

CHAPTER 152: SUBDIVISION REGULATIONS

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GENERAL PROVISIONS

152.001 SCOPE AND PURPOSE:

The purpose of this Title is to provide for harmonious development of the municipality and its environs; for the coordination of streets within the subdivisions with other existing or planned streets or with other features of the comprehensive plan; for adequate open spaces for traffic, recreation, light and air, and for distribution of population and traffic which will tend to create conditions favorable to health, safety through the provision for an adequate scale of street, sanitary, water, utility and other improvements as land is subdivided.

152.002 STATUTORY AUTHORIZATION:

Be it ordained by the Common Council that SDCL 11-6-27 has granted to the city the authority to adopt regulations governing the subdivision of land within its jurisdiction. Further, SDCL 11-6-1 has granted to the city the authority to regulate the subdivision of land so as to provide coordination of streets with other subdivisions and the major street plan, adequate areas set aside for public uses, water and sanitation facilities, drainage and flood control and conformity with the Comprehensive Plan.

The Council has adopted Subdivision regulations, by Municipal Ordinance No. _____ as codified in Chapter 152 of this code of ordinances, to provide for uniform subdivision regulations within the City's statutory platting jurisdiction.

152.003 JURISDICTION:

This subchapter shall govern all lands within the platting jurisdiction of the city. The city has properly adopted a Comprehensive Plan and a major street plan and has filed a certified copy of the major street plan in the office of the Register of Deeds of Meade OR Pennington Counties. SDCL 11-3-6 has defined the **PLATTING JURISDICTION OF THE CITY** to be the land or any part of the land included in any addition or subdivision that is within, adjoining or contiguous to the boundaries of the city. Further, SDCL 11-6-26 has granted to the city platting jurisdiction of land within three miles of its corporate limits and not located in any other municipality or beyond a line equidistant between the two municipalities unless otherwise agreed to by a majority vote of the governing body of each municipality.

152.004 AMENDMENTS:

The regulations, restrictions, area and boundaries set forth in this chapter may from time to time be amended, supplemented, revised or repealed as provided by law. The Planning Coordinator for the city is to review this chapter annually and make recommendations for revisions to the Common Council as provided by law.

152.005 STATEMENTS OF POLICY:

If at any time during the course of application review, completion of subdivisions, construction, enforcement or any other action authorized under the provisions of this chapter; the Common Council becomes aware of impracticable procedures, unforeseen circumstances or other relevant situations not compatible with this chapter. The council may modify or waive any regulation or procedure; where the modification still allows for compliance in relation to the intent of this chapter.

152.006 DEFINITIONS:

(A) For the purposes of this chapter, and in order to carry out the provisions and intentions as set forth herein, certain words, terms and phrases are to be used and interpreted as defined hereafter. Words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular; the word **PERSON** includes a firm, partnership or corporation as well as an individual; the term **SHALL** is always mandatory and not discretionary and the word **MAY** is permissive.

(B) For the purpose of this chapter, the following definitions shall apply unless the context indicates or requires a different meaning.

ACCESSORY: Incidental to a primary use or structure on the same lot or tract of land.

ALLEY: A narrow, minor public right-of-way providing a secondary means of access to abutting properties.

CITY: The City of Box Elder, South Dakota.

CITY ENGINEER: The duly designated *registered Professional Engineer* of the city.

CITY FINANCE OFFICER: The duly designated Finance Officer of the city.

CLEARING. Removing vegetative cover, soil, rubble, structures, or similar materials.

COMMISSION: The duly appointed Planning and Zoning Commission of the city.

This definition is synonymous with the terms *PLANNING AND ZONING COMMISSION* and *PLANNING COMMISSION*.

COMMUNITY WATER SYSTEM: A public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 24 year-round residents.

COMPREHENSIVE PLAN: The document which describes in words, and may illustrate by maps, plats, charts and other descriptive matter, the goals, policies and objectives of the city to interrelate all functional and natural systems and activities relating to the development of the territory under the jurisdiction of the city and passed in compliance with SDCL 11-4-3.

COUNCIL: The Common Council (governing body) of the city.

DEDICATED PUBLIC RIGHT-OF-WAY: A parcel of land that is conveyed to the public by the notation "dedicated public right-of-way" on a recorded plat for use as a public right-of-way.

DENR: The South Dakota Department of Environment and Natural Resources.

DEVELOPER: Any person or group thereof proposing to transform and/or subdivide a parcel of land.

EASEMENT: A grant of one or more property rights by the property owner for use by the public and/or, a utility or another person(s) or entity. An *EASEMENT* is self-perpetuating and executed upon the land unless otherwise stipulated.

FEMA: The Federal Emergency Management Agency.

GRADING: Any stripping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

GRADING PERMIT: The instrument used, to permit the excavation, grading or fill of earth or other material within the procedures and regulations contained in this chapter. The grading permit is intended to regulate development of residential, public, commercial and industrial properties; grading of land within or adjacent to FEMA-designated flood hazard areas and construction of subdivision roads.

IMPROVEMENTS: Changes or additions to land necessary to prepare it for building sites. These include, but are not limited to: Street paving and curbing, grading, survey monuments, drainage ways, sewers, fire hydrants, water mains and service lines, sidewalks, street lighting, pedestrian ways and/or other public works and appurtenances.

LOT: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

MAJOR/MASTER STREET PLAN: *The Major/Master Street Plan adopted by the City of Box Elder*

MARGINAL ACCESS STREET: Any street constructed with a street section of less than forty (40') feet from back of curb to back of curb and a Right-of-Way of less than sixty (60').

MASTER DRAINAGE AND FLOOD CONTROL PLAN: The flood boundary and Flood map and Flood Insurance Rate Map (FIRM) as approved by the Federal Emergency Management Agency (FEMA).

MUTCD: *Manual of Uniform Traffic Control Devices.*

NON-COMMUNITY WATER SYSTEM: *Transient non-community water systems that provide drinking water to a population that changes day to day. They include, among others, campgrounds, hotels, rest areas, and restaurants with their own water supplies. The majority of these systems are very small, serving 25 to 500 people or less. These systems must comply with EPA "The handbook for transient non-community water supply systems" EPA 816-R-09-009, March 2010.*

OWNERS ENGINEER: The engineer registered and in good standing with the State of South Dakota who is the agent of the owner proposing to design and/or construct any new subdivision.

OWNERS SURVEYOR: *The Land Surveyor registered in good standing with the State of South Dakota who is an agent of the owner of land which is proposed to be subdivided or which is in the process of being subdivided.*

PERCENTAGE OF GRADE: The vertical rise or fall of a slope in feet and tenths of a foot for each 100 feet of horizontal distance. The centerline of a street shall be used to determine the grade of the street.

PLAN; PRELIMINARY LAYOUT: A plan of a proposed subdivision to be used to determine the phasing, physical layout, street and utility systems, and suitability to the city of the proposed subdivision.

PLANNED DESIGNED DEVELOPMENT: *Is a subdivision of integrated development adhering to the comprehensive plan. The PDD permits mixed use, such as single-family homes, multi-family homes, and non-residential uses often not permitted in the same zoning district.*

PLANNING COMMISSION: The Planning and Zoning Commission of the city or otherwise referred to as the "Commission."

PLANNING DIRECTOR: The person employed by the city to coordinate activities between landowners, sub-divider(s), public and private agencies. The Planning *Director* under direction of the City Council, may also administer other regulatory land development and land use programs.

PLANNING DEPARTMENT: The Planning Director and/or his or her staff, designees, agents or assigns.

PLAT: A map, or representation on paper, of a piece of land subdivided into lots, parcels, tracts, or blocks, including streets, commons, and public grounds, if any, all drawn to scale;

PLAT, FINAL: A Plat of a track of land that complies with the requirements of this ordinance and is in the form for recording with the County Register of Deeds Office as per SDCL 11-3, and includes all items, certifications and statements as set forth in Title 152.38.

PLAT OR LAYOUT, PRELIMINARY: A plat of a proposed subdivision to be used to establish the terms and conditions for development of a proposed subdivision. This plat shall include all items set forth in Title 152.37 and SDCL 11-3.

PLAT, MINOR: *Is a subdivision or consolidation of property, which creates no more than five (5) lots, tracts or parcels; and where no public street or access easement is sought to be dedicated, and in compliance with SDCL 11-3.*

PUBLIC RIGHT-OF-WAY: A strip of land acquired by reservation, dedications, prescription, or condemnation and intended for public use and to be occupied by a street, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary sewer, storm sewer, recreational trail, or other similar uses. PUBLIC RIGHTS-OF-WAY within the City of Box Elder intended to be occupied by a street shall have a minimum width of 60 feet.

PUBLIC RIGHT-OF-WAY EASEMENT: A portion of a parcel of land that is defined by a notation on a recorded plat as a permanent easement for use as a public right-of-way. Generally the right of one to pass over or utilize the property of another.

RECORDED ACCESS: A permanent easement or dedication providing legal access to an isolated tract of land.

REGISTERED LAND SURVEYOR: A surveyor registered and in good standing with the State of South Dakota.

RESERVE STRIP: An easement granted to the public for a strip of land to be held in trust until needed for road development or other beneficial public use. The easement may be converted to a public right-of-way easement by resolution of the Council.

ROAD DISTRICT: An association of land owners formed under the provisions of SDCL Chapter 31-12A, to develop a community or subdivision road district with the intent and purpose of maintaining the system of roads within the subdivision such that they have the capacity to handle all of the internal traffic and provide adequate ingress and egress to the members of the entire subdivision. The association shall develop rules and bylaws to govern the operation of the association including the election of officers, collection of fees and the

authorization to develop, repair and maintain all roads within the system. The initial development of all roads within a subdivision is the responsibility of the developer or subdivider. All subdivision roads must meet city street specifications and be approved by the Planning Commission and City Council.

SANITARY SEWER: A municipal, community, small or individual sewage disposal system of a type approved by DENR.

SETBACK: The required distance between any structure and any property line on the lot on which the structure is located.

STREET: Any public thoroughfare that affords the principal means of access to abutting property. This term may be used interchangeably with avenue, boulevard, drive, highway, road or roadway or similar uses. All *STREETS* must be within a platted public right-of-way.

STREET, ARTERIAL: A Street that connects and distributes traffic to and from minor arterials, with access control, channelized intersections, and restricted parking. Streets of considerable continuity connecting various sections of the city, or regions adjacent to or beyond the city, which are designed for high vehicular speed than local streets and large volumes of traffic greater than 5,000 vehicles per day.

STREET, CENTERLINE OF: Established as a centerline of a street by the City Council, or any state, county, or other official or public agency having jurisdiction thereof and shown as such on an officially adopted or legally recorded map, or if there be established or if there exists conflict among several maps, centerline of a road is a line representing the physical center of a roadway between edges of the paved surface and/or road shoulders where a well-defined traveled way exists. It often coincides with the center painted line dividing bi directional travel lanes.

STREET, COLLECTOR: Streets of sufficient continuity to gather and convey traffic from local streets to arterial streets and having the secondary function of providing access to abutting property.

STREET, CUL-DE-SAC: Minor streets with only one outlet no longer than five-hundred (500') feet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

STREET, LOCAL: A Street having the primary function of providing access to abutting properties and the secondary function of moving traffic.

STREET, MINOR: Streets used for access to abutting property, including local streets and private streets.

STREET, PRIVATE: Rights-of-way that provide vehicular and pedestrian access to isolated tracts of land where a public right-of-way is deemed impractical by the Council.

SPECIFICATIONS: Detailed instructions that designate the quality and quantity of materials and workmanship expected in construction. These specifications shall be adopted by resolution of the Council.

SUB-DIVIDER: The person(s), firm(s) or corporation(s) owning land and in the process of creating a subdivision of the land.

SUBDIVISION: The division of any tract or parcel of land into two or more lots, sites or other division for the purpose, whether immediate or future, of sale or building development and includes re-subdivision.

SUPPLEMENTAL MATERIALS: Those plans, reports, narratives, designs, requirements, agreements, covenants and other materials necessary for the development of a

subdivision. These include, but are not limited to, those items listed in 152.37.

SURETY: A fidelity or cash bond, provided by the sub-divider to the city Finance Officer in lieu of construction of required improvements, in an amount equal to the estimated cost of the improvements, as certified by the owners Engineer, plus 15%. The Commission or the Council may request a review of the cost estimate by the City Engineer.

TANGENT: A straight line, departing from a curve, which is perpendicular to the radius of that curve.

U.S.G.S. DATUM: A United States Geodetic Survey Datum.

U.S.P.L.S.S.: The United States Public Land Survey System.

VARIANCE: A specific exception, granted by the Council, to the terms of this chapter where the deviation will not be contrary to the public interest and will be granted due to circumstances peculiar to this property. A *VARIANCE* shall not be granted if the issuance violates the intent and spirit of this chapter.

UTILITIES: *Public and franchised utilities.*

VERTICAL CURVE: The vertical surface curvature of a street centerline located between lines of different percentage of grades.

ZONING ORDINANCE: The ordinance adopted by the city to implement the Comprehensive Plan by regulating the location and use of buildings and uses of land.

152.007 GENERAL SPECIFICATIONS FOR SUBMITTAL DOCUMENTS:

The City 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/or Meade and Pennington County.

152.008 RESPONSIBILITIES:

- 1. **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.
- 2. **Planning Department.** The Department of Planning 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.

3. **Director.** The Director of Planning 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 Planning Commission, and those aggrieved with the decision of Planning Commission may appeal to the City Council.
4. **City Council.** The City Council shall hear recommendations of the Planning Commission and have final jurisdiction of all approvals and appeals.
5. **City Engineer.** The City Engineer, following criteria hereinafter provided, shall have the authority to approve or deny 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.
6. **Planning Commission.** The Planning Commission shall have the authority to hold a public hearing for preliminary subdivision plans and instruments for the vacation of public right-of-way. They shall review preliminary subdivision plans and make recommendations to the City Council after conducting a public hearing.
7. **Design Review Team.** The City Council has the authority to create a Design Review Team or DRT, as it deems necessary, which will be composed of city staff and representatives of outside agencies that have an interest in or would be affected by a proposed subdivision application. The Planning Director shall maintain a list of current members and may revise the list. The Planning 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 Planning Office.

PROCEDURE FOR THE SUBDIVISION OF LAND

152.020 PROCEDURE FOR UNOFFICIAL REVIEW BY PLANNING COMMISSION (GENERAL):

Description: A layout plan is a generalized land use plan. This process provides an early and informal evaluation of a proposed subdivision. A generalized layout plan provides the City and the applicant an opportunity to determine the development’s conformance with the comprehensive plan, zoning ordinance and city development requirements.

The Planning Commission shall process proposed subdivisions in accordance with this Title.

The procedures and/or requirements for unofficial review by the Planning Commission shall be as follows:

- A) The developer shall prepare a written declaration of intent concerning the tract of land to be subdivided/re-subdivided or consolidated in sufficient detail to clearly indicate the nature and purpose of the subdivision thereof; and

- B) The developer and/or his/her designee shall prepare a plan which shall be submitted for discussion with the Planning Commission, in order to determine applicable requirements of the Zoning Ordinance, drainage plans, major street plan and other features and requirements of the Comprehensive/Development Plan/Master Transportation Plan that will influence the design of the subdivision; and
- C) If the property proposed for development involves areas, where in the view of the Planning Commission the soil characteristics, terrain, drainage, geology, ground cover or its location impose unusual requirements, the Planning Commission may request supplementary data to demonstrate the feasibility of subdividing the land; and
- D) This review is unofficial and provides the developer an opportunity to provide an informal conceptual plan only. The developer and/or his/her designee will not receive any official action on behalf of City staff or the Planning Commission, and may not request a written statement setting out the range of requirements to be met.

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 Developer will not receive a formal approval from any City department or board in relation to a generalized layout Plan. The Layout Plan will be utilized for discussion purposes only; therefore there are no approval criteria. The applicant can resubmit revised layout plans to the Director of Planning.

152.021 GENERAL PROCEDURE FOR APPROVAL OF SUBDIVISION OF LAND:

The procedure to be followed for official approval of the subdivision of land (Preliminary Plan) within the jurisdiction of the City of Box Elder shall be as follows:

The developer shall submit to the Planning Office a minimum of ten (10) working days prior to the Planning Commission meeting a "Preliminary Plan" and statements of intent permitting unofficial review.

- A) The Planning Commission will discuss these documents with the developer and will establish applicable comprehensive/master transportation/development plan requirements, scale of improvements, design standards, and will review the proposal for compliance with this title and other applicable City ordinances.
- B) Following approval of the Preliminary Plan by the Planning Commission and City Council, the developer shall prepare three (3) sets of the final engineered construction plans for submission to the Planning Office and Public works for review.
- C) Upon finding that the final plan(s) are in substantial compliance with the approved preliminary plan, the Planning Department and Public Works Department will recommend approval to the Planning Commission and affix and sign the approved plans.

- D) Upon completion all required improvements, the sub-divider or his/her designee shall prepare the final plan(s) and plat(s) for submission to the Planning Commission.
- E) Upon approval of all final plan(s) and plat(s) the Planning Commission shall forward the plan(s) and plat(s) and its recommendation to the City Council.
- F) The final plat(s) shall be filed with the County Register of Deeds, by the owner/owners agent upon approval of the City Council.
- G) The sub-divider, when platting/subdividing land within the extra-territorial jurisdiction of the City, that is contiguous/adjacent to the City boundary, shall be required to submit a voluntary annexation application with the Final Plat. For the purpose of this section, the terms contiguous/adjacent, ignores any right-of-way or dedication that lies between the municipal boundary and the subdivision property.
- H) The sub-divider is required to engineer and install or construct any improvements required prior to the review and approval of the final plat by the Council unless the Council accepts appropriate surety in lieu of construction. All improvements required under this chapter and applicable City ordinances and adopted construction design shall be constructed in accordance with specifications provided by and under the inspection of the Public Works Director and/or the City Engineer or their representative(s). Sufficient surety shall be made for all required improvements.
- I) Maintenance of public streets, storm sewers and related infrastructure that have not been accepted for maintenance purposes by the city, or by any other governmental entity, shall be the responsibility of developer/landowner. A surety bond shall be placed in force, for one-hundred and fifteen percent (115%) of remaining improvements, and shall stay in place until improvements are completed, and the maintenance is accepted by the Council.
- J) All property corners, including the beginning (point of curvature) and ending (point of tangency) of curves along property lines, shall be accurately marked on the ground with a five-eighths inch to one and one-quarter inch diameter iron rod at least 18 inches in length. These bars are to be capped with an aluminum or plastic cap indicating the license number of the surveyor who placed the bar in the ground. The sub-divider shall be responsible for installation of all required signage and street lighting. The sub-divider shall contract with the Box Elder Public Works Department for the coordination and installation of MUTCD compliant durable street name signs, traffic control devices at all public street intersections, and street lights. The City may accept the installed improvements for maintenance, when the final plat is approved.
- K) Upon approval of the final plat and completion of all required improvements, the City Council by resolution may choose to accept the ownership and maintenance of said public improvements.

152.022 PRELIMINARY PLAN REQUIREMENTS:

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 Planning Commission and 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, shall be summated with the Preliminary Plan application.

Preliminary Plan, at a minimum shall include the following:

- (A) A completed and signed application; and
- (B) A site map showing existing development, the general location of the property proposed to be subdivided, which clearly shows the property boundary and its relation to surrounding development, including but not limited to property lines, road, utilities, if any are present in the vicinity, and
- (C) Land uses; and
- (D) water courses with tributary drainage areas; and
- (E) Contours from available data; and
- (F) Sewer and water systems proposed with points of connection to existing services if public, and if not, accompanied by reports by qualified engineers indicating from available information, the suitability of soils to accommodate private sewage disposal systems, the probability of success of wells for water supply, and any significant problems of long term supply, pollution or maintenance problems of such wells or systems; and
- (G) A narrative describing the nature of the intended development, its total area, its integrations into surrounding development and its impact on the community; and
- (H) A Vicinity sketch, containing at a minimum the Date, North point and scale, as determined by the Planning Director; and
- (I) Names and contact information for the subdivision, Developer, Owner's Engineer and names and address of all the adjacent land owners; and
- (J) Location, width and purpose of all easements; and
- (K) Location and dimension of land to be dedicated or reserved for parks, open space or other public use; and
- (L) Lot number and block number clearly identifying each parcel of land and dimensions of all lots; and

- (M) Building Line locations shall be shown along each public Right-of-Way; and
- (N) Any portion of the land in or adjacent to the subdivision subject to the periodic inundation by storm drainage, flooding, overflow, or pounding shall be clearly shown and identified on the plan; and
- (O) A street plan containing the following information:
- 1) Location of all proposed streets within in the subdivision and location of existing or proposed streets adjacent to the subdivision; and
 - 2) Widths of existing and proposed public/private dedicated Rights-of-Way; and
 - 3) Clear identification of location and width of Rights-of-way of any street adopted as part of the Master Transportation Plan or Major Street Plan; and
 - 4) Street names proposed and existing; and
 - 5) Topography at no more than five (5) foot intervals unless alternative intervals are required by the City Planning Director; and
 - 6) Plan and profile of all streets and utility improvements; and
 - 7) Location of all required sidewalks and crosswalks; and
 - 8) Curve data for the centerline of each street, and
 - 9) Typical proposed pavement section and mix design.
- (P) A storm drainage plan containing the following:
- 1) Location of easements and Rights-of-way for drainage ways and maintenance of access thereof; and
 - 2) Typical cross sections of each drainage way, and
 - 3) Direction of water flow throughout the proposed subdivision.
 - 4) Plan, profile, and details of proposed stormwater piping and appurtenances.
- (Q) A sanitary sewer plan containing the following:
- 1) Location of each Manhole and other sanitary sewage system appurtenances including lift stations treatment plants; and
 - 2) Plan and Profile of the sewage system; and
 - 3) Location and size of all existing and proposed sanitary sewer in the subdivision and all tie points and sewer laterals in the subdivision; and
 - 4) Direction of flow of each sanitary sewer line.
- (R) The water distribution plan shall contain the location and size of the water distribution system including pipes, valves, fittings, hydrants, high pressure pumping equipment and other equipment.
- (S) A gas, electrical, telephone, etc. plan containing the following.

- 1) Location of all poles and subsurface facilities as necessary to serve each lot or parcel of land within the subdivision and where necessary to abutting property; and
- 2) Required easements, including anchor easements for guy wires.

(T) Phasing plan (if applicable), and

(U) Traffic impact study (if applicable).

152.023 PROCEDURE FOR REVIEW OF PRELIMINARY PLAN:

The procedure followed after submission of the "Preliminary Plan" shall be as follows:

- A) Sixteen (16) copies of the "Preliminary Plan", eight (8) copies of the required supplemental material, and one (1) PDF copy of each the plan and supportive material, shall be submitted to the Planning Office, which shall issue a receipt for the same when it is ascertained that the submission includes all the requirements set forth in this title for a Preliminary Plan. If, because of the nature of the subdivision more copies are required, the Planning Director shall specify the required number of copies.
- B) The date of the Planning Commission meeting where the plan will be reviewed, shall be specified on the receipt.
- C) When officially submitted and received, the Planning Office shall at the next regular scheduled planning commission distribute copies to the Commission. The Planning Commission shall have a minimum of thirty (30), but no more than forty-five (45) days from the date of distribution, to review, prepare and submit its recommendation and the plans to the City Council. However, the developer's engineer may agree to an extension, should extenuating circumstances arise.
- D) When officially submitted, the Planning Office shall distribute copies of the plan as follows:
 - 1) To the appropriate school district; and
 - 2) To any county and/or municipality within a three (3) mile radius of any portion of the proposed subdivision; and
 - 3) To any utility, local improvement and service district when applicable; and
 - 4) To the South Dakota Department of Transportation, when applicable; and
 - 5) Applicable soil or water conservation districts for explicit review and recommendation regarding soil suitability and flooding problems; and
 - 6) South Dakota Department of Environment and Natural Resources, when applicable; and
 - 7) City Departments.

The above listed agencies, towns or cities shall have thirty (30) calendar days from the date the information is mailed to them to submit comments. Any agency may make a request for review time extension; however, failure to respond within the allotted time shall be considered an approval unless an extension has been consented to by the developer and the Planning Commission.

- E) The Planning Director and Planning Commission shall review the Preliminary Plan to determine if the plan is consistent with standards set fourth in this Title, the Comprehensive Plan, Master Transportation Plan, other applicable City ordinances and policies; and it shall only recommend approval for those Preliminary Plans which the commission finds to be developed in accordance with the intent, standards and criteria specified in this Title.
- F) If the Commission shall determine from a review of the preliminary plan that the soil, vegetation and/or drainage characteristics of the site are such as to require substantial cutting, clearing, grading and other earth moving operations in the construction of the subdivision where one (1) or more acres are disturbed; or otherwise entail an erosion hazard, the Commission shall require the developer to provide a state DENR approved soil erosion and sedimentation control plan and specification. Such control plan and specifications shall be prepared by a licensed registered professional engineer or the U.S. Soil Conservation Service.

152.024 EXPIRATION OF APPROVAL OF PRELIMINARY PLAN:

Approval of the preliminary plan shall be effective for twelve (12) months from the date of approval by the City Council. Extensions beyond the twelve (12) months shall not to exceed six (6) months provided upon agreement between the City Council and the developer. If “work” (Physical effort to achieve the end resolve) has not commenced within the time set forth herein, then the above review and approval shall be void and the process shall begin anew, unless an extension is agreed to by City Council.

152.025 MINOR PLAT REQUIREMENTS:

The purpose of a Minor Plat is to allow platting, without being subject to the requirements for Layout or Preliminary Plan review.

A minor plat involves the consolidation of five (5) or fewer previously platted parcels; and/or the subdivision of a previously platted parcel into five (5) or fewer lots where there is no requirement for right-of-way improvements and/or public infrastructure improvements. Minor plats may also be permit for the adjustment of a common lot line between ten (10) or fewer parcels of land.

Subdivision of land into parcels greater than forty (40) acres in each parcel, falling within the City of Box Elder extra-territorial jurisdiction and are utilized for agricultural purposes, will not require platting.

Minor Plat submittals shall at a minimum include, but not be limited to the following:

- 1) Name, address and contact information for owner(s), to include email (if available); and
- 2) Name, address, and contact information of owner's agent(s), to include email if applicable; and
- 3) Name, address and contact information of surveyor, to include email; and
- 4) Any and all covenants or deed restrictions applicable to the property; and
- 5) Minor Plat document must include at a minimum the following:
 - a) As per SDCL 11-3-10, sizes of plats filed with the City shall comply with SDCL 11-3-10, and shall be drawn on Mylar with waterproof black ink, and each signature shall be made with permanent ink. No other plat may be recorded; and
 - b) Name of the Subdivision; and
 - c) A title showing the former legal description, and the proposed legal description of the new parcel(s); and
 - d) Certificate of Ownership; and
 - e) Certificate of Box Elder Planning Commission; and
 - f) Certificate of Street Authority; and
 - g) Certificate of County Treasurer; and
 - h) Certificate of County Director of Equalization; and
 - i) Certificate of City Finance Officers; and
 - j) Resolution of approval -- Common Council of the City of Box Elder, with Mayor signature block attested by the Finance Officer; and
 - k) Certificate of Register of Deeds; and
 - l) A scaled map, prepared by a licensed surveyor, of the proposed lot(s) showing the location, dimensions, and area of lot(s) created, and
 - m) A north arrow, scale, creation date, preparer name and address, and legend; and
 - n) The location, width, and purpose of all easements and reserve strips; and
 - o) The lot and block number (if needed) that clearly identifies each parcel of land; and
 - p) If any FEMA –defined Flood Hazard Area(s) are present within the parcel(s): A floodplain note, which states: "Flood Insurance Rate Map Panel _____ with an effective date of _____ indicates the presence of a Flood Hazard Area within the area represented on this plat. The 100 year flood hazard area and floodway shall also be shown on the plat (when applicable); and
 - q) (When applicable) A Note stating: "Major drainage easements shall be kept free of all obstructions, and that the major drainage easement provides the Box Elder Public Works Department, or their designee(s) the rights of entry, construction and maintenance in order to facilitate drainage through these easements; and
 - r) A note stating "An eight (8') foot utility and minor drainage easement is hereby granted on the interior of all lot lines. Removal or modification of any

obstruction or impediment to such an easement shall be the financial responsibility of the landowner; and

- s) All certifications and signature lines as required for filing a "Final Plat; and
- t) Minor Plats shall not be permitted if alteration and/or extension of public utility mains, public drainage facilities or public streets, are required for approval.

152.026 PROCEDURE FOR APPROVAL OF "MINOR PLAT":

- 1) The sub-divider and/or their agent shall first meet with the Planning Director to determine if the subdivision meets the requirements set for submission of a "Minor Plat."
- 2) The sub-divider and/or their agent shall submit a brief descriptive narrative of the project outlining the proposed land use(s), parking, drainage, wastewater, etc. Also include what improvements and uses currently exist on the property and how the proposal is compatible with the surrounding land uses/area.
- 3) Submission of "Minor Plat Application".
- 4) Review Fees \$350.00.
- 5) Submission of ten (10) copies of the Minor Plat (**Folded**) in compliance with SDCL 11-3-10, a minimum of ten (10) working days prior to the Planning Commission Meeting.
- 6) Submission of one (1) paper copy and one (1) PDF copy of the plat.
- 7) Copy of all Easements/Agreements applicable to the proposed Minor Plat.
- 8) The Planning Office will then convey at a minimum, the Minor Plat with associated documents to all City Departments, Box Elder Fire District, Douglas School System, County Highway Authority, County Sheriff's Office, Emergency Services Communication Center, area utility companies, and other agencies deemed appropriate by the Planning Department. Each agency shall be given ten (10) days to review and comment on the conformance with all regulations.
- 9) The Planning Commission will review the Minor Plat to see if it is consistent with the standards set forth in the Subdivision Ordinance, Zoning Ordinance, Comprehensive Plan, Master Transportation Plan, other applicable ordinances, and that no public improvements are required.
- 10) The Planning Commission shall make a recommendation to the City Council, to either approve or deny or recommend modification of the plat as submitted with reason thereof. This recommendation shall be placed on the next regularly scheduled City Council meeting agenda.
- 11) Upon receipt of the Planning Commission recommendation, the City Council shall review and approve or deny, or request modification to the Minor Plat. The City Council shall have the authority to impose requirements or grant subdivision variances as deemed necessary, and appropriate for final approval.
- 12) Sub-divider will submit Mylar complying with SDCL 11-3-10 for signature. In the event the property being subdivided lies within two (2) counties, two (2) original Mylar documents shall be produced for signature and filing in each county.

152.027 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 Planning Office. Upon receipt of a complete application and the required information, the Planning Director shall provide all information to the Public Works Department. The Public Works Department and the design review team, shall have fifteen (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 fifteen (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, in writing.
- C) **Suspended timelines:** If the Design Review Team (DRT) 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 five (5) working days added to the remaining balance of the review timeline. Applications suspended for more than ninety (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 ninety (90) days of the suspension.
- D) **Appeal of suspended timelines:** When the owner and/or designated agent does not concur with the Design Review Team 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 Design Review Team 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 Design Review Team or City Council.
- F) The following minimum criteria is required for development engineering plans:

1. A completed and signed application and fees; and
2. Plat including lot configurations, lot areas, easements, and signature blocks; and
3. Street plan and profiles; and
4. Utility design for water and sanitary sewer services; and
5. Utility distribution plan; and

6. Drainage report; and
7. Storm drainage plans; and
8. Flood zones; and
9. Sidewalks and walkways; and
10. Cost estimate for subdivision improvements; and
11. A fully executed standard development agreement with the city; and
12. Additional public agency permits or agreements as required.

152.028 FINAL PLAT REQUIREMENTS:

Subdivision of land into parcels greater than 40 acres in each parcel, falling within the City of Box Elder extra-territorial jurisdiction and are utilized for agricultural purposes, will not require platting.

- 1) Name, address and contact information for owner(s), to include email (if available); and
- 2) Name, address, and contact information of owner's agent(s), to include email if applicable; and
- 3) Name, address and contact information of surveyor, to include email; and
- 4) Any and all covenants or deed restrictions applicable to the property; and
- 5) A fully executed development agreement in a form approved by the City Council, and
- 6) Surety for subdivision improvements (if applicable); and
- 7) Inspection fee's (if applicable); and
- 8) Final Plat document must include at a minimum the following:
 - a) As per SDCL 11-3-10, sizes of plats filed with the City shall comply with SDCL 11-3-10, and shall be drawn on Mylar with waterproof black ink, and each signature shall be made with permanent ink. No other plat may be recorded; and
 - b) Name of the Subdivision; and
 - c) A title showing the former legal description, and the proposed legal description of the new parcel(s); and
 - d) Certificate of Ownership; and
 - e) Certificate of Box Elder Planning Commission; and
 - f) Certificate of Street Authority; and
 - g) Certificate of County Treasurer; and
 - h) Certificate of County Director of Equalization; and
 - i) Certificate of City Finance Officers; and

- j) Resolution of approval -- Common Council of the City of Box Elder, with signature block for the mayor attested by City Finance Officer; and
- k) Certificate of Register of Deeds; and
- l) A scaled map, prepared by a licensed surveyor, of the proposed lot(s) showing the location, dimensions, and area of lot(s) created, and
- m) A north arrow, scale, creation date, preparer name and address, and legend; and
- n) The location, width, and purpose of all easements and reserve strips; and
- o) The lot and block number (if needed) that clearly identifies each parcel of land; and
- p) A floodplain note, if any FEMA-defined Flood Hazard Area(s) is present within the parcel(s), which states: "Flood Insurance Rate Map Panel _____ with an effective date of _____ indicates the presence of a Flood Hazard Area within the area represented on this plat. The 100 year flood hazard area and floodway shall also be shown on the plat (when applicable); and
- q) A note (If there are any major drainage easements shown on the plat) stating "Major drainage easements shall be kept free of all obstructions, and that the major drainage easement provides the Box Elder Public Works Department, or their designee(s) the rights of entry, construction and maintenance in order to facilitate drainage through these easements; and
- r) A note stating "An eight (8') foot utility and minor drainage easement is hereby granted on the interior of all lot lines. Removal or modification of any obstruction or impediment to such an easement shall be the financial responsibility of the landowner; and
- s) All certifications and signature lines as required for filing a "Final Plat.

152.029 PROCEDURE FOR APPROVAL OF 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, one-hundred-fifty (\$150) application fee, signed original plat document (Mylar), the specified number of copies of the final plat document, surety for subdivision improvements (if applicable), inspection fees, and other specified information to the Planning Department. Upon receipt of a complete application and the required information, the Planning Director shall provide all information to the Planning Commission. The Planning Commission shall have fifteen (15) working days from receipt of the application to complete their review and to approve, deny, or

suspend the application. The plat document with its recommendation shall be forwarded to the City Council for approval, denial, or suspension of application. Upon approval, all required signatures shall be obtained by the owner, or owner's agent, and recorded at the Meade and/or Pennington County Register of Deeds. The denial or suspension shall be provided in writing to the owner and/or designated agent.

- C. **Suspended timelines:** If the Design Review Team (DRT) 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 five (5) working days added to the remaining balance of the review timeline. Applications suspended for more than ninety (90) consecutive days shall be denied by the Planning Director. Applicants may appeal to the Planning Commission for extensions, providing that the appeal is filed within ninety (90) days of the suspension.
- D. **Appeal of suspended timelines:** When the owner and/or designated agent do not concur with the Design Review Team (DRT) regarding the information required for the final plat and/or a suspended timeline. The applicant may request an appeal in consideration of the disputed item(s) be filed to the Planning Commission. The Planning Commission may uphold or approve of the Planning Directors decision, overrule the decision, and/or deny the final plat in its entirety.
- E. **Approval criteria:** The Design Review Team (DRT) may recommend approval of the development engineering plans provided the documents comply with the approval criteria outline in this Chapter and the Infrastructure Design Criteria Manual, Standard Specifications for Public Works Construction and all other City criteria adopted by City Ordinance and/or Resolutions, including exceptions to the criteria approved by the DRT or City Council.
- F. The following minimum criteria is required for development engineering plans:
1. A completed and signed application and fees; and
 2. Plat including lot configurations, lot areas, easements, and signature blocks; and
 3. Street plan and profiles; and
 4. Utility design for water and sanitary sewer services; and
 5. Utility distribution plan; and
 6. Drainage report; and
 7. Storm drainage plans; and
 8. Flood zones; and
 9. Sidewalks and walkways; and
 10. Cost estimate for subdivision improvements; and
 11. A fully executed standard development agreement with the city; and

12. Additional public agency permits or agreements as required.

152.030 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, egress, non-access, planting screens or any other easement designated on a plat. The vacation of easement is reviewed by the Planning Director and acted upon by the Planning Commission. Vacation of Easements shall be conducted in accordance with South Dakota statutes.

B. **Review:**

1. The prospective applicant shall meet with the City 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 (3) categories:

- a. *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 Planning Department.
 - b. *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.
 - c. *Vacation of access, egress, non-access, planting screen or other easements:* An application for vacation of an access, egress, non-access, planting screen, or other vacation easement shall be signed by all affected property owners requesting the easement vacation.
2. 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 at the applicant’s expense, 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 Planning Office shall provide all information to other city departments. City Departments shall have ten (10) working days from receipt of the application to complete

their review and to approve, deny, or suspend the application. Applications not acted on within ten (10) working days of submittal (approved, denied or suspended) shall be deemed approved. The exhibit shall be sent to the Planning Commission for action and recommendation to City Council to either approve or deny the vacation.

3. The City Council will then act on the recommendation from the Planning Commission and the plat shall be recorded by the owner and/or his/her designee at the Meade/Pennington County Register of Deeds. If denied, or suspension is imposed, this shall be provided in writing to the owner and/or designated agent.
- C. **Suspended timelines:** If any City Department Director, Planning Commission or City Council 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 five (5) working days added to the remaining balance of the review timeline. Applications suspended for more than ninety (90) consecutive days, due to an incomplete application or failure to of the application to provide requested information, shall be denied by the Planning Director. Applicants may appeal to the Planning Commission and City Council for extensions, providing that the appeal is heard within ninety (90) days of the suspension.
- D. **Appeal of suspended timelines:** When the owner and/or designated agent do not concur with the Planning Director regarding the information required for the vacation of easement, an appeal can be filed to the Planning Commission. The Planning Commission shall then make a recommendation to the City Council; who, with consideration being given to the disputed item(s), may approve or deny the vacation of easement plat document in its entirety.
- E. **Approval criteria:** The City Council as applicable may 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.
- F. The following information is required for vacation of easements:
1. A completed and signed application and fees; and
 2. Copies of a site plan showing all the existing development including building footprints, driveways, curb cuts, utility service lines, sidewalks, and etcetera. The site plan must be drawn to a scale such as 1"=10' or 1"=20'. One copy paper copy of the site plan at 8-1/2" x 11" and in PDF, must be furnished; and

3. The original vacation instrument shall be prepared by a licensed professional land surveyor at the applicant's expense and titled "Exhibit A."

The vacation instrument shall include the book and page number of the original document dedicating or granting the easement.

4. Vacation of drainage easement: The applicant shall submit a drainage report expense. The report shall determine the impact of the proposed vacation on the existing and future drainage.
5. Vacation of utility easement: The applicant shall submit letters from the utility companies consenting to the proposed vacation.
6. *Vacation of access/egress easement*. The application shall be signed by all affected property owners requesting vacation of an access easement.
7. 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, existing easements, spacing and clearance, and street intersections as indicated in the Infrastructure Design Criteria Manual.

152.031 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 or egress. The vacation requires the review and approval of the Planning Commission, and approval by resolution of the City Council, including an exhibit showing the area to be vacated.
- B. **Review**: The owner or the designated agent shall submit an application to the Planning Office, which includes the legal description of the property for which the vacation is requested and which is signed by the property owner along with eight (8) 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 certified return service 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 Planning Director and Planning Commission shall have fifteen (15) working days to complete their review and provide a recommendation and resolution prepared by the City Attorney's office to the City Council. The City Council will review the resolution and Planning Commission recommendations 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 ten (10) days from expiration of such publication. This publication requirement will result in formal action being taken by the City Council approximately thirty (30) days following the action taken by the Planning Commission.

- C. **Suspended timelines:** If any City Department Director, Planning Commission or City Council determines that the application for the vacation of a Public Right-of-Way and/or Section Line 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 five (5) working days added to the remaining balance of the review timeline. Applications suspended for more than ninety (90) consecutive days, due to an incomplete application or failure to of the application to provide requested information, shall be denied by the Planning Director. Applicants may appeal to the Planning Commission and City Council for extensions, providing that the appeal is heard within ninety (90) days of the suspension.
- D. **Appeal of suspended timelines:** When the owner and/or designated agent do not concur with the Planning Director regarding the information required for the vacation of a Public Right-of-Way and/or Section Line, an appeal can be filed to the Planning Commission. The Planning Commission shall then make a recommendation to the City Council; who, with consideration being given to the disputed item(s), may approve or deny the vacation of Public Right-of-Way and/or Section Line in its entirety.
- E. **Approval criteria:** The Public Works Committee shall recommend to the Planning Commission, who shall recommend to the City Council, who shall approve or deny the vacation of public right-of-way and/or Section Line 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; and
 2. The property interest being vacated is no longer necessary for city operations; and
 3. The land to be vacated is no longer necessary for the public use and convenience; and
 4. The vacation will not create any landlocked properties; and
 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 to re-plat the vacated area into a larger usable piece of land shall be submitted by the landowner receiving the vacated parcel.

- E. The following information, at a minimum, is required for vacation of public right-of-way and vacation of section line highway:
 - 1. A completed and signed application and fees; and
 - 2. Petition of vacation signed by property owners; and
 - 3. Configuration and dimensions of the area being vacated; and
 - 4. Lot configurations and areas adjacent to the vacated right-of-way; and
 - 5. Exhibit "A" prepared by a licensed professional land surveyor showing area of vacation.

152.032 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.

152.033 CONFORMITY TO COMPREHENSIVE PLAN/FUTURE LAND USE PLAN/MASTER TRANSPORTATION PLAN:

- A) All proposed subdivisions shall conform to the Comprehensive Plan/Future Land Use Plan and Master Transportation Plan, unless otherwise approved.
- B) The densities established by the Zoning Ordinances and the Proposed Future Land Use Plan shall be observed by the Developer.
- C) All thoroughfares (Arterial/Collector) in the Master Transportation Plan shown crossing or bordering a proposed subdivision are required to be provided in the location and at the right-of-way width designated.
- D) A layout shall be made of the entire area proposed for development before and after final grading is completed. Such a plan shall show the proposed street and drainage pattern.
- E) The improvements the developer 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 Plan. These improvements shall relate to drainage, utilities, extension of water, sewer mains and other improvements necessary to permit development in the subdivision.
- G) Minimum street construction standards shall be according to adopted local and national recognized specifications, such as the 10 States Standards, etc.

IMPROVEMENTS**152.040 STANDARDS FOR IMPROVEMENTS:****A) General:**

3. 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:
 - a. Infrastructure Design Criteria (current edition); and
 - b. Standard Specifications for Public Works Construction (current edition); and
 - c. Streets, Sidewalks, and Public Places; and
 - d. Public Utilities and Services; and
 - e. All other city criteria adopted by city ordinance or resolution including exceptions to the criteria approved by the City Engineer or City Council.
2. Where possible, all public and private water mains, sanitary sewers and storm sewers shall be installed and inspected as necessary to prevent the future cutting of pavement of any street, sidewalk or other required pavement.
3. 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.
4. When applicable, Landscaping shall be incorporated into projects, and shall be constructed in a workman like manner and contain native plant species compatible with the region.

B) Blocks:

1. **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 Planning Director or City Council for good cause.
2. **Block lengths:** Blocks, shall not be more than 1,200 feet long, unless otherwise approved. The City Engineer, Public Works Director or City

Council may require the reservation of an easement through the block to accommodate utilities, drainage facilities, or pedestrian traffic.

3. **Pedestrian access:** Pedestrian crosswalks, not less than ten (10) feet wide, may be required by the Public Works Director, Police Chief, Planning Commission or City Council as applicable where deemed essential to provide circulation or access to schools, playgrounds, shopping centers, bus stops and other community facilities.

C) Lots:

1. **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 the City of Box Elder and in providing driveway access to buildings on the lots from an approved street.
2. **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 Planning 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 chapter.

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.

Lot dimensions shall conform to the requirements of the Zoning Ordinance and the requirements of the Department of Health and SDDENR. In such case where requirements may conflict, the larger requirement shall govern.

3. **Access:** Each lot shall be provided with access to a public street or other public access or Right-of-Way as provided by the Infrastructure Design Criteria Manual adopted by the City.

D) Streets:

1. The configuration, location and grade of all proposed streets shall be in accordance with good land planning principles and shall meet the intent of the major street plan.
2. Streets and public Rights-of-Way shall be provided in relation to existing and proposed streets and topographical conditions, taking in to consideration public convenience and safety; in appropriate relation to the proposed uses of land to be served by the streets.

3. The street pattern shall lead traffic toward local shopping and neighborhood centers and to the main thoroughfares; however, the number of streets would tend to promote congestion converging upon one point shall be held to a minimum. Creation of three and five point intersections less or more than 90° shall be avoided.
4. Designated Local and/or Residential streets shall be designed to discourage the utilization of thru traffic, in any residential area, when possible.
5. The street layout shall be in conformity with a plan for the most advantageous development of the entire neighboring area. Sufficient proposed streets shall extend, at a minimum, to the boundary lines of the tract to be subdivided in order to ensure normal circulation of traffic within the vicinity. Land abutting a proposed subdivision shall not be left land-locked by subdivision of land.
6. The street layout including residential collector and local residential streets shall consider continuity, and run approximately parallel to and on both sides, where possible, of arterial streets or the railroad to reduce the number of intersections of local residential streets with through streets and crossings of the railroad tracks.
7. 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.
8. Alleys are not encouraged in residential development, however, may be required in commercial and industrial districts. The Planning Commission and/or City Council may waive this requirement where other provision are made for service access. Such access may include off-street loading, unloading and/or parking consistent with ordinance requirements.
9. Where there exists a dedicated or platted half-street R.O.W. adjacent to the tract to be subdivided, the other half shall be platted. No new half-streets shall be permitted.
10. Where there exists an unpaved dedicated or platted street adjacent to the tract to be subdivided, the developer shall be required to provide concrete curb & gutter, sidewalks, and asphalt mat for existing streets. All streets shall conform to the Master Transportation Plan and the Box Elder Infrastructure Design Standards Manual.
11. Streets designed to have one end permanently closed shall have, at the closed end, a turnaround (Cul-de-sac) having a minimum right-of-way

diameter of one-hundred (100) feet and a minimum roadway diameter of seventy-five (75) feet. Between the street and the circle, there shall be a minimum one-hundred (100) foot reverse radius unless otherwise approved by the City Engineer.

- 12. Residential Cul-de-sacs shall not exceed five (500) feet in length.
- 13. Street alignment, with centerline offsets of less than one-hundred-fifty (150) feet shall not be permitted. In no case shall an offset be permitted on any arterial or collector street.
- 14. There shall be no private streets platted within a subdivision, and there shall be no reserve strips in a subdivision except where the control is vested in the City.
- 15. The following conditions shall govern the designation and minimum street right-of-way and roadway width:

The minimum right-of-way widths of highways, arterial streets, residential collector streets and local residential streets, and marginal access streets to be dedicated to City or County shall be as indicated in the master Transportation Plan. All streets shall comply with City Ordinances and the Infrastructure Design Standards manual, and shall be not less than as follows:

<u>Street Type</u>	<u>Right-of-way</u>
Highway	210 feet
Arterial	80 feet
Residential Collector	66 feet
Local Residential	66 feet
Marginal access	60 feet

In undeveloped or vacant areas, the Planning Director shall have the discretion to identify or classify a street as a "collector street."

Minimum roadway pavement width:

<u>Street Type</u>	<u>(measured from curb face)</u>
Highway	64 feet
Arterials	60 feet
Residential Collector	41 feet
Local Residential	41 feet
Marginal access	35 feet

In no case shall on street parking be permitted on Marginal Access Streets.

In no case shall marginal access streets be permitted in Residential zoned areas. In other zoning areas, Marginal Access Streets may only be utilized as the secondary access means to property.

Street grades shall not exceed the following unless otherwise recommended and approved by the City Planning, City Engineer and Public Works Director.

<u>Street Type</u>	<u>Percent of Grade</u>
Highway	3.0%
Arterials	7.0%
Residential Collector	10.0%
Local Residential	12.0%
Marginal access	12.0%

Minimum grade for any road way shall be not less than 0.5% unless approved by the Planning Director, City Engineer and Public Works Director.

Clear horizontal visibility, measured along the center line, shall be equal to or exceed at least six-hundred (600) feet on arterial-street; three-hundred (300) feet on collector streets; and two-hundred (200) feet on local and marginal access streets.

Acute angles at street intersections are to be avoided when possible, but in no case shall an angel of less than eight (80) degrees be permitted.

Minimum radii of intersections:

1. Property lines at arterial street intersections shall be rounded with a radius of no less than thirty-five (35) feet. An increased radius shall be required when the angle of the intersection is less than ninety (90) degrees or when the intersection involves another arterial street.
12. Roadway and curb intersections on all other streets and roadways shall be made concentric and shall be rounded by a radius of not less than fifteen (15) feet.

E) Alleys:

Alleys may be required in commercial and industrial zoned districts; except that the Planning Commission and the City Council may waive this requirement where other definite and assured provisions are made for service access, such as off-street parking, loading and unloading facilities consistent with the other applicable ordinance requirements. Such alleys shall have a minimum twenty-five (25) foot right-of-way and shall be dedicated to the public.

All Alleys required in commercial and industrial zoned areas, shall at a minimum be paved twenty (20) feet in width and no less than six (6) inches in depth concrete. In no case shall the developer be permitted to install gravel alleyways.

Alleys are not permitted in residential districts except when the Planning Commission and City Council determine special conditions warrant a secondary means of access. Said alleyways, if approved, shall be hard surfaced (Asphalt or Concrete) and constructed as per City design standards.

F) Sidewalks:

The responsibility for constructing sidewalks shall be divided as follows:

1. The sub-divider/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 3-mile platting jurisdiction). All Corner ramps and sidewalk, shall meet the ADA requirements.
2. All other sidewalks to be installed before the City officially accepts the infrastructure, except when the Planning Commission and Council permit installation prior to the issuance of a certificate of occupancy for the structure on the lot.
3. All sidewalks shall be formed of concrete, no less than four (4') feet in width and a full four (4") inches in depth. Sidewalks shall be installed on both sides of a street in the public Right-of-Way, and other places deemed necessary by the Planning Commission.

Sidewalks in residential areas shall be constructed a minimum of four (4') feet wide, and there shall be a boulevard constructed of not less than three (3') feet in width between the sidewalk and curb. If no boulevard is provided, the sidewalk shall be no less than five (5') feet in width, or as dictated by the Planning Commission at the time of development approval.

In all other zoning districts, unless otherwise permitted, sidewalks shall be no less than five (5') feet in width if there is a five (5') foot boulevard constructed between the sidewalk and the back of the curb, otherwise sidewalks shall be no less than six (6') feet in width, or as dictated by the Planning Commission at the time of development approval.

Where provided for in the Master Transportation plan, in relation to pedestrian and bicycle transportation, the developer may be required to install wider sidewalks or access paths as per the plan.

G) 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 Planning Director, Emergency Communications Services Center, Postal Service and Geographical Information System administrators of both Meade and Pennington County.

H) 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 City of Box Elder and Meade/Pennington County Register of Deeds.

I) Easements:

Standard and/or specific utility, drainage, or other easements shall be provided and as otherwise needed on rear, side and front lot lines, and shall be not less than eight (8') on each side of the lot line, or no less than sixteen (16) feet in width unless otherwise approved by the City Planning Commission or City Council.

Where a subdivision is traversed by a water course, drainage way or stream, there shall be provided a major storm-water drainage easement or right-of-way conforming substantially within the lines of existing and/or planned drainage way.

The width of such drainage easement or right-of-way shall be engineered and sufficient to contain the ultimate channel flow for the tributary area upstream, and maintenance way. Calculations necessary to establish the magnitude of the drainage way shall be provided by the developers engineer.

J) Drainage, Inundation, Stormwater Runoff and Flood Control:

1. Consideration and provision for drainage shall be in accordance with the City of Box Elder Infrastructure Design Standards Manual, state and federal requirements.
2. If subdivision improvements are required, a drainage plan and report shall be prepared for each subdivision by the applicant's engineer and approved by the City's engineer, and possibly DENR, CORP of Engineers & FEMA.

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.

- 3 Primary consideration shall be given to gravity flow improvements for storm and sanitary sewer improvements.
- 4 Off-premise drainage easements and improvements may be required.
- 5 The Public Works Director and/or 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.
- 6 Development within designated areas of the flood plain shall comply with all requirements of the flood area construction regulations.
7. Minimum floor elevation requirements may be established to ensure compliance with flood area construction regulations.
8. Low areas subject to periodic inundation shall not be developed or subdivided except in strict compliance with the Flood Development Ordinance; or
 - a) The nature of the land use would not itself impede surface water runoff and would not be subject to appreciable damage by inundation; or
 - b) The area may be filled in such a manner as to prevent such periodic inundation, provided that such engineered fill does not retard the flow of surface waters or result in increasing the water level endangering life and property of others.
 - c) The City Planning Director, Public Works Director or City Engineer may require whatever additional engineering information deemed necessary to make a decision on subdivisions and other development which are in areas of questionable drainage.
 - d) Ponds and similar areas shall be accepted by City Council for maintenance only if sufficient land is dedicated as public recreation area or park or if such areas constitute a necessary part of the drainage control system.
 - e) Storm sewers shall be designed in accordance with good, accepted engineering practice and are subject to approval by the City engineer and DENR.
 - f) For any development in which more than one (1) acre of land is to be disturbed, a storm water runoff control plan shall be prepared by a licensed engineer and submitted to the DENR for approval. No construction improvements may begin until said runoff control plan has been authorized by DENR and a copy of the approved plan

provided to the City of Box Elder for approval and signature of the City Engineer.

K) Building Restrictions:

Where the subdivision of land, falls outside the boundaries of the City, but within the three (3) mile platting jurisdiction, the Planning Commission may require additional provisions on front, side and rear yards, based upon the standards of the Zoning Ordinance, Department of Health and South Dakota Department of Environment and Natural Resources.

152.041 REQUIRED DEVELOPMENT IMPROVEMENTS:**A) General Provisions applicable to all Improvement:**

- 1) The developer shall be required to install or construct the improvements hereinafter described prior to having released the bonds or other securities which guarantee such required improvements.
- 2) Any development improvement required under this title shall be constructed in accordance with specifications and under inspection of the City Engineer and Public Works Director or their designee.
- 3) Any public/private water and sanitary sewer mains or laterals, storm, sewer and underground utilities shall be installed as necessary to prevent the future cutting of pavement when possible of any street, sidewalk, or other required pavement.
- 4) Any required improvement shall be guaranteed by the developer for a period of not less than two (2) years from the date of formal acceptance by the City Council. Formal acceptance shall be by action taken by the City Council at a regular scheduled meeting, and with the acceptance completed by Resolution and recorded in the minutes of the meeting.

B) Streets and Alleys:

Any and all streets and/or alleys within a subdivision, and on any street and/or alley providing access to the subdivision, shall be paved unless a suitable surface is otherwise authorized by the City Council in accordance with construction specifications adopted by the City.

C) Curbs, Gutters & Sidewalks:

At a minimum a thirty (30) inch Type B concrete curb and gutter shall be placed on both sides of any street in all subdivisions, unless otherwise approved by the City Engineer and City Council.

Sidewalks and approved handicap ramps, shall be placed on both sides of each street, at a minimum on each intersection corner, unless otherwise authorized by the City Council.

D) Water Distribution System:

All subdivision of land within the City's jurisdiction shall have a water distribution system and shall be connected to the City's water system unless otherwise approved by City Council. The system and related connections shall be provided at the expense of the developer.

The design and specifications of the water system shall meet any adopted specifications. The water distribution system shall meet the requirements for any rules and regulations governing connections to and use of the City water distribution system. Upon completion and acceptance of the system by the City, the system shall become the property of the City. Once the system has become the property of the City, the City shall be responsible for maintenance of the system. The design and specifications of a water distribution system shall be subject to the approval of the City Engineer, Public Works Director and DENR. All distribution lines shall be constructed in a publicly dedicated right-of-way, unless otherwise authorized by the City Council.

E) Sanitary Sewer System:

All subdivisions within the City shall have a sanitary wastewater system and shall be connected to the City sanitary wastewater system. The wastewater collection system and connection thereof shall be provided at the expense of the developer, and upon completion and acceptance of the system by the City, the system shall become the property of the City. Once the system has become the property of the City, the City shall be responsible for maintenance of the system. All wastewater systems shall be designed to provide for orderly expansion into surrounding areas. All wastewater collection system lines shall be constructed in dedicated public rights-of-way, unless otherwise approved by City Council.

The design and specification of the sanitary wastewater system shall be installed as required and under the supervision of the City Engineer and Public Works Director, and comply with all adopted local, state and federal regulations governing said systems.

F) Storm Sewers and Drainage:

When applicable, storm sewers and drainage structures shall be designed and installed as required by the City Engineer and Public Works Director in accordance with accepted engineering practices. The storm water collection system shall be designed to meet the flow requirements of a ten (10) year storm.

G) Street Lights:

Street lights shall be installed by the developer at all intersections, the end of a cul-de-sac and intermittent spacing of four-hundred (400) feet along street segments without intersections. The developer shall submit their lighting plan and proposed poles and fixtures to the Planning Director and Public Works Director for approval as part of the development process.

H) Property Markers:

The corner or angular change of any lot, the beginning and ending of any curve on property lines shall be accurately marked on the ground with a 5/8 to 1 1/4 inch diameter iron rod or pipe at least eighteen (18) inches in length with surveyor cap.

I) Street Signs:

The developer shall install durable street signs meeting City Specifications and MUTCD guidelines and approved by the Public Works Director at all intersections. A minimum of one sign is required at each intersection, additional signs may be required by the Planning Director and/or Public Works Director; which shall be noted on the preliminary plan.

J) Oversize/Joint Facilities:

1. 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.
2. The developer, when approved by City Council, may 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.
5. Request for oversize improvement reimbursement must be submitted and approved by City Council prior to Preliminary Plan 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.

152.042 INSPECTION:

Each facility constructed in any subdivision shall be installed under inspection of the developer's engineer, City Engineer and Public Works Director, or their designee. All work

shall be performed in a workmanlike manner, using good construction practices commonly accepted in the Western, South Dakota area. In the event that any improvements are constructed which are not completed in a workmanlike manner or where materials are used that do not meet the specification requirements of the City and State of South Dakota, then the City Engineer and/or Public Works Director shall have the right to require the developer to replace the improvements which have been improperly installed and the development shall not be accepted by the City Council until such replacement has been completed and approved.

152.043 ACCEPTANCE OF IMPROVEMENTS BY THE CITY:

No building permits shall be issued by the Planning Department, and no structures or manufactured homes shall be placed upon any property within the subdivision until the water distribution system, wastewater collection system and streets have been accepted by the City for maintenance and until the developer has provided the back of curb elevations on all lots to the City Planning Office.

In order for the water distribution system and wastewater collection system to be accepted by the City, they must be complete and in working order and meet the specifications accepted by the City.

In the event the developer is platting lots in sequence in a subdivision, all required improvements, including the water distribution system, wastewater collection system, sidewalks, streets, curb and gutter and drainage system must be completed and approved and accepted for maintenance by the City for all pre-approved plats by the City Council, prior approval of the Final Plat.

In the event the developer has posted a surety bond, the City Council may choose to allow the sidewalks and streets be completed, approved and accepted for maintenance within one (1) year of the issuance of the first building permit. If the required improvements are not completed and full accepted within one (1) year, no further building permits will be issued for the development until required improvements are full accepted for maintenance by the City Council.

152.080 VARIANCES:

Where the Planning Commission or City Council find that extra ordinary hardship is present due to unusual topography or other conditions beyond the control of the sub-divider, that may result from strict compliance with this title, the City Council may vary the regulations so that substantial justice may be done and the public intent secured; provided that the variance will

not have the effect of nullifying the intent or purpose of the this Title, the Comprehensive Plan, Master Transportation Plan, Future Land Use Plan, or other applicable laws and ordinances.

152.099 PENALTY:

A violation of any provision of this ordinance, or failure to perform any act required hereunder, is a Class II Misdemeanor for each day in violation. In addition to any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case.

ATTEST:

Mystee Lashwood, Finance Officer

Larry Larson, Mayor

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