

ORDINANCE # 99-1

**AN ORDINANCE PERTAINING TO THE ESTABLISHMENT OF
A SUBDIVISION ORDINANCE FOR THE CITY OF FREEMAN
AND ITS AREA OF EXTRATERRITORIAL JURISDICTION**

**BE IT ORDAINED BY THE CITY OF FREEMAN,
HUTCHINSON COUNTY, SOUTH DAKOTA**

**ARTICLE I
GENERAL PROVISIONS**

Section 101 Title

These regulations may be referred to as the “Official Subdivision Ordinance” for the City of Freeman.

Section 103 Purpose

It is the purpose of this Ordinance to regulate the subdivision of land, within the City of Freeman. The further intent is to coordinate streets with other subdivisions and land uses; to provide for coordinated utility, water, and sanitation infrastructure; to address drainage and flood control while minimizing cut and fill operations; to foster efficient and orderly urban growth compatible with the natural environment; to prevent premature land subdivision; to promote and protect the interests of all members of the community; and to conform with the goals, objectives, and policies of the City of Freeman Comprehensive Plan.

Section 105 Authority

In accordance with SDCL 11-6 and any other authority provided by law or as such statutes may be amended, the City of Freeman does hereby exercise the power and authority to review and approve or disapprove plats for the subdivision of land within the City of Freeman.

Section 107 Jurisdiction

1. These regulations shall apply to all subdivision of land, as defined herein, located within the City of Freeman corporate limits;
2. It shall be unlawful for any person having control of any land within the City of Freeman corporate limits to subdivide or layout such land in lots, unless by plat, in accordance with the laws of the State of South Dakota and the regulations contained herein;

3. Developer shall confer with the Zoning Administrator, or their legally appointed designee, prior to preparing a subdivision plat. The purpose of said meeting is to become thoroughly familiar with subdivision and land use requirements, as well as, the goals, objectives and policies of the Official City of Freeman Comprehensive Plan affecting the territory in which the proposed subdivision lies;
4. No land, except that land platted in accordance with Section 305 shall be subdivided until the Developer has submitted the preliminary plat and the final plat to the Planning Commission for public hearing and recommendation to the City Council for its approval; and
5. No plat shall be legally recorded in the office of the County Register of Deeds and no lots shall be sold from such plat unless and until approved as herein provided.

Section 109 **Enforcement, Violations, and Penalties**

1. It shall be the duty of the Zoning Administrator, or their legally appointed designee, to enforce these regulations and to bring to the attention of the City Attorney any violations or lack of compliance herewith;
2. No owner, or agent of the owner, of any parcel of land located in a proposed subdivision shall transfer or sell any such parcel before a plat of said subdivision has been reviewed and approved by the Planning Commission and City Council, except that land platted in accordance with Section 305. Once approved said subdivision shall be filed with the County Register of Deeds, in accordance with the provisions of these regulations prior to sale or transfer of any parcel;
3. The subdivision of any lot or parcel of land, by metes and bounds description(s) for the purpose of sale, transfer or lease with the intent of evading these regulations, shall not be permitted. All such described subdivisions shall be subject to all of the requirements contained in these regulations;
4. No building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations;
5. Any person violating any of the provisions of this section shall be guilty of a Class II misdemeanor. Each day such violation is committed, or permitted to continue, shall constitute a separate offense and be punishable as such; and
6. No plat of any subdivision shall be allowed to be recorded with the County Register of Deeds or have any validity until it has followed the official process, including public hearings, and been reviewed and approved by the Planning Commission and City Council. In the event a plat without official approval is recorded, it shall be considered invalid and the City Council shall institute proceedings to have the plat stricken from the records.

Section 111 Plat Required

Whenever any subdivision of land is proposed, the Developer, owner or their authorized agent shall apply for and secure approval of such proposed subdivision plat in accordance with the procedures set forth herein. Said approval shall occur prior to drafting or executing any contract for the transfer of any part thereof or erection of any structure in such proposed subdivision.

Section 113 Platting Requirement Exemption

The Zoning Administrator may waive the platting requirement of this Ordinance under the following conditions:

1. The owners of the lots of record propose an adjustment to a common property line;
2. The requested waiver includes two (2) or fewer lots;
3. The total proposed adjustment does not exceed ten (10) feet;
4. The property line adjustment is able to be completed without the need for the modification to any street, alley, easement, utility, or municipal facilities;
5. The area covered by the proposed adjustment does not constitute a portion or a phase of an approved preliminary plat;
6. The proposed adjustment is in accordance with all requirements of the applicable zoning district, and with the requirements of this Ordinance;
7. The property owners shall present the proposed adjustment to the Zoning Administrator or their designee;
8. The Zoning Administrator or their designee shall review the request for consistency with the standards set forth in this Ordinance;
9. The Zoning Administrator or their designee shall make the decision to approve or not approve the request only after proper review, and within seven (7) days of submittal of an application; and
10. The action of the Zoning Administrator, together with all modifications, requirements, and reasons thereof, shall be noted on all copies of the adjustment application.

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ARTICLE II DEFINITIONS

The following words and phrases shall be as defined below:

Building

Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind, and when separated by common, shared walls without openings, each portion of such building so separated shall be deemed a separate building.

Building Setback Lines

A line parallel or approximately parallel to the lot lines at a specified distance therefrom, marking the minimum distance from the lot line that the building may be erected.

Comprehensive Plan

Any legally adopted part or element of the City of Freeman Comprehensive Plan.

Contractor

The person who contracts with an individual or Developer to construct a building on a parcel of land prepared by a Developer.

Covenant

An agreement, convention, or promise of two or more parties, by deed in writing, signed and delivered, by which either of the parties pledges himself to the other that something is either done, or shall be done, or shall not be done. The term is currently used primarily with respect to promises in conveyance or other instruments relating to real estate.

Developer

The owner of the property being platted or replatted or the person designated by the owner as being responsible for the development of the property. The terms "subdivider" and "developer" are synonymous and used interchangeably, and shall include any person, partnership, firm, association, corporation and/or any officer, agent, employee and trustee thereof who does or participates in the doing of any act toward the subdivision of land within the intent, scope and purview of this Ordinance. The developer shall also be defined as the builder or contractor if they are responsible for the construction of buildings and/or structures or permanent improvements.

Easement

Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property. For the purposes of this Ordinance the term shall primarily be used to describe utility access.

Final Plat

A plat of a tract of land which meets the requirements of these regulations, including and approval, and is in proper form for recording in the office of the County Register of Deeds.

Lot

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

Lot, Corner

A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty five (135) degrees.

Lot Line

Any boundary line of a lot.

Lot Line, Exterior

The side lot line, which abuts the street on a corner lot.

Lot Line, Rear

The lot line or point of intersection of the side lot lines farthest from and opposite the front lot line.

Lot Line, Side

A lot line other than a front or rear lot line.

Lot of Record

A lot, which is created by an approved subdivision, the plat of which, has been duly recorded in the County Register of Deeds office.

Major Street Plan

The Transportation Plan in the adopted City of Freeman Comprehensive Plan.

Metes and Bounds

A system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference such as a monument or other marker, the corner of intersecting streets, or in a rural area, a tree or other permanent fixture.

Monument

A permanent structure set on a line to define the location of property lines, important horizontal subdivision control points, and other important features on a plat.

Owner

The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided.

Person

Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

Planning Commission

The Planning Commission of the City of Freeman. The term Planning Commission shall be synonymous with Planning and Zoning Commission and Commission, but shall not include Board of Adjustment or Zoning Board.

Preliminary Plat

The map or maps of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of this Ordinance, to permit the evaluation of the proposal prior to detailed engineering and design.

Professional Engineer

An individual currently certified and licensed to practice as a Registered Professional Engineer by the State of South Dakota. The engineer must be in possession of a current registration stamp.

Registered Land Surveyor

An individual currently certified and licensed to practice as a Registered Licensed Land Surveyor by the State of South Dakota. The land surveyor must be in possession of a current registration seal.

Right-of-way

A strip of land occupied by a street, railroad, transmission line, oil or gas pipeline, water lines, storm or sanitary sewer lines, 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 final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. The owner of the plat on which such right-of-way is established shall dedicate right-of-way to public use.

Roadway

The part of the street, road or highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and, where a highway includes two or more separate roadways, the term roadway refers to any one roadway separately and not to all of the roadway collectively.

Street

Shall mean a way set-aside for vehicular traffic, regardless of size or designation, but excluding private driveways serving only one parcel of land.

1. Arterial -- A principal 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.
2. Collector -- A street which carries traffic from local streets to arterial streets and includes each street designated as a collector street on the Major Street Plan.

3. Local Street -- A street intended to provide access to other streets from individual properties and to provide rights-of-way beneath it for various utilities but not intended to be used for through traffic.
4. Private Street-- One that has not been dedicated, but rather reserved as an access easement to property. The private street shall be owned and maintained by the property owners which it serves.
5. Alley -- A public or private right-of-way which affords only a secondary means of access to abutting property.

Subdivider

See Developer.

Subdivision

The division of a lot, tract or parcel of land into two (2) or more lots, plots, sites or other divisions of land for the purpose of either immediate or future sale or building development. It also includes a re-subdivision of lands or lots, and the establishment or dedication of a road, highway, street or alley through a tract of land.

Tract

The term “tract” is used interchangeably with the term “lot” particularly in the context of subdivision, where a “tract” is subdivided into several lots, parcels, sites, units, plots, condominiums, tracts, or interests.

Variance

Modification of the provisions of these regulations, as applied to a specific piece of property.

Waiver

Relief from the provisions of these regulations, as applied to a specific piece of property.

Water Courses

Any natural or artificial stream, river, creek, ditch channel, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks and includes any area adjacent thereto subject to inundation by reason of overflow or flood water.

Yard

An open area of land, other than a court, on the same lot with a main building or structure, unoccupied and unobstructed except as otherwise provided or required by this Ordinance and located between the main wall of the main building and one of the lot lines of the said lot.

Yard, Front

An open, unoccupied space on a lot facing a street and extending across the front of the lot between the side lot lines. Measured from the road right-of-way to the structure.

Yard, Rear

That part of a lot that extends across the full width of a lot between the rear lot line and nearest wall or supporting member of a principal building or structure.

Yard, Side

That part of a lot which extends from a front yard to the rear yard between the side lot line of a lot and the nearest wall or supporting member of a building or structure except where the supporting member is supporting an uncovered patio or uncovered deck.

Zoning Administrator

An administrative official who shall be known as the Zoning Administrator and who shall be designated by the Freeman City Council. Said official shall administer and enforce this Ordinance. They may be provided with the assistance of such other persons as the City Council may designate.

Zoning Ordinance

The Comprehensive Zoning Ordinance of the City of Freeman, including all duly adopted amendments thereto.

Zoning Map

The Official Zoning Map of the City of Freeman, including all amendments thereto.

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**ARTICLE III
SUBDIVISION APPLICATION PROCEDURE AND APPROVAL
PROCESS**

Section 301 Advisory Meeting with the Zoning Administrator

Prior to the submission of any plat, the Developer should present a sketch of the proposed plat to the Zoning Administrator, or their legally appointed designee, for discussion and comments regarding the requirements for the general layout of streets, reservations of land, street improvements, drainage, sewerage, fire protection and similar matters, as well as the availability of services.

Section 303 Filing Fee

A filing fee shall be deposited at the City Finance Officer's Office for all plats and for all re-plats at the rate shown below:

Two lots or less.....\$100.00
Three lots or more\$100.00 plus \$10.00 per platted lot.

Publishing costs for notices related to plats shall be in addition to the fees above and shall be paid by the Developer. All required fees shall be paid prior to filing and registering the plat with the County Register of Deeds. Failure by the Developer to pay all required fees will result in suspension or revocation of the plat.

Section 305 Expedient Plat Procedures

1. General

The purpose of the expedient plat is to allow approval of a minor plat through accelerated action in certain circumstances with review and approval by the Zoning Administrator, Planning Commission and City Council.

2. Expedient Plat Qualifications

A developer may request an Expedient Plat when the following conditions exist:

- a. The plat includes two (2) or fewer lots;
- b. The total area covered by the plat does not exceed two (2) acres;
- c. Every lot created by the plat has frontage on an existing paved street;
- d. Every lot within the plat is able to be established without the need for the creation of a new street or extension of municipal facilities;
- e. The area covered by the plat does not constitute a portion or a phase of an approved

- preliminary plat;
- f. Each lot created by the plat is in accordance with all requirements of the applicable zoning district, and with the requirements of this Ordinance; and
 - g. Dedication of street or alley right-of-way, if applicable, occurs in accordance with the Comprehensive Plan and general design standards of the City of Freeman.

3. Procedure for Expedient Plat Approval

- a. Whenever an expedient plat is proposed, the Developer shall submit three (3) blueline or computer aided design (CAD) copies at a minimum scale of one hundred (100) feet to an inch. The plat may be submitted to the City Finance Officer, at any time;
- b. The Zoning Administrator or their designee shall review the plat for consistency with the standards set forth in this Ordinance;
- c. The Zoning Administrator or their designee shall make the decision to process the application as an expedient plat only after proper review, and within seven (7) days of submittal of an application;
- d. The action of the Zoning Administrator, together with all notes, applicable requirements, and reasons thereof, shall be noted on all copies of the expedient plat application;
- e. Following review at a public meeting and due consideration of the expedient plat, the Planning Commission shall immediately transmit all copies of the plat to the City Council, together with its recommendations. Said recommendations shall include approval, disapproval, or suggestions for modification and the reasons thereof, and a discussion of the affect of said plat with regard to this Ordinance, the Comprehensive Plan and Zoning Ordinance;
- f. Said recommendations shall be of an advisory nature only. If the Planning Commission does not act within fifteen (15) days of official receipt, the expedient plat shall be deemed to have received a favorable recommendation in all respects, and shall receive due consideration by the City Council;
- g. Following a public meeting and due consideration of the expedient plat, the City Council shall approve, disapprove, or modify the recommendations of the Planning Commission. The Council may impose requirements, in conformance with this Ordinance, as deemed necessary and appropriate for final approval;
- h. Approval of the expedient plat by the City Council shall indicate approval and acceptance of the plat;

- i. One (1) copy shall be returned to the Developer, one (1) copy relayed to Planning Commission and one (1) copy forwarded to the City Council;
- j. An expedient plat shall be filed for record with the County Register of Deeds within two (2) months from the date of approval. Any expedient plat not filed within such time shall be considered invalid. It shall be the applicant's responsibility to submit all required copies of the plat to the City of Freeman in time to acquire city signatures and to file the plat before the two (2) month period expires. An expedient plat shall be filed for record with the County Register of Deeds in the same manner as required for a final plat. An extension of time may be applied for by the Developer, in writing along with the reasons for the request, and granted by the City Council;
- k. Reapproval of an expedient plat by the City Council may be applied for at any time after the approved plat becomes invalid. If the Zoning Administrator, Planning Commission or City Council should deem changes necessary in the reapproval of an expedient plat in light of new or significant information or requirements, they shall so inform the developer. An expedient plat submitted for reapproval shall be prepared in accordance with, and comply with, the requirements of this Ordinance, the Comprehensive Plan, Official Zoning Ordinance and all other applicable requirements in effect at the time such application for reapproval is formally filed with the Finance Officer;
- l. The Zoning Administrator or their designee may, for any reason, elect to present a request for an expedient plat to the Planning Commission for action. Any request for an expedient plat, which the Zoning Administrator refuses to accept, shall be placed on the following Planning Commission agenda for action. Any expedient plat that is presented to the Planning Commission shall be processed in accordance with the procedures set forth in Sections 307 and 309 of this Ordinance; and
- m. An expedient plat shall contain all information required for a final plat, as prescribed by Section 309 (3) of this Ordinance.

Section 307 Preliminary Plat Approval

1. Procedure for Preliminary Plat Approval

- a. Whenever a preliminary plat is proposed, the Developer shall submit three (3) blue-line or computer aided design (CAD) copies at a minimum scale of 100 feet to an inch. The preliminary plat shall be submitted to the City Finance Officer, a minimum of five (5) days prior to the Planning Commission meeting. The Planning Commission reserves the right to waive the minimum submission date;
- b. The Planning Commission shall review the preliminary plat for consistency with the standards set forth in this Ordinance. After the preliminary review, a public hearing shall be set and held for due consideration of the plat by the Planning Commission and for public review and input;

- c. Notice of public hearing shall be given at least five (5) days in advance by publication in a newspaper of general circulation. The owner of the property for which plat(s) is sought or their agent shall be notified by mail;
- d. The city shall provide a copy of the notice to the adjacent landowners at least five (5) days in advance by mail;
- e. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
- f. Following a public hearing and due consideration of the preliminary plat, the Planning Commission shall transmit all copies of the preliminary plat to the City Council, together with its recommendations, within sixty days after receipt thereof. Said recommendations shall include approval, disapproval, or suggestions for modification and the reasons thereof, and a discussion of the affect of said plat with regard to the City of Freeman Comprehensive Plan;
- g. Said recommendations shall be of an advisory nature only. If the Planning Commission does not act within sixty-five (65) days of official receipt, the preliminary plat shall be deemed to have received a favorable recommendation in all respects, and shall receive due consideration by the City Council;
- h. The Planning Commission forwards all copies of the preliminary plat to the City Council for public hearing and review;
- i. Notice of public hearing shall be given at least five (5) days in advance by publication in a newspaper of general circulation. The owner of the property for which plat(s) is sought or their agent shall be notified by mail;
- j. A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than seventeen (17) inches in height and eleven (11) inches in width with a white background and black letters not less than one (1) inch in height. Such posted notice shall be so placed upon such premises that it is easily visible from the road and shall be so posted at least five (5) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearings;
- k. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
- l. Following a public hearing and due consideration of the preliminary plat, the City Council shall approve, disapprove, or modify the recommendations of the Planning Commission. The Council may impose requirements, grant waivers or variances, in conformance with this Ordinance, as deemed necessary and appropriate for final approval;
- m. The action of the City Council, together with all modifications, requirements,

variances, and reasons thereof, shall be noted on all copies of the preliminary plat application;

- n. One (1) copy shall be returned to the Developer, one copy relayed to Planning Commission and one copy retained by the City Council;
- o. Approval of the preliminary plat by the City Council shall indicate approval of the development concept only, and does not constitute an acceptance or approval of the subdivision plat; therefore, no building permits shall be issued on the approval of the preliminary plat; and
- p. The approval of the preliminary plat shall lapse unless a final plat, based thereon, is submitted within two (2) years from the date of such approval. An extension of time may be applied for by the Developer, in writing along with the reasons for the request, and granted by the City Council.

3. Required Information for Preliminary Plat

The preliminary plat shall meet the standards of design as set forth in Article IV and shall present 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 or adjacent to said subdivision.
- b. The names of all adjacent subdivisions, location of all lot and block lines, easements, dedications, rights-of-way, and adjoining unplatted property shall be labeled as such;
- c. Vicinity map to scale showing the location of the preliminary plat and all other property within six hundred sixty (660) feet in every direction, including those across streets, streams, rights-of-way, or similar delineations;
- d. The names, addresses and telephone numbers of the owner, developer and surveyor;
- e. The legal description and notations stating acreage, scale, north arrow and date of survey;
- f. A systematic lot and block numbering pattern, lot lines and street names, consistent with City and County patterns;
- g. Location of property lines, streets, alleys, and existing utilities with size of lines, underground installations and other significant features;
- h. Current zoning on affected lands, as well as all adjacent property, including those across streets, streams, rights-of-way, or similar delineations;

- i. Zoning for proposed subdivision;
- j. Contours at slope intervals of not greater than two (2) feet; also, the locations of watercourses, bridges, wooded areas, and such other topographic features as may be pertinent of the subdivision;
- k. Proposed easements, dedications, and reservations of land to be considered for sale or dedication to public use;
- l. Copies of proposed deed restrictions or covenants, if any, shall be attached to the preliminary plat;
- m. Location of proposed culverts, storm sewers, retention basins, buffers, and other drainage provisions. Calculations for quantity and flow rate supporting culvert size and location shall be included with statement of impact on future drainage;
- n. The existing and future drainage patterns for the area should be generally shown along with any proposed cut and fill operations which may alter the existing drainage patterns for direction, quantity, or flow rate; and
- o. Notations should be made on the plat regarding the location of the nearest available sewer and water connections, the direction of the proposed sanitary sewer flow, availability of capacity, and the necessity for any lift stations.

Section 309 Final Plat Approval

a. General

The final plat shall conform substantially to the preliminary plat as approved, and it may constitute only a portion of the preliminary plat, which the Developer proposes to record and develop.

2. Procedure for Final Plat Approval

- a. Three (3) copies of the final plat and required supplemental material shall be filed with the Zoning Administrator, or their legally appointed designee, who shall transmit them to the Chairperson of the Planning Commission. Such filing shall take place at least five (5) days prior to the meeting of the Planning Commission at which it is to be considered;
- b. The Planning Commission shall review the final plat for consistency with the standards set forth in this Ordinance and with items considered under preliminary approval;
- c. The Commission shall make a finding that it is empowered under the section of this Ordinance described in the application to approve, modify or deny the final plat. The Commission shall transmit all copies of the final plat to the City Council, together with its recommendations, within sixty-five (65) days after

receipt thereof. Said recommendations shall include approval, disapproval, or suggestions for modification and the reasons thereof, and a discussion of the affect of said plat with regard to the City of Freeman Comprehensive Plan;

Said recommendations shall be of an advisory nature only. If the Planning Commission does not act within sixty-five (65) days, the final plat shall be deemed to have received a favorable recommendation in all respects, and shall receive due consideration by the City Council;

- d. Following review and due consideration of the final plat, the City Council shall approve, disapprove, or modify the recommendations of the Planning Commission and shall impose those requirements or grant those waivers or variances in conformance with this Ordinance as deemed necessary and appropriate by the City Council for final approval; and
- e. When the final plat has been approved by the City Council, one (1) copy shall be returned to the Developer with the approval of the City Council certified thereon, for filing with the County Register of Deeds as an official plat of record within ninety (90) days. Failure to file will require the applicant to again complete the Final Plat process;

The City Council will transmit a certified copy to the Director of Equalization for their records.

3. Required Information for Final Plat

The final plat shall meet the standards of design as set forth in Article IV and shall present the following information:

- a. The original or reproducible final plat shall be drawn in black ink upon tracing cloth or tracing vellum and shall be of uniform size, fifteen (15) inches by twenty-six (26) inches or eight and one-half (8 ½) inches by fourteen (14) inches. The scale shall be one (1) inch equals one hundred (100) feet or larger;
- b. Date, title, name and location of subdivision, graphic scale and true north line;
- c. All dimensions, angles, bearings, and similar data on the plat shall be tied to primary control points. Locations and descriptions of said control points shall be given. Except where deemed clearly unreasonable or unfeasible by the City Council, these control points shall be located on section corners of the Coordinate System of the State of South Dakota;

- d. Tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sides with accurate dimensions to the nearest one hundredth of a foot, bearings of deflection angles, radii, arc and central angles of all curves with dimensions to the nearest minute;
- e. Name and right-of-way width of each street, easement or other right-of-way;
- f. Block numbers, lot numbers, lot lines, and frontage dimensions;
- g. Purpose for which sites other than residential lots, are dedicated or reserved;
- h. Minimum building setback lines;
- i. Location and description of monuments;
- j. Names and locations of adjoining subdivisions and streets, the location of adjoining unplatted properties, and the names and addresses of the owners of adjoining unplatted properties;
- k. Certification on plat of title showing that the applicant is the owner, that the making of the plat receives their consent and is in accordance with their desires, and a statement by such owner dedicating streets, rights-of-way, and any other sites for public use;
- l. Certification on plat by a registered land surveyor as to the accuracy of survey and plat;
- m. Certification by the Zoning Administrator, or their legally appointed designee, when individual sewerage disposal or water systems are to be installed;
- n. Certification that the Developer has complied with one of the following alternatives;
 - 1) All the improvements have been installed in accordance with the requirements of this Ordinance, said improvements shall be inspected by a professional engineer and certified as complying with approved plans and specifications, or
 - 2) A security bond, certified check, or letter of assurance/credit has been posted with the City Finance Officer in sufficient amount to assure such completion of all required improvements.
- o. Cross sections, profiles and grades of streets, curbs, gutters and sidewalks showing location of in-street utilities, and drawn to the City's standard scales and elevations shall be attached to the Final Plat;
- p. Protective covenants shall either be placed directly on the Final Plat or attached thereto in form for recording;

- q. Certification on plat by the Planning Commission, Mayor and the City Finance Officer that the plat has been approved for recording in the office of the County Register of Deeds; and
- r. Developer shall provide copies of all plat in a digital format whenever possible.

4. Guarantee in Lieu of Completed Improvement

No final subdivision plat shall be approved by the City Council or accepted for record by the County Register of Deeds until the required improvements have been installed in accordance with the preliminary plat and approved by the City Council. In lieu of such prior construction, the City Council may accept a security bond in an amount equal to the estimated cost of installation of the required improvements, whereby improvements may be completed in the event of default of the Developer.

Section 311 Re-plats

1. General

If the land proposed for platting is a re-subdivision, it shall require a preliminary plat and a plat of the re-subdivision, requiring the same review and approval procedures as for the preliminary plat and final plat, unless the re-subdivision meets the requirements set forth below.

b. Re-plat Requirements

A re-plat will be permitted where:

- a. The perimeter of the tract being re-platted shall not be altered by the re-plat;
- b. Either the grades shall not be changed from the drainage plan which was submitted and approved with the original plat or if the grades are going to be changed, then a drainage plan shall be submitted and approved for the re-subdivision; and
- c. The re-plat shall not significantly change any plans that have been prepared for the placement of utilities in the subdivision. If the re-subdivision meets these stipulations, the re-plat may be submitted as a plat, provided the previous platting lines are shown.

- If the subdivision meets the requirements set forth for a re-plat, it shall be approved or disapproved within ninety (90) days after submission to the City Council. A plat shall have been considered submitted when filed with Zoning Administrator and placed on the Planning Commission agenda. Otherwise, such plat shall be deemed approved and a certificate to that effect shall be issued by the City Council on demand. Provided, however, that the developer may waive this requirement and consent to the extension of such period.
- d. The new plat shall specifically describe all previous plats to be vacated including the book and page or document numbers of all existing plats in the Register of Deeds office. The new

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plat shall specifically state that all previous plats so listed are to be vacated in whole or part.
The new plat shall comply with all public highway provisions.

**ARTICLE IV
GENERAL REQUIREMENTS AND MINIMUM STANDARDS OF DESIGN**

Section 401 General

1. The City Council shall impose the following general requirements and compel all Developers to comply with the principles of design in the layout of subdivisions hereinafter described; and
2. All proposed subdivision regulations shall conform to the City of Freeman Comprehensive Plan.

Section 403 Suitability of the Land for Subdivision Development

1. If the City Council finds that land proposed to be subdivided is unsuitable for subdivision development due to flooding, bad drainage, steep slopes, rock formations, and other such conditions as may increase the danger of health, life, or property or aggravate erosion or flood hazards; and, if from adequate investigations, conducted by all public agencies, concerned, it has been determined that in the best interest of the public, the land should not be platted and developed for the purpose proposed, the City Council shall not approve the land for subdivision;
2. If the City Council determines the proposed subdivision lies within an environmentally sensitive area, the developer shall be responsible for conducting an Environmental Assessment pursuant to the National Environmental Policy Act. If the proposed development is granted a finding of no significant impact the developer shall formulate adequate methods to address concerns raised by respondent agencies that will be created by the subdivision and development of the land; and
3. The City Council may refuse to approve what it considers to be scattered or premature subdivision of land which would necessitate an excessive expenditure of public funds for the supply of such services, such as undue maintenance or installation costs for adequate streets, utilities, or other items.

Section 405 Dedication of Right-of-way and Roadway Width

1. In undeveloped or vacant areas, streets shall be identified and classified by the City Council. The location of major streets shall conform to the Current Road System Plan, City of Freeman Comprehensive Plan;
2. Streets shall have widths not less than as follows;

| <u>Street Type</u> | <u>Right-of-way</u> |
|--------------------|---------------------|
| Arterials..... | 100'* |
| Collectors..... | 66' |

| | |
|-------------|-----|
| Local | 60' |
| Alleys..... | 16' |

80' if there is 50' of right-of-way provided for an access road on both sides of the arterial.

3. Minimum Roadway Widths;

The following roadway widths shall be required at a minimum; however, the City Council can require greater roadway widths where deemed necessary. Curbs, gutters, and streets shall be constructed in accordance with the City of Freeman's specifications.

| <u>Type</u> | <u>Surface Width</u> |
|--|----------------------|
| Arterials..... | 60' |
| Collectors..... | 38' |
| Local..... | 32' |
| Local (parking one side of street only)..... | 26' |
| Alley | 16' |

Section 407 Private Streets and Alleys

The use of private streets shall be discouraged, however, in cases where a private street is allowed, it shall meet the following requirements:

1. The Developer shall comply with the following construction standards when developing a private street;
 - a. Driving surface shall be constructed of an all weather material,
 - b. Driving surface shall be no less than twenty six (26) feet in width, a greater width may be required when deemed necessary by the City council,
 - c. Driving surface shall be maintained in passable condition,
 - d. Driving surface shall have a minimum height clearance of fourteen (14) feet six (6) inches, and
 - e. All grades must comply with public street standards.
2. The City of Freeman will not subsequently accept a private street for dedication unless and until it is brought up to City construction standards and providing adequate rights-of-way without requiring variances for setbacks; and
3. Alleys may be permitted in residential districts when conditions warrant an alternative means of access.

Section 409 Lots and Blocks

1. All subdivision boundary corners shall be marked with monuments to grade and noted on the plat;
2. The lengths, widths and shapes of blocks shall be determined with regard to:
 - a) Provision of adequate building sites available to the special needs of the type of use contemplated,
 - b) The need for convenient access, circulation, control and safety of traffic and utilities, and
 - c) Limitations and opportunities of topography.
3. Block lengths shall be between three hundred fifty (350) and one thousand (1,000) feet and shall normally be wide enough to allow two tiers of lots of an appropriate depth;
4. Lot dimensions shall be appropriate for the location of the subdivision and conform to the requirements of the Zoning Ordinance;
5. 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;
6. Corner lots for residential use shall have extra width to allow for two front yards;
7. All interior lot lines shall be a straight line or a series of straight lines. Curved interior lot lines shall be prohibited;
8. Side lot lines shall be at right angles to streets except on curves where they shall be radial except when otherwise approved; and
9. Each lot shall abut a dedicated public right-of-way or approved private street.

Section 411 Easement

1. All easements shall be shown on the plat;
2. Except where alleys are permitted for the purpose, the City Council shall require easements deemed necessary at least sixteen (16) feet in width centered on rear lot lines;
3. Where topographical or other conditions warrant side yard easements and easements across lots, easements at least ten (10) feet in total width shall be provided; and

4. The property owner whose property is subject to such easements shall be responsible for its maintenance. The property owners shall keep the easement clear of any structure, debris, trees, shrubs or landscaping whatsoever except that lawn grass, which shall be regularly mowed, and annual vegetation may be grown thereon, and no permanent fences or landscaping structures shall be allowed.

ARTICLE V
REQUIRED IMPROVEMENTS PREREQUISITE TO FINAL APPROVAL

Section 501 General

1. The Developer is required to install or construct the improvements hereinafter described prior to receiving approval of their final plat or having secured and provided the bonds or other securities, which guarantee such required improvements;
2. All public and private water mains, sanitary sewers, laterals and storm sewers shall be installed as necessary to prevent the future cutting of pavement of any street, sidewalk, or other required pavement;
3. The Developer is required to have a professional engineer design and inspect all proposed streets and utility installations; and
4. The City of Freeman may participate, at the City's discretion, by sharing in the responsibility of street and utility construction costs.

Section 503 Property Markers

The corners of all lots and the beginning and ending of all curves on property lines shall be accurately marked on the ground with five-eighths (5/8) inch diameter iron rods at least eighteen (18) inches long. The iron rod shall be furnished with a plastic or metal cap with the surveyor's name or initials and the surveyor's State of South Dakota registration number.

Section 505 Streets and Alleys

The Developer shall construct all proposed streets. The proposed streets shall be designed and inspected by a professional engineer at the cost of the Developer and have the following minimum improvements:

1. The removal of all top soil and grading to meet drainage requirements;
2. A minimum of six (6) inches of crushed gravel;
3. If a paved street is proposed, an additional three (3) inches of crushed gravel and three (3) inches of asphalt paving is required; and
4. Streets and materials shall meet or exceed standards in the most recent edition of Standard Specifications for Roads and Bridges as published by the South Dakota Department of Transportation.

Section 507 Sidewalks

The Developer shall be responsible for the following required improvements:

1. The City Council may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, the construction of sidewalks. Sidewalks shall be constructed to a minimum of four (4) feet in width and to standards approved by the City; and
2. The City Council in its discretion may waive the requirement that the applicant install sidewalks prior to the signing of the subdivision plat, and that as an alternative, require the applicant to apply for a building permit to construct sidewalks.

Section 509 Water Facilities

Where, in the opinion of the City Council, the public water supply is accessible or available to the proposed subdivision, the Developer shall construct, at their expense or through agreement of special assessment, a complete water distribution system which shall adequately serve all lots and which shall include appropriately spaced fire hydrants, and this system shall be properly connected with the public water supply. The water facilities shall be designed and inspected by a professional engineer. All new construction must comply with standards established by the City. Each lot within the subdivision area shall be provided with a water service line connection.

Section 511 Sanitary Sewers

Where, in the opinion of the City Council, the public sanitary sewer system is accessible or available to the proposed subdivision, the Developer shall construct, at their expense, or through agreement of special assessment, a subdivision sewer system to adequately serve all lots and connect the subdivision system to the public system. The sanitary sewer facilities shall be designed and inspected by a professional engineer. All new construction must comply with standards established by the City.

Each lot within a subdivision area shall be provided with a connection to an approved public sanitary sewer and which would serve at least the main floor. The sanitary sewer facilities are to be designed and inspected by a professional engineer.

Section 513 Storm Drainage

An adequate drainage system, including necessary curb and gutter, open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., for the proper drainage of all surface water shall be provided. Cross drains shall be provided to accommodate all natural water flow, and they shall be of sufficient length to permit full width roadways and required slopes. The storm water facilities are to be designed and inspected by a professional engineer, must show current and future drainage, and show adequacy to avoid adverse impact on other properties and infrastructure. All new construction must comply with standards established by the City.

Section 515 Oversized Facilities

The City Council may participate in the cost of "oversizing" improvements within a subdivision if it is adjudged that such oversize improvements are necessary to serve large areas of land not in the subdivision and if the cost of such oversize improvements is hardship on the Developer.

Section 517 Assurances for the Completion of Minimum Improvements.

No building permits will be issued until the Developer has installed sanitary sewer and water service, as well as completed grading the street past the property upon which a building is to be constructed.

Before final approval of a plat is given, the Developer must provide a bond with corporate surety, or other assurances satisfactory to the City, which will assure the City of Freeman that the construction of water, sanitary sewer, storm sewer, and road construction as approved by the City Council will be completed.

The effective date of this Ordinance shall be twenty (20) days after second publication of the notice of adoption.

All ordinances and parts of ordinances in conflict herewith are hereby repealed insofar as the conflicting portions thereof are concerned.

ATTEST

APPROVED

Finance Officer

Mayor

| | |
|------------------------------------|-------------------|
| Public Hearing: | January 18, 1999 |
| Placed on First Reading: | January 18, 1999 |
| Placed on Second Reading: | February 15, 1999 |
| Approved and Adopted: | February 15, 1999 |
| Publication of Notice of Adoption: | February 24, 1999 |
| | March 3, 1999 |
| Effective Date: | March 24, 1999 |