electric power, wastewater collectors, storm drains, overland storm water flow routes, sidewalks, pedestrian ways, bikeways, private roadways, and water mains at such locations and widths as determined by the County.

In any dedication of an easement, the County may prohibit or restrict building, fences, driveways, and other improvements; may enter for construction, reconstruction, replacement, repair, operation, and maintenance purposes; and will be held harmless for the cost of replacement or damage to any improvement or vegetation within the easement and may make any other appropriate or necessary requirements.

- A. All easements for utilities shall be shown on the plat.
- B. Lots and easements shall be arranged in such a manner as to eliminate unnecessary jogs or offsets and to facilitate the use of easements for power distribution, telephone service, drainage, water, and sewer services.
- C. The property owner whose property is subject to such easements shall be responsible for its maintenance. The property owners shall keep the easement clear of any structure, debris, trees, shrubs, or landscaping whatsoever except that lawn grass, which shall be regularly mowed, and annual vegetation may be grown thereon.

# ARTICLE 12: CERTIFICATES REQUIRED

## Section 1201. Certificates for Preliminary Plans

Certificates shall be attached to the preliminary plan in the following form:

### COUNTY PLANNING COMMISSION APPROVAL

Approval of the preliminary plan of (Subdivision Name) Addition is hereby granted by the Clay County Planning Commission on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Chair, County Planning Commission  
Clay County, South Dakota

### BOARD OF COUNTY COMMISSIONERS APPROVAL

I hereby certify that the preliminary plan of (Subdivision Name) Addition was duly submitted to the Clay County Board of County Commissioners, and that after due consideration the Board approved said preliminary plan at its meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

County Auditor  
Clay County, South Dakota

## Section 1202. Certificates for Plats and Replats

Certificates shall be attached to the plat or replat in the following form:

### SURVEYOR'S CERTIFICATE

I, (Name), a Registered Land Surveyor of the State of South Dakota do hereby certify that I did on or before (Date), survey that parcel of land described as \_\_\_\_\_(Legal Description) containing \_\_\_\_\_(Size) [and it is in all respects correct].

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Registered Land Surveyor

## OWNER'S CERTIFICATE OF COMPLIANCE

We do hereby certify that we are the owners of all land included in the above plat and that said plat has been made at our request and in accordance with our instructions for the purposes (indicated herein), and that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations.

## DEDICATION OF LAND FOR PUBLIC USE

We hereby dedicate to the public for public use forever, the streets, roads, alleys and parks and public grounds, if any, as shown on said plat, including all sewers, culverts, bridges, water distribution lines, sidewalks and other improvements on or under the roads, alleys, parks and public grounds, whether such improvements are shown or not. We also hereby grant easements to run with the land for water, drainage, sewer, gas, electric, telephone or other public utility lines or services under, on or over those strips of land designated hereon as easements.

## OWNER'S CERTIFICATE FOR PRIVATE MAINTENANCE OF FACILITIES

We do hereby certify that ownership and maintenance of streets, roads, and alleys, parks and other open space, drainage ways and detention areas and natural or established watercourses, if any, as shown on said plat, and any improvements thereto, shall be provided by the (Name) Homeowners Association except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. We also hereby grant easements to run with the land for water, drainage, sewer, gas, electric, telephone or other public utility lines or services under, on or over those strips of land designated hereon as easements.

*If private roadways are shown, include:*

I further grant and certify that the roadway(s) shown as (Names or private roads) are private roadways which are hereby reserved as a permanent unobstructed access. Said roadways are for vehicular and pedestrian travel for the purpose of access to the abutting property. It is understood that the Owner, their lessees and assignees have the responsibility with respect to maintaining said private roadway. Said grant is to run with the land. As no dedication to the public is being made of said private roadways, the Owners, their lessees and assignees, of the property platted as (Name of subdivision), shall at their own cost and expense keep and preserve said private roadways at all times in a good condition of repair and maintenance, and clear of snow and other obstructions and neither erect nor permit erection of any improvements of any kind within said private roadways which might interfere in any way with the proper maintenance, use, repair, reconstruction and patrolling of said private roadways. This shall remain in effect until a public entity accepts the roadways as a public dedication.

*If access easements are shown, include:*

We further grant and certify that the access easement is hereby created as a perpetual common unobstructed access in favor of the lots abutting on it. The easement is for vehicular and pedestrian travel for the purpose of access to the abutting property. The owner, their lessees and assignees shall maintain the easement area. They shall, at their own expense, keep the easement area in good repair and maintenance and clear of snow and other obstructions. No improvements of any kind may be erected within the easement area which might interfere in any way with the proper maintenance, use, repair, reconstruction and patrolling of the access easement. This covenant shall run with the land.

If the plat is a replat, include:

We further certify that this platting of said described (New subdivision name) does hereby vacate the following platting: (Legal description of old plat) on file at the Register of Deeds Office in Book Page \_\_\_\_\_, said plat, hereby vacated, being situated within described (New subdivision name) as surveyed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Name

STATE OF SOUTH DAKOTA )

: SS

COUNTY OF CLAY )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me, the undersigned officer, appeared (Name), known to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same for the purposes therein contained.

In witness thereof, I have hereunto set my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, South Dakota

TOWNSHIP ACCEPTANCE OF ROAD DEDICATION

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

Clerk, \_\_\_\_\_ Township  
Clay County, South Dakota

COUNTY ZONING ADMINISTRATOR'S CERTIFICATE

I, Zoning Administrator, of Clay County, do hereby certify that this plat has been reviewed by me or my authorized agent and has been approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Zoning Administrator  
Clay County, South Dakota

COUNTY AUDITOR CERTIFICATE

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
County Auditor  
Clay County, South Dakota

COUNTY DIRECTOR OF EQUALIZATION

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

\_\_\_\_\_  
Director of Equalization  
Clay County, South Dakota

COUNTY TREASURER’S CERTIFICATE

I, Treasurer of Clay County, South Dakota, do hereby certify that all taxes which are liens upon any land included in the above (and the foregoing) plats, as shown by the records of my office, have been fully paid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Treasurer  
Clay County, South Dakota

COUNTY REGISTER OF DEEDS

Filed for record this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o’clock \_\_\_\_\_ .m., and recorded in Book \_\_\_\_\_ of Plats on page \_\_\_\_\_.

\_\_\_\_\_  
Register of Deeds  
Clay County, South Dakota

## ARTICLE 13: DEFINITIONS

Arterial. A principal traffic artery, more or less continuous across the County, which acts as a principal connecting road with state and federal highways and includes each road designated as an arterial street on the major street plan or as designated by the Board of County Commissioners.

Board of County Commissioners. The elected governing body of the County.

Building. Any structure having a roof, supported by columns or walls, for shelter or enclosure of persons or property.

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

Comprehensive Plan. An official document of the County which guides land use for development.

County. Clay County, South Dakota.

Covenants. Those declarations prepared by the developer and intended to be recorded along with the Plat, which may provide for restrictions and controls of land uses and development within the subdivision, and which shall include a method whereby all private roadways within the subdivision shall be improved and maintained until such time as the obligation thereof may be accepted by the County or other governmental unit.

Cul-de-sac. A local road with only one outlet having an appropriate terminal for safe and convenient reversal of traffic movement.

Dedicated. A grant of land to the public for their perpetual use.

Developer. Any person who converts undeveloped land into legally platted, buildable lots. The developer may or may not be the land owner or the builder of structures which occupy the lots.

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

Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property.

Final Plan. The final plan shall be comprised of final drainage plans, grading plans and the erosion control plan, and the plat, in duly executed and recordable form.

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

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

Homeowners Association. An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions through which each owner or a portion of a subdivision, be it a lot, parcel site, unit plot, condominium, or any other interest, is automatically a

member or assessed for a prorated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest or member.

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

Lot. A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

Major Street Plan. The street plan adopted as part of the Comprehensive Plan.

May. Permissive.

Monument. A boundary marker of concrete, permanently planted and firmly fixed in the ground placed so that the top of the monument is flush with natural ground. The monument shall be six inches in diameter or six inches square and twenty-four inches in depth. A steel rod, 5/8 inch x 12 inches, shall be placed at the center point on the monument.

Owner. The title holder of property, on file at the County Register of Deeds.

Person. Any individual, firm, partnership, association, corporation, organization, or other legally recognized entity.

Planning Commission. The Planning Commission as duly appointed by the Board of County Commissioners.

Plat. A map, or representation on paper (or, when required for recording and microfilming purposes, mylar or similar substances) of a piece of land subdivided into lots, parcels, tracts or blocks, including roads, commons, and public grounds, if any, all drawn to scale and complete with all irrevocable offers of dedication.

Preliminary Plan. The preliminary plan shall consist of the preliminary subdivision plan, and the preliminary drainage plan, grading plan, erosion control plan, and proposed covenants.

Preliminary Subdivision Plan. Drawing or drawings indicating the proposed layout of the lots, blocks, roadways, and public rights-of-way within a subdivision.

Private Street/Road. A roadway that has not been dedicated for public use, but rather reserved by platting of a lot or by a private easement. The private street or road shall be owned and maintained by the property owners which it serves. The plat shall have the owner's certificate regarding the lot's "Private Maintenance of Facilities."

Replat. A change in a map of an approved or recorded subdivision plat which affects any road layout, area reserved for public use, or lot line.

Right-of-Way. A strip of land occupied by a road, railroad, pedestrian walkway or other special use. The use of the term right-of-way for platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or area of such lots or parcels. Rights-of-way shall be dedicated to public use by the owner of the property on which such right-of-way is established.

Shall. Mandatory.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, walls, fences and signs.

Subdivider. A person who prepares or causes to be prepared a subdivision plat.

Subdivision. The division of a parcel of land into two or more lots; or parcels ten acres or less in size platted for the purpose of the transfer of ownership, or building development, whether future or immediate; or any division of land involving a new road regardless of parcel size or the number of parcels.

Two-Year Storm. The frequency of a storm and the probability of occurrence based on historic data. A two-year storm means the probability of the event occurring in any given year is one in two or a fifty percent chance.

Zoning Administrator. The person appointed by the Board of County Commissioners to administer and enforce the provisions of these regulations.