

CITY OF WORTHING

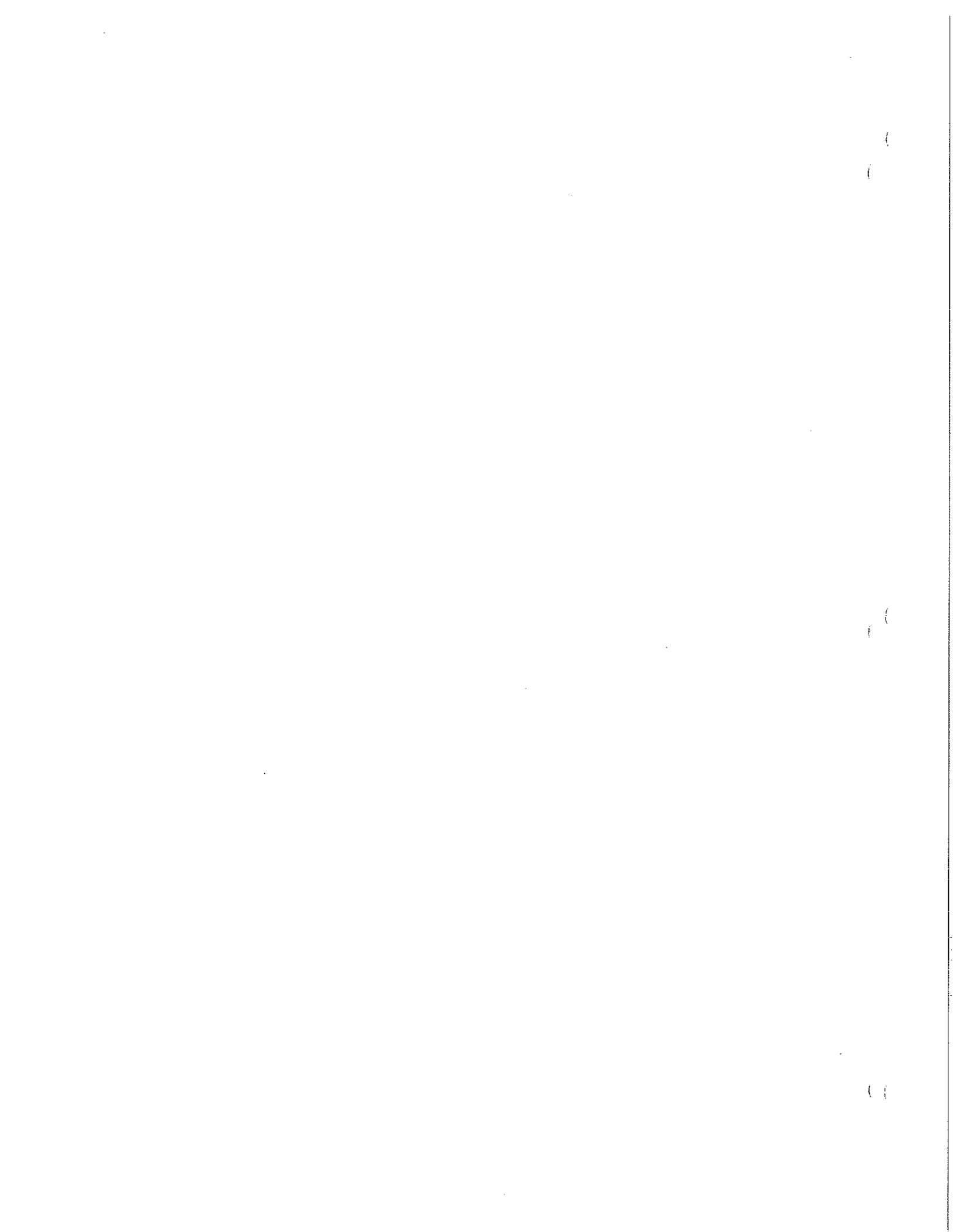
SUBDIVISION REGULATIONS

(Adopted pursuant to SDCL Chapter 11-6)

ORDINANCE NO. 2014-272-7

EFFECTIVE DATE: November 19, 2014

**Prepared by the South Eastern Council of Governments
at the direction of the Planning Commission and City Commission**



City of Worthing

Lincoln County
PO Box 277 • 208 S. Main St.
Worthing, South Dakota 57077

ORDINANCE NO. 2014-272-7

AN ORDINANCE ADOPTING THE 2014 REVISED SUBDIVISION REGULATIONS FOR THE CITY OF WORTHING, SOUTH DAKOTA.

BE IT ORDAINED BY WORTHING, SD:

Section 1. That this Ordinance adopts the revised subdivision regulations, as set forth in the attached document titled 2014 Revised Subdivision Ordinance for the City of Worthing; provides for the regulation of the subdivision of land within the City of Worthing and in the extraterritorial area described in the City's Major Street Plan, under the authority of SDCL Chapters 11-3, 11-4 and 11-6.

Dated this 20th day of October, 2014.



Mayor

ATTEST:



Finance Officer

(SEAL)

First Reading: 09/22/2014

Second Reading: 10/20/2014

Adoption: 10/20/2014

Publication Dates: 10/23/2014 & 10/30/2014 (Notice of Adoption)

Effective Date: 11/19/2014 (20 days after 2nd publication date)

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AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }
COUNTY OF LINCOLN } ss.

Rebecca Schmidt

being first duly sworn, disposes and says: That (he) (she) is a resident of the County of Lincoln and State of South Dakota; that the LENNOX INDEPENDENT is a weekly legal newspaper of general circulation, printed and published in Lennox, in said County and State, and is now, and has been such newspaper continuously, during all the times hereinafter mentioned; that the affiant is affiliated with said newspaper as employer or employee and has personal knowledge of all the facts stated in this affidavit, and the notice and advertisement headed _____

Notice of Adoption

a printed copy of which is hereonto attached and made a part hereof, was printed and published in the said newspaper 2 successive issues. That the first publication of said notice in said newspaper aforesaid was on Thursday, the 23 day of Oct A.D., 2014 and that the succeeding publication was severally on Thursday the 30 day of Oct A.D., 2014 on Thursday the ___ day of _____ A.D., 20___ on Thursday the ___ day of _____ A.D., 20___ on Thursday the ___ day of _____ A.D., 20___ on Thursday the ___ day of _____ A.D., 20___ on Thursday the ___ day of _____ A.D., 20___

that the fees charged for the printing and publication of said notice and advertisement in said newspaper as aforesaid were 14 Dollars 63 Cents, and that said fees for the printing and publishing of said notice and advertisement, and for the affidavit as aforesaid, have been fully paid; that the full amount of the fee charged for the publishing of the said attached and annexed notice and advertisement inures to the benefit of the publishers of the said Lennox Independent, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person, whoinsover.

Subscribed and sworn to before me this 15th day of Jan, 2015.

Notary Public

Lincoln County, South Dakota

My Commission expires July 9, 2015.

NOTICE OF ADOPTION

2014 REVISED WORTHING SUBDIVISION REGULATIONS

Notice is hereby given that Ordinance No. 2014-272-7, being the 2014 Revised Worthing Subdivision Regulations of the City of Worthing, South Dakota, was duly adopted by the City Commission of the City of Worthing on the 20th day of October, 2014, and that such Ordinance shall be in full force and effect on and after the 19th day of November, 2014, unless the referendum shall have been invoked. A copy of the 2014 Revised Worthing Subdivision Regulations is available for public review during regular business hours at the Worthing City Hall (208 South Main Street).
Stephanie Fischer, Finance Officer

Published twice at the approximate cost of \$14.63 (1023.00)

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AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }
COUNTY OF LINCOLN } ss.

Debbie Schmidt

being first duly sworn, disposes and says: That (he) (she) is a resident of the County of Lincoln and State of South Dakota; that the LENNOX INDEPENDENT is a weekly legal newspaper of general circulation, printed and published in Lennox, in said County and State, and is now, and has been such newspaper continuously, during all the times hereinafter mentioned; that the affiant is affiliated with said newspaper as employer or employee and has personal knowledge of all the facts stated in this affidavit, and the notice and advertisement headed _____

*Notice of
Public Hearing*

a printed copy of which is hereonto attached and made a part hereof, was printed and published in the said newspaper 1 successive issues. That the first publication of said notice in said newspaper aforesaid was on Thursday, the 11 day of Sept A.D., 20 14 and that the succeeding publication was severally

- on Thursday the ___ day of _____ A.D., 20 ___
- on Thursday the ___ day of _____ A.D., 20 ___
- on Thursday the ___ day of _____ A.D., 20 ___
- on Thursday the ___ day of _____ A.D., 20 ___
- on Thursday the ___ day of _____ A.D., 20 ___
- on Thursday the ___ day of _____ A.D., 20 ___

that the fees charged for the printing and publication of said notice and advertisement in said newspaper as aforesaid were 16 Dollars 25 Cents, and that said fees for the printing and publishing of said notice and advertisement, and for the affidavit as aforesaid, have been fully paid; that the full amount of the fee charged for the publishing of the said attached and annexed notice and advertisement inures to the benefit of the publishers of the said Lennox Independent, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person, whomsoever.

Subscribed and sworn to before me this 30th day of Sept, 20 14.

Notary Public

Lincoln County, South Dakota

My Commission expires July 9, 20 15.

Notice of Public Hearing

Notice is hereby given that the Worthing City Commission will hold a public hearing on September 9th 2014 regarding adoption of the revised Worthing Subdivision Regulations recommended by the planning and zoning commission.

A copy of the proposed Worthing Subdivision regulations is available for public review at the Worthing City Hall in the office of the Finance Officer during regular business hours.

The City Commission public hearing will be held at the following time, date and location:

7:00 P.M.
September 22nd 2014
Worthing Civic Center
(121 S. Main St.)

The purpose of this hearing is to explain the proposed revisions to the Worthing Subdivision regulations to interested persons, to answer questions regarding this item and to hear public comment on this item. The City Commission invites all interested persons to attend and offer their comments. Those unable to attend may submit comments in writing prior to the hearing to Finance Officer, P.O. Box 277, Worthing, SD 57077.

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this hearing, please contact the Finance Officer at (605) 372-4113. Anyone who is deaf, hard of hearing or speech disabled may utilize Relay South Dakota at (800) 877-1113 (TTY/Voice). Notification 48 hours prior to the hearing will enable the City to make reasonable arrangements to ensure accessibility to this hearing.

Stephanie Fischer
Finance Officer
Published once at the approximate cost of \$16.25.

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AFFIDAVIT OF PUBLICATION

STATE OF SOUTH DAKOTA }
COUNTY OF LINCOLN } ss.

Dickie Schmidt

being first duly sworn, disposes and says: That (he) (she) is a resident of the County of Lincoln and State of South Dakota; that the LENNOX INDEPENDENT is a weekly legal newspaper of general circulation, printed and published in Lennox, in said County and State, and is now, and has been such newspaper continuously, during all the times herein-after mentioned; that the affiant is affiliated with said newspaper as employer or employee and has personal knowledge of all the facts stated in this affidavit, and the notice and advertisement headed _____

Notice of Public Hearing

a printed copy of which is hereonto attached and made a part hereof, was printed and published in the said newspaper 1 successive issues. That the first publication of said notice in said newspaper aforesaid was on Thursday, the 6 day of Mar. A.D., 20 14 and that the succeeding publication was severally

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that the fees charged for the printing and publication of said notice and advertisement in said newspaper as aforesaid were 17

Dollars 55 Cents, and that said fees for the printing and publishing of said notice and advertisement, and for the affidavit as aforesaid, have been fully paid; that the full amount of the fee charged for the publishing of the said attached and annexed notice and advertisement inures to the benefit of the publishers of the said Lennox Independent, that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person, who is/soever.

Subscribed and sworn to before me this 31 day of March, 20 14.

Dickie Schmidt
Notary Public

Lincoln County, South Dakota

My Commission expires July 9, 20 15.

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Worthing Planning Commission will hold a public hearing on March 17, 2014 regarding adoption of the revised Worthing Subdivision Regulations. Specifically, the Planning Commission will be considering a recommendation of adoption to the Worthing City Commission for revisions to the Worthing Subdivision Regulations.

A copy of the proposed Worthing Subdivision Regulations is available for public review at the Worthing City Hall in the office of the Finance Officer during regular business hours.

This Planning Commission public hearing will be held at the following time, date and location:

6:00 p.m.
March 17, 2014
Worthing Civic Center (121 South Main Street)

The purpose of this hearing is to explain the proposed revisions to the Worthing Subdivision Regulations to interested persons, to answer questions regarding this item and to hear public comment on this item. The Planning Commission invites all interested persons to attend and offer their comments. Those unable to attend may submit comments in writing prior to the hearing to: Finance Officer, P.O. Box 277, Worthing, SD, 57077.

In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate in this hearing, please contact the Finance Officer at (605) 372-4113. Anyone who is deaf, hard of hearing or speech disabled may utilize Relay South Dakota at (800) 877-1113 (TTY/Voice). Notification 48 hours prior to the hearing will enable the City to make reasonable arrangements to ensure accessibility to this hearing.

Stephanie Fischer
Finance Officer
Published once at the approximate cost of \$17.55.

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CITY OF WORTHING

SUBDIVISION REGULATIONS

(Adopted pursuant to SDCL Chapter 11-6)

ORDINANCE NO. 2014-272-7

EFFECTIVE DATE: November 19, 2014

**Prepared by the South Eastern Council of Governments
at the direction of the Planning Commission and City Commission**

City of Worthing

*Lincoln County
P.O. Box 277 • 208 S. Main St.
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ORDINANCE NO. 2014-272-7

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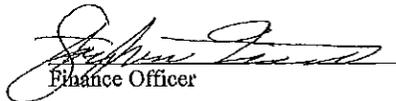
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Dated this 20th day of October, 2014.


Mayor

ATTEST:


Finance Officer

(SEAL)

First Reading: 09/22/2014
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ARTICLE 1: GENERAL PROVISIONS

Section 101. Title

These regulations shall be referred to as the 2014 Revised Subdivision Ordinance for the City of Worthing.

Section 102. Purpose

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

Section 103. Jurisdiction

These subdivision regulations shall apply to all subdivisions of land located within the City and within the unincorporated area identified by the Major Street Plan in accordance with platting jurisdiction statute of SDCL 11-6-26.

Section 104. Interpretation

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

Section 105. Amendments

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

- ___ Proposed change(s) in Subdivision Regulations drafted and sent to City Attorney for review;
- ___ Letter received from City Attorney confirming legality of proposed change(s);
- ___ Planning Commission holds a public hearing on the proposed change(s) with notice to be published in the City's official newspaper at least ten days prior to the scheduled date of the public hearing;
- ___ Planning Commission recommends adoption of the proposed change(s) to the City Commission;
- ___ City Commission holds a public hearing on the proposed change(s) with notice to be published in

- the City's official newspaper at least ten days prior to the scheduled date of the public hearing;
- ___ First reading of ordinance changing the regulations held;
 - ___ Second reading and adoption of the ordinance changing the regulations held;
 - ___ Notice of adoption published; and
 - ___ Revised Subdivision Regulations become effective twenty days after publishing the notice of adoption, unless the referendum is invoked.

Section 106. Enforcement, Violations and Penalties

- A. The Zoning Administrator and City Engineer are hereby authorized and directed to enforce all the provisions of these regulations and establish rules for its administration. For such purposes, the Zoning Administrator shall have the powers of a law enforcement officer.
- B. No owner, or developer of any parcel of land located in a proposed subdivision shall transfer or sell any part of the parcel before a final plat of the subdivision has been approved in accordance with the provisions of the regulations and filed with the Lincoln County Register of Deeds unless provisions of plat exemptions apply as within (Section 204) Subdivision Plan Exemptions - Minor Plat and (Section 205) Plat Exemptions.
- C. These regulations shall not abrogate or annul any permits issued before the effective date of these regulations; any construction, subdivision or development plans approved before the effective date of these regulations; any final plat documents that have been recommended for approval by the City of Worthing Planning Commission prior to the effective date of these regulations; or any easements or covenants already in effect.
- D. Any person violating any provisions of these regulations shall be punishable by a fine not to exceed the fine established by SDCL 22-6-2(2). Each day in which a violation of these regulations continues shall constitute a separate offense.
- E. Whenever any work is done contrary to the provisions of these regulations, the Zoning Administrator may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done; and any such persons shall forthwith stop such work until authorized by the Zoning Administrator to proceed with work.
- F. The Zoning Administrator and City Engineer shall together have the authority to make interpretations of these regulations and enforce rules and supplemental regulations approved by the City Commission in order to clarify the application of its provisions.
- G. No permit shall be issued for the demolition or construction of any building or structure located on a lot or parcel subdivided or sold in violation of the provisions of these regulations.
- H. Where, owing to special conditions, a literal enforcement of any of the requirements would result in unnecessary hardship or where a requirement does not serve the purpose for which it was designed, the City Commission may make such a reasonable exception thereto as will not be contrary to the public interest.

ARTICLE 2: SUBDIVISION PLANS APPROVAL PROCESS

Section 201. Applicability

Subdivision of land shall be required before the division of land (for any purpose) into two or more parcels.

Section 202. Overview of Approval Process

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

Step 1:		Concept Plan <i>(with an annexation petition or in preparation for preliminary subdivision plan)</i>
	Review by	Zoning Administrator, City Engineer
	Approval by	None

Step 2:		Preliminary Subdivision Plan <i>(in coordination with rezoning)</i>
	Review by	Zoning Administrator, Public Works Director, City Engineer
	Approval by	Planning Commission, City Commission

Step 3:		Development's Final Plans <i>(in preparation for engineering construction plans)</i>
	Review by	Public Works Director
	Approval by	City Engineer

Step 4:		Plat <i>(before a building permit is approved)</i>
	Review by	City Engineer
	Approval by	Zoning Administrator

Section 203. Filing Fee

A filing fee shall be deposited with the City for all preliminary subdivision plans, development final plans, and

plats. The amount of fees charged shall be set forth by resolution of the City Commission. Fees established in accordance with this Section shall be paid upon submission of a signed application.

Section 204. Subdivision Plan Exemptions – Minor Plats

The purpose of this Section is to provide for the timely review of minor plats and replats (including plats for transfer of ownership) that do not discernibly impact surrounding properties, environmental resources, or public facilities. No concept plan, preliminary plan, or development final plans are required. Minor plats and replats are administratively approved by the Zoning Administrator and City Engineer and must comply with all requirements of a plat in Section 502 (The Plat). Any request for new or additional public infrastructure or facility services after the land has platted may be required to comply with Article 5 Development Final Plans at the request of the City Engineer.

A. Minor Plats.

1. A minor plat is a plat containing not more than three lots and not larger than one acre fronting on an existing street and meets ALL OF the following requirements:
 - a. Does not require the dedication of right-of-way or construction of new streets, except that arterial roadways identified on the Major Street Plan will be required to dedicate the necessary right-of-way;
 - b. Does not require the creation of easements or has existing services that do not require additional easement size;
 - c. Does not create a lot or tract eligible for any public or private improvements other than sidewalks;
 - d. Does not landlock or otherwise impair convenient ingress or egress to or from the rear side of the subject tract or any adjacent property;
 - e. Does not change the grades from the grading plan which was submitted and approved with the original plat or, if the grades are going to be changed, then a grading plan shall be submitted and approved for the minor plat or replat;
 - f. Does not significantly change any plans that have been prepared for the placement of any other utilities in the subdivision;
 - g. Does not adversely affect the remainder of the parcel or adjoining property; and
 - h. Does not conflict with any provision or portion of the comprehensive plan, official map, zoning ordinance, or these regulations.
2. Replat. A replat includes all the requirements of a minor plat and shall also include the minor vacation of existing platted lines to achieve either a reconfiguration of the existing recorded plat or change the number of recorded lots in the subdivision and the perimeter of the tract being replatted is not altered by the replat. Also, a replat shall certify that the platting vacates the existing plat.

Section 205. Plat Exemptions

The following situations are exempt from the City subdivision regulations rules:

- A. Cemetery gravesite plats.
 - 1. Cemetery gravesite plats or plots do not have to meet any requirements of this subdivision ordinance as long as land is surveyed, mapped, or diagramed, and subdivided into sections, blocks, lots, individual grave spaces, avenues, walks, and streets, thereby platting or making a map which shall be filed and maintained as a permanent cemetery record.
- B. Government use parcels. In order to facilitate the transfer of ownership from one owner to a government entity for the use of a public land or facility (e.g., school, park, drainageway, H lots), plats may be exempted by the Zoning Administrator and City Engineer.

However, the exemption of the City of Worthing platting rules and regulations does not exempt the platting requirements of the county register of deeds, title company and state law.

ARTICLE 3: CONCEPT PLAN

Section 301. Submission

A concept plan is a process designed to help a developer save time and expense in preparing a preliminary plan. A concept plan does not have a requirement for engineering information; however, the more engineering design work that is done, the developer will be more likely to avoid rezonings or major amendments because of lot and block reconfigurations due to drainage and other utility requirements. The advantage of a concept plan is that City staff will provide important information upfront that may significantly affect lot and block layout and utility plans. It is recommended that at least some preliminary drainage engineering be completed during the concept plan stage. All concept plans for review shall be submitted to the Zoning Administrator.

- A. Prior to the submission of the preliminary subdivision plan and, if needed, rezoning to the Planning Commission, the developer shall submit a concept plan to the Zoning Administrator, which will also be routed to the City Engineer. City staff comments on the concept plan shall be sent to the developer within fifteen working days. The requirement for a concept plan may be waived by the Zoning Administrator and City Engineer if access permits have been approved and it is a residential subdivision with less than ten acres or a nonresidential subdivision with less than five acres. A developer may choose to submit a concept plan for comments that has all elements of a preliminary subdivision plan.
- B. The concept plan will contain the following general information:

1.	The general layout of streets and access points to adjacent street systems; location of major drainageways, approximate flow paths and detention ponds; water line locations; nearest existing sanitary sewer line locations; natural features and amenities and preservation public land, proposed zoning districts; pedestrian connectivity; and agreement with the goals and policies of the City's Comprehensive Plan.
2.	The owner and developer addresses and telephone numbers.
3.	Vicinity map to scale, showing locations of the concept plan and other property for at least 660 feet in every direction.

- C. Comments from City staff in regard to the concept plan should include future land use amendments, zoning transitions, street right-of-way width and type of street (minor or major collector), pedestrian circulation, lot and block layout, street access points, water and sanitary sewer locations, assessments cost per acre including sanitary sewer, water main, regional detention cost, and storm sewer. Staff shall track consistency of comments between concept plan and preliminary subdivision plan.

ARTICLE 4: PRELIMINARY SUBDIVISION PLAN

Section 401. Submission

A preliminary subdivision plan is a process designed to assist the developer and the City with the efficient and timely development of utilities to and throughout a development. Plans will be evaluated for compliance with the City's comprehensive plan goals and policy framework, adopted master plans, and the capital improvement program.

Based on the comments from the concept plan, the developer shall submit the preliminary subdivision plan to the Zoning Administrator. The application shall be submitted at least fifteen days prior to a regularly scheduled planning commission meeting.

1. Within ten working days of receipt of a subdivision application and fee, the Zoning Administrator will review the application to determine whether it contains all elements required by Section 401(A).
2. If the Zoning Administrator determines that the application does not contain all elements as required by Section 401(A), then the applicant shall be notified in writing of the specific deficiencies; and that the application shall not be scheduled for a public hearing until all elements of the application are submitted. The applicant has until the submittal deadline to submit all elements.
3. When the Zoning Administrator determines that the application does contain all elements as required by Section 401(A), the application shall be scheduled for a planning commission public hearing by the Zoning Administrator on a day when the planning commission is regularly scheduled to meet as determined by the rules, policies, and regulations as adopted or which may hereafter be adopted by the planning commission for holding public hearings on such requests.
4. If the Zoning Administrator determines that the preliminary subdivision plans do not meet the criteria, a one-month deferral of the plan may occur and the Zoning Administrator shall identify specific required information in its notification to the applicant at the end of the ten-day review period. After receipt of the resubmitted preliminary subdivision plan, the Zoning Administrator may schedule the preliminary plan for a planning commission public hearing.
5. If the Zoning Administrator determines that the preliminary subdivision application is in sufficient compliance with Section 401(A), but there are specific design, improvement, or other compliance deficiencies, the Zoning Administrator may list conditions to the approval of the subdivision application to the planning commission.

The City Commission, in taking action on a preliminary plan, shall consider the recommendations of the planning commission and shall hold a public hearing. It shall then approve, disapprove, or approve with conditions based upon the criteria within Section 401(A). Approval of the preliminary plan shall indicate City Commission's approval of the general location of the lots, blocks, and streets including the interrelationship to proposed zoning districts or land uses; all which shall be so noted on the preliminary subdivision plan's certificate of approval. The approved plan shall be kept on file in the office of the Zoning Administrator and City Engineer. Any conditions included by the City Commission shall be resolved on a revised preliminary

plan which would be submitted to the Zoning Administrator for administrative approval before any development final plans and plats are submitted.

A. The preliminary subdivision plan shall contain the following information:

1.	The name of the proposed subdivision and location by quarter section, section, township and range. Subdivision names shall not duplicate, be the same in spelling, or alike in pronunciation with the name of any other recorded subdivision, unless it is an extension of or adjoining to an existing subdivision.
2.	The names of all adjoining subdivisions with adjoining unplatted property shall be labeled as such.
3.	Area, legal description and notations stating acreage, scale and north arrow.
4.	The owner, developer, and engineer's names, addresses and telephone numbers.
5.	Vicinity map to scale showing location of preliminary subdivision plan for at least 1,320 feet in every direction.
6.	The location and size of all public facilities, schools, libraries, fire stations, parks, tree masses and other significant natural features.
7.	The boundary lines of floodways and 100-year flood zones delineated on the Flood Insurance Rate Maps (FIRM).
8.	Existing contours referenced to North American Vertical Datum (NAVD 88) with intervals sufficient to determine the character and topography of the land to be subdivided. Use City horizontal and vertical control.
9.	A systematic lot and block numbering pattern, lot lines, setbacks and road names.
10.	Approximate dimensions and acreage of all lots.
11.	Location of all existing streets abutting or serving the proposed subdivision, an estimate of the vehicular traffic to be created by full development of the subdivision, a statement regarding the effect thereof on such streets, and the nature of all improvements as may be required for such streets to properly serve the proposed subdivision.
12.	Certificates of approval for endorsement by the Planning Commission, Zoning Administrator, City Engineer, Finance Officer and the City Commission.

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

1.	<u>Preliminary Drainage and Grading.</u> The existing drainage pattern for the area should be shown, including plans to detain, release or route storm water run off, along with any proposed cut and fill operations which would alter the existing drainage patterns.
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2.	<u>Preliminary Utility Plan</u> . Notations should be made on the plan regarding the location of the nearest available sewer and water connections, the direction of the proposed sanitary sewer flow, and the necessity for any lift stations.
3.	<u>Erosion Control</u> . In any proposed subdivision in which an area greater than one acre will be disturbed, or in areas where topographic features are such that erosion, siltation or temporary runoff problems may occur, a site plan shall be required showing how these problems will be resolved.

Section 402. Effective Period of Preliminary Subdivision Plan Approval

Any preliminary subdivision plan which has not received Development Final Plan approval for all or a portion of the Preliminary Subdivision Plan area within a period of five years would require resubmittal of the unapproved portion for approval subject to any new subdivision regulations unless a waiver from the Zoning Administrator is approved.

Upon written request to the Zoning Administrator and prior to the Preliminary Plan expiration date, a one-year time extension for the Preliminary Plan may be granted by the Zoning Administrator, subject to the following condition:

- A. The land uses for land within the preliminary subdivision plan area have not significantly been altered since the original approval date for the preliminary subdivision plan.

Section 403. Revisions to Preliminary Subdivision Plan

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

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

ARTICLE 5: FINAL PLANS AND THE PLAT

Section 501. Final Plans

Following the approval of the preliminary plan, if the developer wishes to proceed, three copies of final drainage, grading, and utility plans shall be submitted to the Zoning Administrator for review and approval. Any or all of these plans may be deleted at the City Engineer's discretion. Final plans shall be in accordance with the Engineering Design Standards and shall contain the following information:

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

Section 502. The Plat

Platting is a process designed to assist the developer and the City to approve the appropriate features of a proposed subdivision and place them on file with the county register of deeds. Platting is required when land is divided into tracts for purpose of sale, transfer of ownership or in creating a new building site prior to issuance of a building permit, or connecting to City utilities.

One signed mylar plat, two paper copies, one reduced 8.5 x 11 copy, an electronic PDF and a digital copy (DWG or DGN) shall be submitted to the City Office for review and approval and meeting the requirements of Section 401.

The plat should be drawn at a scale of 100 feet to the inch from an accurate survey and on one or more sheets whose dimensions are as required by state law. If more than two sheets are required, an index sheet of the same dimension shall be attached and filed. The plat shall show the following information:

A.	The proposed name of the subdivision. The name shall not duplicate, be the same in spelling, or alike in pronunciation with the name of any other recorded subdivision, unless it is an extension of
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	or adjacent to said subdivision.
B.	Scale and north arrow. All lot and block lines, type of easements, and rights-of-way such as drainage facilities, pedestrian, and utilities should be consistent with the development engineer plan. Adjoining unplatted property shall be labeled as such.
C.	Vicinity map, date, title, north point and legal description of the proposed subdivision.
D.	A systematic lot and block numbering pattern, lot lines and street names, and the square footage of all lots.
E.	The location and width of all proposed and existing rights-of-way, alleys, and easements.
F.	The boundary lines of the area being subdivided with accurate angles or bearings and distances tying the perimeter boundaries to the nearest established street line, section corner, other previously described subdivision or other recognized permanent monuments which shall be accurately described on the plat as required by SDCL 43-18, 43-20 and 43-21.
G.	Location of all monuments and permanent control points, and all survey pins, either set or located as required by SDCL 43-18, 43-20 and 43-21.
H.	Names of proposed and adjacent streets.
I.	The identification and delineations of any portions of the property intended to be dedicated or granted for public use such as drainage facilities, schools or park land.
J.	All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision lots, streets/roads, alleys, easements, and other areas for public or private use. Linear dimensions are to be given to the nearest 1/100 of a foot.
K.	The radii, chords, chord bearing, length of curve, point of tangency, and central angles for all curvilinear streets/roads and radii for rounded corners.
L.	The boundary lines of the floodway and 100-year flood zones, along with the base flood elevation on each lot as delineated on the Flood Insurance Rate Maps (FIRM).
M.	Acknowledgment of the owner or owners of the plat of any restrictions, including dedication to public use of all streets/roads, alleys, parks or other open spaces shown thereon and the granting of easements required; as well as the use of any required common areas.
N.	All formal irrevocable offers of dedication for all streets/roads, alleys, parks, drainage facilities, pedestrian paths and other uses as required.
O.	Approved subdivision construction agreement under Section 1301.
P.	The certificate of the surveyor attesting to the accuracy of the survey and the correct location of all pins and monuments shown as required by SDCL 43-18, 43-20 and 43-21.
Q.	Certificates of approval for endorsement by the Zoning Administrator.
R.	Existing building outlines to verify setbacks and lot area requirements and ensure current and proposed easements are clear of obstructions.

Section 503. Approval of the Plat

If development final plans are approved by the City Engineer, the developer may then submit the plat(s) for approval. The plat shall provide the information indicated in Section 502 [The Plat] and shall require the review and approval of the Zoning Administrator. The plat shall be in conformance with an approved final lot and block layout of the development engineering plan. Either all or a portion of the final lot and block layout of the development engineering plan may be platted.

The plat shall be considered for approval only after the City Engineer has approved assurances as required by Article 13 from the developer fixing responsibility for the required improvements, or any revision thereof. If the plat is not approved by the Zoning Administrator within ten days of submittal, the plat shall be presented to the City Commission for action. A plat shall be considered submitted when it has been filed with the Zoning Administrator. Approval of any plat shall be contingent upon the plat being recorded within 120 days after the certificate of approval is signed by the Finance Officer.

ARTICLE 6: PRELIMINARY PLAN CRITERIA

Section 601. Intent

When applications are submitted for a preliminary plan, developers shall comply with the following criteria:

Section 602. Blocks

The lengths, widths, and shapes of blocks shall be determined with regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; the need for convenient access, circulation, control, and safety of traffic and utilities; and limitations and opportunities of topography .

Blocks shall normally be wide enough to allow two tiers of residential lots of an appropriate depth.

Section 603. Lots

- A. Lots should generally be in compliance with the zoning ordinance.
- B. Corner lots for residential use shall have extra width, as set forth in the zoning ordinance, to permit appropriate building setbacks.
- C. Each lot shall abut a dedicated right-of-way or shall include an appropriate private street.

Section 604. Street System

- A. Arrangement and extension. The arrangement of streets in new subdivisions shall conform to the major street plan and shall make provisions for the continuation of existing streets in adjoining areas or their proper projection where adjoining land is not subdivided.
 - 1. The arrangement of all streets and alleys shall be such as not to cause a hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it.
- B. Circulation plan. In general, streets within subdivisions shall be designed to incorporate and tie into existing or proposed pedestrian pathways and roadways, and to take into account design restrictions on abutting parcels caused by the surrounding topography, parcel lines or other features. Other criteria in the circulation plan shall include the following:
 - 1. Provisions should be made for a collector street every half mile, and there should be a street connecting adjacent subdivisions at intervals not less than a quarter mile where environmental constraints and land use considerations permit.
 - 2. Streets should be designed to convey residents conveniently throughout the neighborhood, and to the parks, schools, and shopping areas of the neighborhood and to adjacent neighborhoods. When a subdivision is designed or constructed in conjunction with another use (such as retail, office, apartments, park or school) of a neighborhood scale, the local and/or collector road system should be designed to provide roadway

connections between the various uses.

C. Arterial streets. In order to maintain the traffic carrying capacity of the arterial streets by limiting access to it from individual lots, and in order to protect the residents of property adjacent to arterial streets from the high traffic volumes associated with the street, property along such arterials shall be subdivided in the manner set forth below:

1. Double frontage lots. Where double frontage lots are used for residential development, additional lot depth or width consistent with the zoning ordinance for rear yard setback shall be required to provide for an extra setback to offset the impact of high traffic volume. When double frontage lots are proposed, the developer shall be required to sign a subdivision construction agreement prior to plat approval.
2. Tracts onto arterial streets. In order to avoid private access from individual lots onto arterial streets, lots should be arranged on blocks so that their side or rear yards are adjacent to the arterial street. Lots adjacent to an arterial street shall have an additional width and depth to provide for an extra setback to offset the impact of high traffic volume. This design will be accepted only for a limited distance due to the number of streets which would intersect with the arterial.
3. Access roads. Access roads may be used as the City grows into the areas in the county where they have been required. Under some circumstances they would also be appropriate for commercial and industrial development. Access roads shall be constructed to the Engineering Design Standards.
4. Rear access roads. Rear access roads are recommended for commercial developments. In this way the access can serve two tiers of lots and alleviate the dangerous turning movements onto and off of arterial streets.
5. Non-residential land uses, and higher density residential land uses including multiple family units and townhouses are particularly suitable for the intersection of two arterial streets. Any development of this type should have limited access to the arterial street.
6. Lots adjacent to railroad right-of-way. Lots for residential development adjacent to functioning railroad rights-of-way shall provide extra lot depth or width consistent with the zoning ordinance for rear yard setback to provide for an extra setback to offset the impact of the railroad traffic.

D. Collector street development

1. Collectors shall be used to collect traffic from other local roads and collectors to arterial roadways.
2. Based upon increased speeds and volumes lot sizes and land uses may be increased along collectors to be consistent with the proposed zoning and transitions.
3. Collectors shall be developed along or between property lines, so that both land owners can share in the cost as well as having access to the collector.

4. In agricultural and transitional areas, collector streets shall be identified and located through the Engineering Design Standards.

ARTICLE 7: FINAL PLAN CRITERIA

Before a plat is submitted, developers shall have an approved Development Engineering Plan which shall comply with the following criteria and all Engineering Design Standards.

Consisting of a:

1. Lot and block layout – approved by Zoning Administrator and City Engineer.
2. Drainage, water and sanitary sewer developer's engineering plans – approved by City Engineer.

Section 701. General Requirements

The plat shall conform to the criteria of the preliminary subdivision plan plus the additional criteria for Development Final Plans.

Section 702. Blocks

- A. Block lengths shall not exceed 720 feet.

Section 703. Lots

- A. Lot dimensions shall be appropriate for the location of the subdivision and conform to the Worthing Zoning Ordinance.
- B. Each lot shall abut a dedicated right-of-way, mutual access, common area, or private street. Private streets or roads shall be indicated on the Development Engineering Plan as a private roadway easement and shall not be included as part of any required lot area or setback.
- C. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide off-street parking and loading for the use contemplated.
- D. All interior lot lines shall be a straight line or a series of straight lines. Curved interior lot lines shall be prohibited.
- E. Side lot lines shall be at right angles to streets except on curves where they shall be radial except when otherwise approved.
- F. Corner lots for residential use shall have extra width, as set forth in the zoning ordinance, to permit appropriate building setbacks from both sides.
- G. In undeveloped or vacant areas, streets shall be identified and classified through the transportation planning process. The location of major streets shall conform to the official Major Street Plan.

Section 704. Streets System

- A. Street design standards. All public street improvements, including pavement width, street grades, alignment and visibility, and intersections shall be designed in accordance with standard accepted engineering practice and are subject to the approval of the City Engineer. All public street facilities shall be designed in compliance with the Engineering Design Standards.
- B. Traffic calming. Improving traffic flow into and through subdivisions also needs to take into consideration traffic volumes and speeds. Traffic calming is the process by which vehicular speeds and volumes on local streets are reduced to acceptable levels. This is achieved through the installation of approved devices such as traffic circles, flares, and center islands. Traffic calming serves the purpose of reducing cut-through traffic, truck traffic, excessive speeding, noise, vibration, air pollution, and accidents in an attempt to provide a safer environment for motorists and pedestrians.
 - 1. Approved devices may be spaced within the right-of-way along major collectors through residential subdivisions, based upon Engineering Design Standards.
 - 2. Traffic calming devices may be required by the City Engineer, based upon the review of a traffic impact study.
- C. Right-of-way widths. The developer shall be required to dedicate street right-of-way widths according to the major street plan and not less than as follows:

STREET TYPE	RIGHT-OF-WAY IN FEET
Expressway/regional arterials	200
Arterials	100-120
Collectors	80
Locals	66
Alleys	20
Rural Subdivisions	66

- D. Cul-de-sacs. Cul-de-sacs will be allowed where they are necessary for the reasonable development of a subdivision.
 - 1. The maximum length of a cul-de-sac shall be 500 feet measured along the centerline, between the radius point of the turnaround and the right-of-way line of the abutting street. The maximum length of a cul-de-sac may be extended where no other practical alternative is available for the reasonable development of a subdivision with the approval of the City Engineer.
 - 2. Temporary turnarounds may also be required by the City Engineer on dead-end streets that will eventually be continued.
 - 3. Emergency access may be required by the fire chief on cul-de-sac streets to allow for emergency service response.
- E. Private streets or roads; places. Private roads may be allowed when serving a limited number of

parcels, if right-of-way constraints exist, and when all maintenance responsibilities are detailed within the easement.

- F. Access easements. When the traffic impact of one or more proposed property developments indicates that the public safety can be better served by the use of access easements, the following requirements shall be observed:
1. Any access easement accepted by the City must provide for perpetual unobstructed access to the area it serves, and prohibit the erection of any structure within or adjacent to the access area which would interfere with the use of the access easement by the public or any governmental agency.
 2. Access easements shall be indicated on the plat.
 3. Any plat presented for City approval which shows an access easement as a means of access shall provide language in the owner's certificate [see Article 14] reserving the access easement as a perpetual unobstructed access easement.
 4. Access easement areas shall be paved by the developer and maintained in passable condition. Designs for access easements must be approved by the City Engineer.
 5. An easement area maintenance agreement among property owners who will depend on the access easement for access shall be filed with the plat. It shall describe the legal responsibilities for the repair and maintenance of the easement area and the required signs (see 6. below).
 6. The developer may be required to place traffic control signs on access easements or to pay the City to place traffic control signs for access easements at the locations the City Engineer deems necessary for the safety and convenience of the public. Traffic control signs shall be approved by the City Engineer.
- G. Alleys.
1. Alleys are permitted in commercial and industrial districts, except where provision is made for service access, such as off-street loading, unloading, and parking consistent with the requirement set forth in the Worthing Zoning Ordinance.
 2. Alleys are permitted in residential districts when design standards and conditions warrant an alternative means of access.
- H. Continuation of street names. Streets obviously in alignment with existing streets shall bear the names of those streets. When, due to topography, offsets caused by rectangular surveys or other physical features, streets become interrupted, quarter line and section line streets shall retain the same name on either side of the irregularities.
- I. Street naming criteria. No street names shall be used which will duplicate, be the same in spelling, or alike in pronunciation with any other existing streets. All street names should be kept as short as possible to permit signs to be no longer than thirty-six inches.

All street names shall indicate directions either north, south, east, or west. Street name suffixes shall be applied as follows:

Street: A road generally running east and west.

Avenue: A road generally running north and south.

Road: A road running both east and west or north and south for significant lengths; such names may only be assigned to major rights-of-way.

Lane: A road running northeast to southwest.

Drive: A road running northwest to southeast.

Trail: A road which wanders in different directions.

Circle: All cul-de-sacs.

Court: A road with two openings which enters and exits on the same street.

Place: All private roads.

Parkway: Limited access roads such as major streets which are divided by a median.

Boulevard: A minor street typically divided by a median.

Section 705. Walkways

Concrete or asphalt pedestrian walks of an appropriate width (as determined by the City Engineer and/or Engineering Design Standards) shall be required through blocks where deemed necessary to provide circulation or access to schools, playgrounds, shopping centers, bus stops and other community facilities. They may also be required to provide access through greenways and common areas.

Section 706. Minimum Subdivision Improvements

Where development final plans are approved and plats within the development engineering plan are platted, utilities will be required to be extended to the edge of adjacent platted land.

Section 707. Maintenance Agreements

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

Section 708. Easements

Easements shall be provided and dedicated where necessary for wires, cables conduits, fixtures, and equipment for distribution of electric power, wastewater collectors, storm drains, overland storm water flow routes, sidewalks, pedestrian ways, bikeways, private roadways, and water mains at such locations and widths as determined by the City. The width of easements required for public wastewater collectors, storm drains, and/or water mains shall be as specified in the Engineering Design Standards for the particular improvement adopted by the City. All necessary utilities must be located in the right-of-way or in easements abutting rear or side lot lines, except on double frontage lots. Deviations from this policy may be made when it is demonstrated that the utility is necessary and no practical alternative locations exist. In any dedication of an easement, the City may prohibit or restrict building, fences, driveways, and other improvements; may enter for construction, reconstruction, replacement, repair, operation, and maintenance purposes; and will be held harmless for the cost of replacement or damage to any improvement or vegetation within the easement and may make any other appropriate or necessary requirements.

- A. All easements for utilities shall be shown on the plat.
- B. There shall be a ten foot utility easement for municipal utilities along all right-of-way frontages; except when the setback is equal to or less than twenty feet, then the utility easement shall be equal to half the distance of the required setback per the zoning district.
- C. Easements centered on rear lot lines shall be provided for utilities and drainage where necessary and shall be a minimum of ten feet in total width unless otherwise required by the City Engineer.
- D. Easements centered on side yard lot lines shall be a minimum of sixteen feet in total width unless otherwise required by the City Engineer.
- E. Where topographical or other conditions warrant side yard easements and easements across lots, easements at least ten feet in total width shall be provided.
- F. Lots and easements shall be arranged in such a manner as to eliminate unnecessary jogs or offsets and to facilitate the use of easements for power distribution, telephone service, drainage, water, and sewer services.
- G. The property owner whose property is subject to such easements shall be responsible for its maintenance. The property owners shall keep the easement clear of any structure, debris, trees, shrubs, or landscaping whatsoever except that lawn grass, which shall be regularly mowed, and vegetation may be grown thereon.

ARTICLE 8: UTILITIES AND PUBLIC SPACE

Section 801. Water Facilities

A. General Requirements

1. Necessary action shall be taken by the applicant to extend or create water lines to hook onto a public water supply for the purpose of providing a water-supply system capable of providing domestic water use and fire protection.
2. Where a public water main is accessible, the subdivider shall install adequate water facilities (including fire hydrants) subject to the specifications of the City utilities department as shown on the final utility plan required in Section 501.
3. Water main extensions shall be approved by the Public Works Director. If the water main is extended adjacent to property that will not participate in the initial construction cost of the water main, the developer shall submit to the Public Works Director a cost recovery study based upon the actual construction costs showing the amount due from each property when a connection is made to the extended water main.
4. To facilitate the above, the location of all fire hydrants, all water supply improvements, and the boundary lines of proposed districts shall be shown on the preliminary water and sewer plan.

B. Public Water Supply

Land which is located over or adjacent to a water bearing stratum or water supply reservoir and which is designated as an area providing or supplementing a municipal water supply shall not be developed or subdivided for residential, recreational, commercial or industrial purposes except when public water and sewer systems are provided.

C. Design Standards

All water facilities including water mains, valves, fire hydrants, storage facilities and pumping stations shall be designed in accordance with the Engineering Design Standards and are subject to the approval of the City Engineer.

Section 802. Sanitary Sewers

A. Provided for each lot.

Each lot within a subdivision area shall be provided with a connection to an approved public sanitary sewer.

B. Exceptions.

In areas where a public sanitary sewer is not reasonably accessible, but where plans, including

the comprehensive plan, a facilities plan or any other approved plan for the installation of sanitary sewers in the vicinity of the subdivision has been prepared, the subdivider shall install sewers in conformity to plans approved by the City Engineer. In cases where a connection to an existing public sanitary sewer may not be immediately practical, a connection may be made to the gravity sewer system by the use of an individual lift station, constructed in accordance with the regulations and requirement set forth by the City Engineer. The lift station will be maintained by the landowner until gravity sewer has been installed.

C. Design Standards.

All sanitary sewer facilities including gravity sewers, manholes, lift stations and force mains shall be designed in accordance with the Engineering Design Standards and are subject to the approval of the City Engineer.

Section 803. Public Open Space

The City of Worthing recognizes the need for open space and recreational areas for the health and welfare of its citizens. Therefore, as a condition of approval for final plat of subdivision, each subdivider shall be required to pay the City a cash contribution for park land acquisition to serve the immediate and future needs of the residents of the development. Unless and until changed by resolution of the City Commission, the amount of the cash contribution for park land acquisition shall be \$1,000 per acre or fraction thereof. The park land acquisition cash contribution shall be payable directly to the City in one lump sum at the time of final plat approval. The cash contribution received for park land acquisition by the City shall be used as new park land is acquired. The park land acquisition cash contribution does not reflect the true cost to cover park land acquisition that the new development will ultimately necessitate but instead will act to defray a portion of the cost of park land acquisition.

Where a proposed public site or other public site which is shown on the Comprehensive Plan or other long-range plan is located in whole or in part in a proposed subdivision to be developed, and such public sites are not dedicated, such public ground shall be reserved and no action taken towards approval of a preliminary plan or final plat for a period not to exceed ninety days to allow the opportunity to consider and take action towards acquisition of such public ground or park by purchase or other causes.

In addition to park land acquisition, the City is responsible for the development and maintenance of open space and recreational areas. The Park Development Fee imposed pursuant to the provisions of this Section is to finance the development of new parks and the expansion and/or improvement of existing parks. A Park Development Fee is hereby imposed on the construction or placement of all new dwelling units. Unless and until changed by resolution of the City Commission, such fee shall be computed on the basis of \$250.00 per dwelling unit. The Park Development Fee shall be due when the building permit is paid.

ARTICLE 9: GRADING AND DRAINAGE

Section 901. Grading Plan

The final grading plan for the subdivision shall be submitted to and approved by the City Engineer. The grading plan shall, as much as possible, be laid out to conform to the natural contour of the land.

Section 902. Drainage Plan

The final drainage plan for the subdivision shall conform to the city-approved master drainage plan. If a master drainage plan is not available for a proposed subdivision location and if the City deems it necessary, one will be conducted by the City on the drainage basin of which the proposed subdivision is part. No subdivision plans will be approved prior to completion and acceptance of the drainage plan.

Individual lot drainage shall be coordinated with the general surface drainage pattern for the area. Drainage shall be designed so as to avoid a concentration of storm drainage water from each lot to adjacent lots. Lot corner elevations shall be shown for each lot which shall conform to the general lot drainage plan. Subdivisions shall be required to incorporate a sump hose collection system, unless a soils conditions analysis based on adequate test borings determines conditions do not warrant a sump hose collection system. If a developer does not want to install a sump hose collection system, then they will need to supply a written report from a geotechnical engineer with local knowledge. The written report shall include documentation based on groundwater depths and soil conditions supporting that there is no need for a sump hose collection system. The City Engineer shall review the analysis and determine if a sump hose collection system is required.

Section 903. Design Standards

All drainage facilities including storm sewers, on-site detention, drainageways, detention ponds, and drainage channels shall be designed in compliance with the currently approved Engineering Design Standards and are subject to approval of the City Engineer.

ARTICLE 10: EROSION CONTROL PLAN

Section 1001. Specifications

Measures used to control erosion on a development site shall meet the requirements of the Engineering Design Standards. Stripping of vegetation, regrading and cut and fill operations should be kept to a minimum, as should the amount of land and the duration of exposure. Whenever feasible, development plans should be made in conformance with topography in order to create the least erosion potential. Similarly, as much as possible, natural vegetation shall be retained, protected and supplemented. The City Engineer shall require any further measures as necessary to prevent erosion on building sites and developments from depositing wastes or sediments on public streets or other property. Every effort shall be made to retain the natural vegetation on all ditches and drainageways. Ditches and drainageways will not be disturbed without the approval of the City Engineer.

Section 1002. Subdivisions and Individual Lots

A. General

1. Land disturbing activities of one acre or more shall comply with the Erosion and Sediment Control Guidelines of the City's Engineering Design Standards and all SD Department of Environment and Natural Resources.
2. Throughout build-out, a subdivision owner and developer is responsible for and shall implement and maintain best management practices (BMP) and conditions of the approved erosion and sediment control plan to control erosion and sediment problems on all property within the subdivision until the notice of termination is granted. It shall be the responsibility of the subdivision owner and developer to inform owners and contractors of lots within the development about the erosion control standards. The responsibility may be transferred to new owners of lots within the subdivision by completing the transfer of permit coverage form as stated in the general permit.

ARTICLE 11: PRESERVATION OF NATURAL FEATURES AND AMENITIES

Section 1101. Existing Features

Existing natural features which would add value to residential development or to the community as a whole, such as trees, water courses, and similar irreplaceable assets, should be preserved in the design of the subdivision.

Section 1102. Sensitive Natural Areas

Sensitive natural areas as shown on the comprehensive plan shall be reviewed with regard to the special character of the area taking into consideration harmonious design, environmental protection and topographical restraints.

ARTICLE 12: RURAL SUBDIVISIONS

Section 1201. In General

- A. Premature subdivision of land is to be discouraged, due to unavailability of urban services, higher energy consumption, premature and excessive loss of agricultural land, and inefficient delivery of basic government services.
- B. Where rural subdivisions are allowed outside of corporate limits but within the Major Street Plan area, their design standard and minimum improvements are the same as those required within the City limits except for the following exceptions listed below.

Section 1202. Roads

- A. Specifications for roads shall be in accordance with the Engineering Design Standards approved by the City Engineer.
- B. Roads shall be designated on the plat as dedicated right-of-way or as private roadways. The responsibility for maintenance of all subdivision roads shall be certified on the plat or spelled out in a maintenance agreement to be filed with the plat.
- C. All roads shall comply with other right-of-way and street naming requirements outlined in this ordinance.

Section 1203. Lots and Blocks

- A. Whenever a plat or preliminary plan is proposed having lots which are one acre or larger in size, the planning commission may require that said plat or plan shall show how such lots can be re-subdivided into urban sized lots in the event the area is ever annexed into the City.
- B. Lots fronting along an arterial road or a federal, state or county highway shall be discouraged. Where they are allowed, shared drives may be required, or dedication of a frontage road between the arterial or highway and the lot shall be provided. Said road shall provide direct access to the adjoining property while limiting curb cuts along the major road. Approval shall be certified by the appropriate public entity for access onto all dedicated roads.

Section 1204. Grading and Drainage

Driveways and drainage culverts shall be installed by the lot owner in accordance with the Engineering Design Standards and approved by an applicable township, county or state agency. Storm water collection and disposal systems may be required by the City Engineer.

Section 1205. Water Supply

If a City public water system is not available, a central water system shall be provided in such a manner that an adequate supply of potable water will be available to every lot in the subdivision. All subdivisions shall

require proof of an adequate water supply, subject to the approval of the City Engineer, prior to issuance of any building permits.

Section 1206. Sanitary Sewers

In areas where public sanitary sewers are not accessible and no plans for public sewers have been prepared, or where the connection to public sanitary sewer is impractical, individual sewer systems will be permitted provided they comply with the regulations set forth for septic systems by the appropriate state agency and any additional county requirements. Connection to the City sewer system shall be required when the public sewer system is within two hundred feet of an individual property line.

ARTICLE 13: ASSURANCES FOR COMPLETION OF MINIMUM IMPROVEMENTS

Section 1301. Assurances Required

- A. Assurances for Subdivisions Within the City Limits. No plats or construction permit of any subdivision shall be approved unless the developer has signed a subdivision construction agreement to establish the responsibility and security for the construction and warranting of the public improvements required by this Ordinance in a satisfactory manner and within a period specified by the City Engineer; such period not to exceed two years. An extension to that two-year period may be granted when requested by the Applicant, reviewed by the City Engineer and approved by the City Commission.
- B. Assurances for Rural Subdivisions. No plat of any rural subdivision shall be approved unless the improvements required by this Ordinance have been installed prior to such approval, or unless the developer shall have posted a surety bond or irrevocable letter of credit or acceptable cash deposit assuring completion of all required improvements.

No building permits shall be issued until assurances, or subdivision construction agreements as applicable have been filed or signed as applicable or all required road improvements have been completed.

recommend approval of this preliminary plan on this _____ day of _____, 20_____.

Zoning Administrator
City of Worthing, South Dakota

CITY PLANNING COMMISSION APPROVAL

The City Planning Commission of the City of Worthing approves the preliminary plan of (Subdivision Name) to the City of Worthing and the same is recommended to the City Commission of the City of Worthing for approval.

City Planning Commission
(Chair)

Section 1402. Certificates for Plats and Replats

SURVEYOR'S CERTIFICATE

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

Registered Land Surveyor

OWNER'S CERTIFICATE OF COMPLIANCE

I, (Name), do hereby certify that I am the owner of all land included in the above plat and that said plat has been made at my request and in accordance with my instructions for the purposes (Indicated herein), and that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations.

DEDICATION OF LAND FOR PUBLIC USE

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

I hereby waive any rights of protest to any special assessment program which may be initiated for the purpose of installation of improvements required by the Subdivision Ordinance of the City of Worthing.

OWNER'S CERTIFICATE FOR PRIVATE MAINTENANCE OF FACILITIES

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

If private streets are shown, include:

I further grant and certify that the roadway shown as (Name of private road) is a private roadway easement which is hereby reserved as a permanent unobstructed access. Said street or road is for vehicular and pedestrian travel for the purpose of access to the abutting property. It is understood that the owner, their lessees and assignees have the responsibility with respect to maintaining said private street or road. Said grant is to run with the land and shall remain in effect until such street or road is accepted for public declaration. The owners, their lessees and assignees, of the property platted as (Name of subdivision), shall at their own cost and expense keep and preserve said private street or road at all times in a good condition of repair and maintenance, and clear of snow and other obstructions and neither erect nor permit erection of any improvements of any kind within said private street or road which might interfere in any way with the property maintenance, use, repair, reconstruction and patrolling of said private street or road.

If access easements are shown, include:

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

If the plat is a condominium or includes common ownership include:

We hereby set aside Tract x as a common area for the purpose of access to a public way and for parking and loading for Tracts a through z. We further certify that the common areas shall be owned by the owners of Tracts a through z inclusive as tenants in common; and that Tracts a through z shall not be sold, transferred, or otherwise conveyed unless the instrument of conveyance for the Tract being transferred and conveyed also transfers and conveys all of that Tract owner's interest in Tract x.

If the plat is a replat include:

I, (Name), do hereby certify that this replat will not place any existing lot or building in violation of any applicable ordinance, code, regulation, law including but not limited to zoning, building, subdivision, and flood prevention.

I further certify that this platting of said described (New Subdivision Name) does hereby vacate the following platting:

(Legal description of old plat) on file at the Register of Deeds office in Book _____, page __, said plat, hereby vacated, being situated within described (New Subdivision Name) as surveyed.

Dated this _____ day of _____, 20_____.

Name

STATE OF SOUTH DAKOTA)

: SS

COUNTY OF LINCOLN)

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

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

My commission expires: _____

Notary Public, _____ County, South Dakota

ZONING ADMINISTRATOR CERTIFICATE

I, (Name), Zoning Administrator of the City of Worthing, do hereby certify that this plat has been approved by me or my authorized agent and that the City Finance Officer is hereby directed to certify the same thereon.

Approved this _____ day of _____, 20_____.

Zoning Administrator
City of Worthing, South Dakota

FINANCE OFFICER'S CERTIFICATE

I, (Name), the duly appointed, qualified and acting Finance Officer of the City of Worthing, South Dakota, hereby certify that the certificate of approval is true and correct including the signature thereon, and that any special assessments which are liens upon the land shown in the above plat, as shown by the records in my office, on this _____ day of _____, 20_____, have been paid in full.

City Finance Officer
Worthing, South Dakota

COUNTY TREASURER'S CERTIFICATE

I, Treasurer of Lincoln County, South Dakota, do hereby certify that all taxes which are liens upon any land included in the above (and the foregoing) plats, as shown by the records of my office, have been fully paid. Dated this _____ day of _____, 20_____.

Treasurer
Lincoln County, South Dakota

DIRECTOR OF EQUALIZATION

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

Director of Equalization
Lincoln County, South Dakota

REGISTER OF DEEDS

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

Register of Deeds, Lincoln County, South Dakota

Section 1403. Subdivision Construction Agreement

SUBDIVISION CONSTRUCTION AGREEMENT

THIS AGREEMENT ("Agreement") is made this _____ day of _____, 20_____, between the City of Worthing, South Dakota (hereinafter referred to as "City") and _____, its heirs, executors, administrators, successors, transferees, and assigns jointly and severally (hereinafter referred to as "Developer").

Declarations

WHEREAS, the Developer wishes to develop certain lands within the City of Worthing, South Dakota; and

WHEREAS, the City wishes to prevent the use of public funds to complete private developments; and

WHEREAS, the City requires the execution of this agreement as a prerequisite to approval of the final plat of the subdivision or the issuance of any required permit authorizing the commencement of construction activities; and

(check one)

WHEREAS, the Developer wishes to proceed with construction of the required Public Improvements before platting and has submitted and the City has approved construction plans for the subdivision identified as _____ Addition Phase _____, which are hereby attached to and made part of this agreement. Also attached and hereby made part of this agreement is a preliminary plat including LEGAL DESCRIPTION OF LOTS; or

WHEREAS, the Developer wishes to proceed with platting of _____ (Legal Description) prior to installation of the required Public Improvements of which the associated plat(s) are hereby attached to and made part of this agreement. The Developer has submitted and the City has approved Development Engineering or Construction plans identified as _____ Addition Phase _____, which are hereby attached to and made part of this agreement. The Developer will have approved construction plans prior to issuance of the construction permit.

NOW, THEREFORE, in consideration of the above, the City and Developer hereby agree as follows:

1. Definitions - The Definitions Set Forth Herein Shall Apply Solely To This Agreement.

- a. City Engineer - The City Engineer for the City of Worthing or his or her authorized representative.
- b. City Ordinance - Revised Ordinances of Worthing, SD, as adopted and as amended from time to time.
- c. Construction Permit - Any permit required prior to the installation of public improvements; including, but not limited to, street grading, roadway base, curb and gutter, asphalt or concrete surfacing, drainage and flood control, water and sanitary sewer, sump pump collection, or other such improvements in proposed subdivisions or which connect proposed subdivisions.
- d. Developer - The owner of land proposed to be subdivided or its authorized agent who shall have express written authority to act on behalf of the owner.
- e. Final Acceptance - The written notice from the City Engineer verifying that all required Public Improvements are complete according to the approved plans, specifications, and standards.
- f. Final Plat - The plat approved by the City pursuant to Subdivision Ordinance of the City of Worthing.
- g. Performance Security - The financial security as provided for herein to ensure that all Public Improvements are completed by the Developer or as provided herein.
- h. Public Improvements - Are those improvements which will be accepted for operation and maintenance by the City of Worthing and shall include, but not be limited to, street grading,

roadway base, curb and gutter, asphalt or concrete surfacing, drainage and flood control, water and sanitary sewer, sump pump collection, roadway lighting or other such improvements in proposed subdivisions.

- i. Warranty Period(s) - The one- or two-year period(s) from the date of written notice granting final acceptance, utility acceptance, or delayed acceptance from the City Engineer as set forth in Section 6 hereof.
- j. Warranty Security - The financial security as provided for herein to warrant all Public Improvements as more fully provided for herein by the Developer or security provider as set forth herein.

2. Time Period for Construction.

The Developer shall complete construction of all Public Improvements in accordance with the approved plans, specifications, and standards within two (2) years of the date of this Agreement. At the Developer's request, the City Commission may extend the time period in which to complete the construction for one (1) additional year if the City Commission determines that such an extension is justified. The City Engineer may allow for an additional extension in cases of extreme hardship as set forth in Section 6 herein.

3. Construction Permit.

Prior to the start of work, the Developer shall obtain a Construction Permit from the City allowing the Developer to begin construction within the specified subdivision. The Construction Permit shall be kept valid for the term and any extension of this Agreement. Should the Construction Permit terminate for any reason before continuing work, the Developer will be required to revise the plans to meet the current standards and obtain a new Construction Permit.

4. Performance Security.

The Developer understands and agrees that the City will not approve any Final Plat within the identified subdivision until all Public Improvements are completed and accepted in accordance with this Agreement, unless prior to any Final Plat, the Developer executes a Performance Security in favor of the City in the amount of one hundred (100) percent of the Engineer's Estimate to construct the Public Improvements not yet installed and accepted by the Engineer. In no event shall the Performance Security be less than ten (10) percent of the Engineer's Estimate to construct all Public Improvements. This minimum of ten (10) percent shall be maintained until all Public Improvements are completed, accepted by the Engineer, and the Developer has furnished to the City the required Warranty Security.

The Developer shall use the Performance Security form and/or criteria approved by the City Attorney. The Performance Security shall be secured in favor of the City by one of the following methods:

- a. Escrow account.
- b. A bond issued by a Corporate surety licensed and authorized to do business in the State of South Dakota as surety and subject to written approval by the City Engineer which approval shall be at its sole discretion.
- c. Irrevocable letter of credit.

The Developer shall utilize the form provided by the City relative to the escrow account, irrevocable letter of credit, or bond methods of security. Said agreement(s) must be elected and signed at the inception of this Agreement.

5. Performance Security Reductions.

A Performance Security may be reduced prior to Final Acceptance of all required Public Improvements. To qualify for a Performance Security reduction, the completed Public Improvements must be completed in compliance with the approved plans, specifications, and standards as determined by the City Engineer.

Each reduction allowed will be in the amount of the estimated cost, prepared and certified by the Developer's engineer, of the part of the subdivision improvements accepted in writing by the City Engineer. In no event shall the Performance Security be reduced to less than (ten) 10 percent of the Engineer's Estimate for all subdivision improvements until all Public Improvements are completed, accepted by the City Engineer, and the Warranty Security is in place.

A request for reduction in the Performance Security may be made no more frequently than every ninety (90) days. Upon receipt of a reduction request, the City Engineer will respond to the Developer within fifteen (15) working days approving or denying the request.

6. Utility and Final Acceptance and Warranty of Improvements.

- a. Acceptance of the required Public Improvements will be completed in two stages: Utility Acceptance which includes the water main system, sanitary sewer system, storm sewer system, and sump pump collections systems; and Final Acceptance which shall consist of all other Public Improvements including, but not limited to, grading, crushed base, valley gutters, fillet sections, curb and gutter, and surfacing.

When all required Public Improvements are complete, as defined above, the Developer shall submit a written request for a Utility Acceptance inspection or Final Acceptance inspection. Within fifteen (15) working days of the request, the City Engineer will complete an inspection; and if the City Engineer finds that all required Public Improvements for the respective inspection, including punch list items, are complete according to the approved plans, specifications, and standards, the City Engineer shall provide written notice granting acceptance of those Public Improvements.

Warranty of the Public Improvements shall be as follows:

(1) Utility Acceptance and Warranty

The Developer shall warrant all water main systems, sanitary sewer systems, storm sewer systems, and sump pump collections systems free from defects for a time period of two (2) years from the date of written notice from the City Engineer granting Utility Acceptance.

(2) Final Acceptance and Warranty

The Developer shall warrant all other Public Improvements free from defects for a time period of one (1) year from the date of written notice from the City Engineer granting Final Acceptance.

b. Exceptions for Extreme Hardship:

(1) Extreme Hardship

The Developer may submit a written request to the City Engineer requesting an exception to the installation of the required Public Improvements within the specified timeframe when installation of said improvements will create an extreme hardship for the Developer. The City Commission will have sole discretion in determining if an extreme hardship exists. If the City Commission determines an extreme hardship exists, the City Commission will determine the length of time the installation of the improvements will be allowed to be delayed up to a maximum of five (5) years from the date of such determination. The City Commission may require a Performance Security be provided for an amount of up to one hundred (100) percent of the cost of the improvements not completed plus projected inflationary costs for said Public Improvements.

(2) Extension of Warranty Periods

Warranty periods will begin upon the completion and Final Approval of the delayed installation of Public Improvements. The Warranty Security in the amount of ten (10) percent of the original Engineer's Estimate for all the work will be required to remain in place until all warranty periods, including delayed installation improvements, have been completed with the following exception: if the original Warranty Periods have expired and the cost of the delayed installation improvements are less than the warranty security, then the Warranty Security for the delayed installation warranty improvement security may be reduced to one hundred (100) percent of the cost of the delayed installation improvements.

7. Warranty Security.

The Developer understands and agrees that the City will not approve any Final Plat within the identified Subdivision until it has been determined all required Public Improvements have been accepted and found free of defects for the required Warranty Period(s), unless prior to any final platting the Developer executes a Warranty Security in favor of the City for ten (10) percent of the Engineer's Estimate for the duration of the Warranty Period(s). The Developer shall use the Warranty Security form approved by the City Attorney. Each Warranty Security required by this Agreement shall be secured in favor of the City by one of the following methods:

- a. Escrow account.
- b. A bond from a Corporate surety licensed and authorized to do business in the State of South Dakota as surety and subject to written approval by the City Engineer which approval shall be at its sole discretion.
- c. Irrevocable letter of credit.

The Developer is not required to provide a warranty for the street lighting furnished and installed by the City. However, the cost of the same shall be used for purposes of calculating the ten (10) percent Warranty Security as set forth herein.

8. Warranty Inspections.

At a minimum of forty-five (45) days prior to the end of the Warranty Period, the City Engineer will conduct a warranty inspection. A written list of warranty repairs will be prepared and presented to the Developer. The Developer will be responsible to notify the City Engineer in writing when the warranty repairs have been completed and the Engineer shall inspect the same within ten (10) business days of such notice. The Warranty Security will remain until all warranty repairs have been completed and accepted by the City Engineer. The City Engineer will verify the warranty repairs have been completed and provide written correspondence acknowledging acceptance of the warranty repairs and release of the Warranty Security.

9. Engineer's Estimate.

The engineer retained by the Developer ("Developer's Engineer") shall prepare and provide an itemized estimate ("Engineer's Estimate") to construct the Public Improvements. The Developer's Engineer shall be a professional engineer, P.E., licensed to work in the State of South Dakota. Each line item used to create the estimate shall either be a City standard bid item or a similar line item that clearly defines the scope of work. Each line item shall include a description, quantity, unit price, and total price. The total sum of all line items shall be included at the bottom of the Engineer's Estimate. Proof of actual costs may be utilized to develop the Engineer's Estimate. The Engineer's Estimate will be subject to the approval of the City Engineer. In the event there will be oversizing or material reimbursement payments made by the City to the Developer, said payment may be shown as a credit in arriving at the Engineer's Estimate.

10. Authority of the City Engineer.

As the representative of the City, the City Engineer is in charge of engineering details and administration of the Public Improvements. Work shall be performed to the satisfaction of the City Engineer. The City Engineer will decide questions which may arise as to the quality and acceptability of materials furnished, work performed, all questions which may arise as to the interpretation of documents, and all questions as to the acceptable fulfillment of this Agreement on the part of the Developer. The City Engineer has the authority to reject defective material and work.

The City Engineer will have the authority to suspend the work wholly or in part, by written suspension order, for failure to carry out conditions of this agreement, for failure to carry out orders, for conditions considered unsuitable for the prosecution of the work, or for other conditions or reasons determined by the City to be in the public interest.

The City Engineer's decision shall be final.

11. Coordination of Documents.

Division II—Construction Details and Division III—Materials Details of the current edition of the South Dakota Department of Transportation Standard Specifications for Roads and Bridges and the current version of the South Dakota Department of Transportation Supplemental Specifications and Errata related to Division II and Division III are hereby made a part of this Agreement in their entirety unless otherwise revised, deleted, or supplemented herein.

The coordination of these documents is an essential part of the Agreement. A requirement occurring in one is as binding as though occurring in all. They are intended to be complimentary and to describe and

provide for a complete work. For discrepancies, the items shall prevail, or govern, in the following descending order:

- a. Subdivision Construction Agreement.
- b. Plans.
- c. South Dakota Department of Transportation Supplemental Specifications and Errata related to Division II and Division III of said document.
- d. Division II (Construction Details) and Division III (Materials Details) of the South Dakota Department of Transportation Standard Specifications for Roads and Bridges.

Nothing contained herein shall relieve the Developer of complying with other requirements imposed by Worthing Municipal Ordinances or as otherwise legally or contractually required.

12. Cooperation by Developer.

The Developer shall give the work the constant attention necessary to facilitate the progress and shall cooperate with the City Engineer and City Inspectors ("Inspector(s)"). The Developer shall not take advantage of apparent errors or omissions in the City Approved Plans and Specifications for the Subdivision. If the Developer discovers an error or omission, the City Engineer shall be immediately notified in writing or via email. The City Engineer will make corrections and interpretations as necessary to fulfill the intent of the City Approved Plans and Specifications for the Subdivision.

13. Duties of the Inspector.

City Inspectors are under the direction of the City Engineer and are authorized to inspect work and materials furnished by the Developer. Inspection may extend to any part of the work, preparation, fabrication, or manufacture of the materials to be used. The Inspector is not authorized to alter or waive the conditions of this Agreement. The Inspector is not authorized to issue instructions contrary to the City Approved Plans and Specifications for the Subdivision or to act in a supervisory capacity for the Developer. The Inspector will have the authority to reject work or materials until any questions at issue can be referred to and decided by the City Engineer.

Neither the City's authority to inspect all work nor any actual inspections performed by the City during the course of construction shall constitute an acceptance of work performed or operate to relieve the Developer and/or Contractor's obligation to construct the project in compliance with the City Approved Plans and Specifications for the Subdivision.

14. Inspection of Work.

Materials and details of the work shall be subject to inspection by the City Engineer. The City Engineer shall be allowed to enter upon Developer's property and have access to the work site to inspect during regular business hours and shall be furnished with such information and assistance by the Developer as is required to make a complete and detailed inspection.

15. Materials.

All materials and equipment furnished under this Agreement shall be new unless approved in writing by the City Engineer. Materials used shall conform to requirements of the approved plans, specifications, and standards. The City retains the right to perform any and all record testing which may be deemed necessary or advisable by the City Engineer. To expedite the inspection and testing of materials, the Developer may notify the City Engineer of proposed sources of materials prior to delivery. Work in which unapproved materials are used shall be performed at the Developer's risk and are subject to inspection, testing, or rejection. Copies of tests will be furnished to the Developer's representative when requested.

Samples taken and tests made will be in accordance with the most recent standard or tentative standard methods of a AASHTO, ASTM, and the "South Dakota Department of Transportation, Materials Manual-Sampling and Testing Procedures." Samples will be taken and tests made by a representative of the City and at the City's expense except as otherwise stipulated.

If a discrepancy exists, the order of precedence is as follows:

- a. Department's Materials Manual.
- b. AASHTO.
- c. ASTM.

16. Conformity with Plans and/or Specifications.

Work performed and materials furnished shall conform to the lines, grades, cross sections, dimensions, and material requirements, including tolerances, shown on the plans, specifications, or other documents.

If the City Engineer finds the materials furnished, work performed, or the finished product is not in full conformity with the City Approved Plans and Specifications for the Subdivision, resulting in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or corrected by and at the expense of the Developer.

17. Remedies for Substandard Work and/or Materials.

Work which does not conform to the requirements of the City Approved Plans and Specifications for the Subdivision will be considered as unacceptable, unless otherwise determined acceptable under the provisions of Section 16. Unacceptable work, whether the result of poor construction, use of defective materials, or damage through carelessness or other cause, shall be removed immediately and replaced in an acceptable manner.

18. Acceptance Limitation.

The acceptance of a Public Improvement shall in no way constitute an assumption by the City of liability for defects in the improvement. By accepting the improvement, the City does not warrant or guarantee the Public Improvement has been properly designed or constructed, or waive any claims relating thereto. Any errors or omission of the Developer, their Engineer, or the Contractor shall not be the responsibility of the City.

19. Revisions to the Approved Construction Plans.

The Developer may revise the approved construction plans as necessary to complete the subdivision improvements, provided the changes are reviewed and approved per the City's standard processes. If the revisions result in increased liability to the City, the City Engineer may withhold performance security reductions or require increases in the Performance Security until such work is completed and accepted by the City. If the revisions result in a liability decrease, the performance security may be reduced in accordance with Section 5 of this agreement.

20. Protection of Valley Gutters and Fillets.

All fillets and valley gutters shall be protected during paving operations and between placement of lifts to prevent damage. A gravel crossing or other means of ramping shall be placed over all valley gutters during base course placement and shaping operations. All valley gutters shall be protected during asphalt paving operations with gravel, asphalt, wooden plank ramp, or other approved ramping methods.

When the top lift of asphalt is not placed the same construction season as bottom lift or if the top lift is not placed within two (2) weeks of bottom lift, all valley gutters and fillets shall be ramped with asphalt to protect them from snow plow and other vehicle damage. Any damage to curb and gutter, valley gutters, and/or fillets caused by the lack of adequate ramping shall be repaired at the expense of the Developer and the same shall be a condition of Final Acceptance.

21. Maintenance of Traffic and the Premises.

Unless otherwise specified, the Developer shall be solely responsible for maintaining the premises being subdivided in a safe condition and for keeping the project secured from public use until the bottom lift of asphalt concrete is placed. Measures to adequately restrict public access must be used and maintained by the Developer. If the requirements call for public access, the Developer shall install and maintain appropriate controls as required. The Developer shall be responsible for installation and maintenance of any barricades or warning signs required until Final Acceptance is granted and permanent signage is in place. The Developer shall notify the City Engineer ten (10) business days prior to the need for permanent signage.

Until Final Acceptance is granted, the Developer shall be responsible for maintaining traffic throughout the subdivision. This may include, but is not limited to:

- a. Placement of asphalt concrete to create ramps at fillets, valley gutters, and lift transitions.
- b. Placement of traffic control barriers to indicate the termination of roads.

22. Roadway Maintenance Responsibilities.

The City will be responsible for snow removal on any street where asphalt or concrete surfacing has been placed prior to Final Acceptance and during the warranty period. Snow removal will be the responsibility of the Developer on any unpaved streets. Any damage to work including the asphalt or concrete surfacing, curb and gutter, fillets, and valley gutters caused to the work exclusively by snow removal operations will not be subject to repair or replacement. However, the Developer will be responsible for any snow removal damage to valley gutters or fillets caused by inadequate ramping when the top lift of asphalt has not been installed. The City shall not provide snow removal services on streets where manholes, valve boxes, and

any other items protrude above the roadway surface.

The Developer will not be responsible for any routine maintenance during the Warranty Period. Routine maintenance includes street sweeping, crack sealing, and seal coating. However, the City is not responsible for street sweeping caused by construction activities in the development.

In the case of an emergency repair where, in the judgment of the City, delay would cause serious loss or damage, repairs may be made without notice being sent to the Developer, and the Developer shall pay the cost thereof.

23. Transfer of Responsibility.

In the event of the sale, conveyance, or transfer of the Subdivision or any portion thereof, the City will not release the Developer from its obligations under this Agreement and will continue to hold the Developer responsible for all Public Improvements until a successor in interest to the Developer has posted a suitable Performance Security and/or Warranty Security, as applicable, and entered into an Agreement to Construct Subdivision Improvements with the City. The Developer may also assign over its Performance Security with the written consent of the City, which consent shall not be unreasonably withheld to cover said Public Improvements.

24. Failure to Complete the Required Improvements.

In the event the Developer shall fail or neglect to fulfill the obligations under this Agreement, the City shall have the right to construct or cause to be constructed the Public Improvements specified herein, as shown on the Final Plat and in the City Approved Plans and Specifications for the Subdivision as approved, and the Developer shall be liable to pay to and indemnify the City, the total cost to the City thereof, including, but not limited to, engineering, attorney fees, and contingent costs together with any damages, either direct or consequential, which the City may sustain on account of the failure of the Developer to carry out and execute all of the provisions of this Agreement and any agreements referenced herein. The City shall have the unconditional right to call upon the Performance or Warranty Security for the purposes specified and in the amounts enumerated herein.

If the Developer fails to or refuses to complete the Public Improvements under the terms of this Agreement by the dates required, the City may upon written notice to Developer at any time (or times) execute against the Performance or Warranty Security for those funds it deems necessary to complete the work - whether by the City, a private company, or a public agency - upon certifying that the Developer has not completed the Public Improvements. The certification shall be made by a notarized statement signed by the City Engineer or his/her designated agent.

If the City takes over the completion of the Public Improvements because of the Developer's failure or refusal to complete the same, and if the bond, escrow, or letter of credit posted is insufficient to complete the Public Improvements and cover the Warranty Security, the Developer shall be liable to the City upon demand for the additional funds necessary to complete or repair the Public Improvements according to the City Approved Plans and Specifications for the Subdivision.

If the City performs, or has performed on its behalf by a private company or a public agency, the Public Improvements specified in the City Approved Plans and Specifications for the Subdivision, and if the final costs of the Public Improvements to the City including, but not limited to, administrative costs, is less than the amount drawn against the bond or letter of credit after withholding a sum sufficient to cover the

Warranty Security, then the City shall refund the excess to the Developer or surety within thirty (30) days from completion and acceptance of the Public Improvements.

25. Breach of Agreement.

- a. The following noninclusive list shall constitute a breach of this Agreement:
- (1) Failure by the Developer to complete the Public Improvements within the contract period or any extension thereof.
 - (2) Failure or refusal by the Developer to comply with an order of the City Engineer within a reasonable time.
 - (3) Developer's disregard of laws, ordinances, or instructions of the City Engineer.
 - (4) Failure or refusal by the Developer to remove rejected materials.
 - (5) Failure or refusal by the Developer to replace, perform anew, or correct any defective or unacceptable work.
 - (6) Bankruptcy or insolvency of the Developer, or the making of an assignment for the benefit of creditors by the Developer.
 - (7) Failure by the Developer to carry on the work in an acceptable manner.
 - (8) Any other breach of a material provision of this Agreement.

Upon Developer's breach, the City shall be entitled to give notice of default to the Developer and security provider, if any. The notice of default shall indicate how the Developer has breached and shall indicate what action the Developer must take to cure such breach. The Developer shall have fifteen (15) days to take substantial action to cure such breach or appeal the City Commission.

- b. If the Developer does not, within the time for cure provided in the notice of default, take substantial action to cure such breach, the Developer shall, at the written direction of the City Engineer, relinquish possession and control of the work, and the City shall thereupon have full power and authority, to terminate the contract, to take over the completion of the work, to enter into agreements with others for the completion of said contract according to the terms and provisions thereof, or to use such other methods as in the City's opinion may be required for the performance of said contract, or completion of Public Improvements, in an acceptable manner.
- c. The Developer and its security provider shall be liable for all outlay and expense incurred by the City, together with the costs of completing the Public Improvements, and such costs may be deducted from any monies due or which may become due to the Developer. In case such outlay and expense exceeds the sum that would have been payable under the Warranty Security, or to the extent said Warranty Security fails to make payments, the Developer shall be liable for and shall pay to the City the amount of said sums.

- d. Neither the City, nor any officer, agent, nor employee thereof, shall be in any way liable or accountable to the Developer or the Developer's security provider for the method by which the completion of said Public Improvements, or any portion thereof, may be accomplished, or for the price paid therefore. Neither by taking over the work nor by declaring a default, shall the City forfeit the right to recover damages from the Developer for failure to complete the Public Improvements.

Developer:

By _____

STATE OF _____)

:SS

COUNTY OF _____)

On this _____ day of _____, 20____, before me, the undersigned officer, personally appeared _____, known to me or satisfactorily proven to be the person(s) whose name(s) _____ subscribed to the within instrument and acknowledged that _____ he _____ executed the same for the purposes therein contained.

In witness whereof, I hereunto set my hand and official seal.

(SEAL)

Notary Public—State of: _____
My Commission Expires: _____

City of Worthing:

Mayor

Date

ATTEST:

Finance Officer

Article 15: Definitions

Access Easement. An easement granting the perpetual right of abutting property owners to use a designated portion of property for common ingress and/or egress purposes. The easement area shall be maintained by the abutting property owners. The easement is not to be considered required frontage.

Alley. A public or private right-of-way which affords only a secondary means of access to abutting property.

Arterial. A main traffic artery, more or less continuous across the City, which acts as a principal connecting street with state and federal highways and includes each street designated as an arterial street on the Major Street Plan.

Basement. Any story located below the main floor.

Block. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

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

City. The City of Worthing, South Dakota.

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

Common Areas. Common areas, as used in this ordinance, unless the context otherwise requires and unless otherwise provided in the master deed or lease, includes:

- a. The land whether fee simple or leased on which the building or buildings stand;
- b. The land which is used to access the building or buildings;
- c. The foundations, main walls, roofs, halls, lobbies, stairways, and entrances and exits and communication ways;
- d. The basements, flat roofs, yards, gardens, recreation facilities, and parking areas, unless otherwise provided or stipulated;
- e. The premises for the lodging of janitors or persons in charge of the building or buildings, except as otherwise provided or stipulated;
- f. The compartments or installations of central services such as power, light, gas, cold and hot water, refrigeration, reservoirs, water tanks, pumps, and the like;
- g. The elevators, garbage incinerators, and in general all devices or installations existing for common use; and
- h. All other elements of the property rationally of common use or necessary to its existence, upkeep, and safety. [SDCL 43-15A-5]

Comprehensive Plan. Any legally adopted part or element of the comprehensive plan of the City of Worthing.

Concept Plan. A concept plan is a basic plan that is preparatory to the preliminary plan.

Condominium. A condominium includes separate interest in common areas and other portions of real property.

Contractor. The person who contracts with an individual or the developer to construct a building or structure on a parcel of land.

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

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

Developer. The owner of land proposed to be subdivided or its authorized agent who shall have express written authority to act on behalf of the owner. Consent shall be required from the legal owner of the premises.

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

Easement. Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the property. An easement is also a means to acquire a legal right for a specific use of land owned by others.

Engineering Design Standards. The Engineering Design Standards for public improvements of the City of Worthing.

Expressway. A principal traffic artery, serving the major centers of activity, the highest traffic volume corridors and the longest trip desired, with partially or fully controlled access.

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

Frontage Road. A street used only for access to abutting property where there will be constructed an expressway or arterial street.

Homeowners Association. An association or organization, whether or not incorporated, which operates under and pursuant to recorded covenants or deed restrictions through which each owner or a portion of a subdivision—be it a lot, parcel site, unit plot, condominium, or any other interest—is automatically a member or assessment for a prorated share of expense of the association which may become a lien against the lot, parcel, unit, condominium, or other interest or member.

Local Street. A street intended to provide access to other streets from individual properties and to provide right-of-way beneath it for various utilities but not intended to be used for through traffic.

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

Lot of Record. A plat that has been recorded in the office of the Register of Deeds prior to the effective date of

this ordinance.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement), but not including an unfinished crawl space used for access.

Main Floor. The lowest story in which more than six feet lies above grade for more than 50 percent of the perimeter or in which any point is more than 12 feet above grade.

Major Drainageway. The main corridor for storm water flow through developments. Major drainageways are identified as intermittent streams on USGS quadrangle maps, or as otherwise approved by the City Engineer.

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

Minor Plat. Any plat containing not more than three lots fronting on an existing street that meets all standards of Section 204.

Owner. The record owners of real property in fee simple including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to the land sought to be subdivided.

Parcel. Any contiguous quantity of land in the possession of, owned by, or recorded as the property of the same claimant, person, or company.

Plat. A map, or representation on paper or transferable to paper (e.g., electronic) of a piece of land subdivided into lots, parcels, tracts or blocks, including streets/roads, commons, and public grounds, if any, all drawn to scale and complete with all irrevocable offers of dedication.

Preliminary Subdivision Plan. The preliminary subdivision plan shall address the preliminary subdivision plan's internal street network and associated lot and block layout and the relationship of proposed zoning and land use.

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

Replats. The adjustment and/or vacation of property lines which reallocates or consolidates land area of contiguous lots or parcels, provided that the adjustment or vacation of property lines, sites, or other divisions of land under stated conditions of this subdivision ordinance.

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

Setback. That line that is the required minimum distance from any lot line that establishes the area within which the principal structure must be created or placed.

Structure. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences and

signs.

Subdivision. The division or redivision of land into two or more lots, tracts, parcels, sites, condominiums, or divisions for the purpose of sale, lease, or transfer of ownership, except as provided in Section 204 - Subdivision Plan Exemptions - Minor Plat and Section 205 - Plat Exemptions.

Subdivision Construction Agreement. A contract entered into by the developer and the City by which the developer warrants and promises to complete the required public improvements within the subdivision within a specified time period.

Substantial Build-Out. A subdivision in which at least ninety percent of the individual lots or ninety percent of the real property within the approved subdivision has been developed by the completion of planned vertical and horizontal construction and the remaining property has been permanently stabilized.