

TITLE 16 SUBDIVISIONS

CHAPTER 16.04 GENERAL PROVISIONS

16.04.010 Title.

This title shall be known as the "2001 Revised Subdivision Ordinance for the City of Milbank and its area of extraterritorial jurisdiction," and will be referred to herein as "this title." (Ord. 681, 2001)

16.04.020 Purpose.

It is the purpose of this title to regulate the subdivision of land so as to coordinate streets with other subdivisions and uses, to provide water and sanitation facilities, drainage and flood control, to foster efficient and orderly urban growth compatible with the natural environment, to minimize out and fill operations, to prevent premature land subdivision and to conform with the Comprehensive Plan for the City of Milbank and its area of extraterritorial jurisdiction. (Ord. 681, 2001)

16.04.025 Authority.

In accordance with South Dakota Codified Laws 11-6-26.1 and any acts amendatory thereto and any other authority provided by law, the City of Milbank does hereby exercise the power and authority to review and approve or disapprove plats for the subdivision of land within the City of Milbank and for land in the area of extraterritorial jurisdiction. (Ord. 681, 2001)

16.04.030 Jurisdiction.

- A. This title shall apply to all subdivisions of land, as defined herein, located within the City of Milbank and its area of extraterritorial jurisdiction.
- B. It shall be unlawful for any person having control of any land within the City of Milbank and its area of extraterritorial jurisdiction to subdivide or layout such land in lots, unless by plat, in accordance with the laws of the State of South Dakota and the ordinances of the City of Milbank.
- C. No land shall be subdivided until the subdivider has submitted the preliminary plan and plat to the Planning Commission for its recommendations and to the City Council for its approval.
- D. No plat shall be recorded in the Office of the Grant County Register of Deed and no lot shall be sold from such plat unless and until approved under this Title. (Ord. 681, 2001)

16.04.060 Conformity with other plans.

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

- A. The Comprehensive Plan of the City of Milbank and the policies set forth therein;
- B. Title 17-Zoning Ordinance of the City of Milbank;
- C. The Major Street Plan, showing the location, arrangement and character of existing and planned streets; and,
- D. Other plans which have been adopted that would affect the subdivision and use of the land. (Ord. 681, 2001)

16.04.070 Interpretation and abrogation.

In interpreting and applying the provisions of this Ordinance, the provisions shall be held to be the minimum requirements for the promotion of public safety, health and requirements for the promotion of public safety, health and general welfare. It is not the intent of this Ordinance 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. (Ord. 681, 2001)

CHAPTER 16.08 DEFINITIONS

16.08.010 Definitions

Terms used in this ordinance mean:

- A. "Access Control Easement" means an easement on property adjacent to a street right-of-way prohibiting vehicular access or street curb cuts to such designated property.
- B. "Adjoining Lot": An adjoining lot is a lot that shares at least seventy-five (75) percent of a common boundary with another adjacent or contiguous lot.
- C. "Alley" means a public or private right-of-way, which affords a secondary means of access to abutting property.
- D. "Arterial" means 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.
- E. "Basement" means any floor level below the first story in a building; except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story defined herein.

- F. "Building" means any structure for the shelter, support, or enclosure of persons, animals, chattels or property of any kind, and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.
- G. "Building Setback Lines" means a line parallel or approximately parallel to the lot lines at a specified distance there from, marking the minimum distance from the lot line that the building may be erected.
- H. "City Engineer" means a licensed, practical engineer and surveyor, or licensed land employed by the City for such services.
- I. "Collector" means a street, which carries traffic from local streets or highways, including the principal entrance streets of a residential development and streets for circulation in such development.
- J. "Comprehensive Development Plan" means any legally adopted part or element of the comprehensive plan of the City of Milbank including the group of maps, charts and texts included in the plan.
- K. "Cul-de-sac" means a local street with only one outlet having an appropriate terminal for safe and convenient reversal of traffic movement.
- L. "Dedicated" means a grant of land to the public for their perpetual use.
- M. "Developer" means the person who converts raw land into legally platted, buildable lots. The developer may or may not be the owner of the parcel or the builder of the structures that occupy the land.
- N. "Double Frontage" means a lot which abuts a street on two opposite sides, but not a corner lot.
- O. "Easement" means a grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including, but not limited to, sanitary sewers, watermains, electric lines, telephone lines, data/fibre optic cable lines, storm sewer or storm drainage ways, gas lines and roadways.
- P. "Final Plan" means the final subdivision plan that is comprised of final drainage and grading plans, the final utility plan, if required, the erosion control plan and the plat.
- Q. "Final Plat" means a drawing or map of a subdivision, meeting all the requirements of the city and in such form as required by the county for purposes of recording.
- R. "Flood Prone Area" means a land area adjoining a river, creek, watercourse or lake that is likely to be flooded.

- S. "Homeowner's Association" means an association of property owners joined together for the purpose of maintaining an area held in common ownership.
- T. "Local Street" means 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.
- U. "Lot" means 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.
- V. "Major Street Plan" means the Thoroughfare Plan in the adopted Comprehensive Plan.
- W. "Marginal Access Street" means a street used only for access to a limited number of lots.
- X. "Plat" means the final layout of a subdivision complete with all the irrevocable offers of dedication as approved by the City Council and as filed with the Grant County Register of Deeds.
- Y. "Private Street" means a street 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.
- Z. "Right-of-Way" means a strip of land occupied by a street, railroad, transmission lines, oil or gas pipeline, water lines, storm or sanitary sewer lines, pedestrian walkways or other special uses. The use of the traffic right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or area of such lots or parcels. Rights-of-way shall be dedicated to public use by the owner of the plat on which such right-of-way is established.
- AA. "Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade at any point such basement or unused under-floor space shall be considered as a story.
- BB. "Story, First" means the lowest story in a building which qualifies as a story except that a floor level in a building having only one floor level shall be classified as first story, providing such floor level is not more than four feet (4') below grade for more than fifty percent (50%) of the total perimeter, or more than eight feet (8') below grade at any point.

- CC. "Structural Entrance" means any doors or windows or other structural openings that equal or exceed one square foot in area.
- DD. "Structures" mean anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, including but not limited to buildings, walls, fences, and signs.
- EE. "Subdivision" means a described tract of land which is to be or has been divided into two or more lots or parcels, regardless of how described for the purpose of transfer of ownership or building development or, if a new street is involved, any division of a parcel of land. The term includes resubdivision, and, where it is appropriate to the context relates either to the process of subdividing or to the land subdivided. (Ord. 681, 2001)

CHAPTER 16.12 PRELIMINARY PLAN

16.12.010 Generally.

Whenever any subdivision of land is proposed before any contract is made for the transfer of any part thereof, and before any permit for the erection of any structure in such proposed subdivision shall be granted, the subdivider, owner or his authorized agent shall apply for and secure approval of such proposed subdivision plat in accordance with the procedure set forth below. When there are only a small number of lots being subdivided, the plat may be relieved of some of the requirements and obligations set forth below at the discretion of the Planning Commission. (Ord. 681, 2001)

16.12.020 Preliminary Plan submittal to Planning Commission.

Information required.

- A. Whenever a preliminary plan is proposed, the developer shall submit ten (10) copies at a minimum scale of one hundred feet (100') to an inch to the City Office at least sixteen (16) days prior to the planning commission meeting at which the same shall be considered. The preliminary plan shall contain the following:
1. The proposed name of the subdivision, that does not duplicate by spelling or pronunciation the name of any other recorded subdivision, unless it is an extension of an adjacent subdivision;
 2. The names of all adjacent subdivisions and all lot and block lines, easements, and rights-of-way adjoining unplatted property shall be labeled;
 3. A vicinity map to scale, showing the location of the preliminary plan and other property for at least six hundred sixty feet (660') in every direction;

4. The names and telephone numbers of the real property owner, the developer and surveyor;
5. The complete legal description and notations stating acreage, scale, north arrow and date of survey;
6. A systematic lot and block numbering pattern, lot lines and street names;
7. The location and width of all proposed and existing street, alleys and easements, as well as the location of any parks, water courses, tree masses, railroad right-of-way and other significant features;
8. Zoning on and adjacent to the property, including across right-of-way;
9. Existing contours referenced to the North American Vertical Datum of 1988 (NAVD 88) with intervals sufficient to determine the character and topography of the land to be subdivided, but in no case shall the intervals be more than one foot (1') for land with a slope of one percent (1%) or less, two feet (2') for slopes between one and one tenth (1.1%) and nine and nine-tenths (9.9%), and five feet (5') for land with a slope exceeding ten percent (10%). (Ord. 846, 2023)
~~Existing contours referenced to the city datum with intervals sufficient to determine the character and topography of the land to be subdivided, but in no case shall the intervals be more than one foot (1') for land with a slope of one percent (1%) or less, two feet (2') for slope between one and one tenth (1.1%) and nine and nine-tenths (9.9%), and five feet (5') for land with a slope exceeding ten percent (10%).~~
10. In conjunction with the preliminary plan the following plan shall be required:
 - a) A preliminary drainage and grading plan showing the existing drainage pattern and any proposed cut and fill operations, which would alter the existing drainage pattern.
 - b) A preliminary utility plan showing 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.
- B. The Planning Commission shall consider the preliminary plan at the meeting at which it is submitted, and may consider the same at special or adjourned meeting as it determines are necessary.
- C. The Planning Commission shall have the authority to recommend approval or disapproval of the preliminary plan, to approve it with conditions attached and to disapprove it until and unless certain conditions are first complied with.
- D. Upon the making of its determination, the Planning Commission shall embrace the same within a motion, which shall include all conditions it requires for approval, or conditions upon which approval will be granted, and shall set forth the reasons for

the approval given. A copy of the motion shall be sent forthwith to the subdivider and a copy thereof to the City Council, together with the plan if it is approved, conditionally or otherwise. Approval of the preliminary plan shall indicate approval of the development concept only, and it does not constitute an acceptance or approval of the subdivision plan; therefore, no building permits shall be issued on the approval of the preliminary plan. (Ord. 681, 2001)

16.12.030 Preliminary Plan Submittal to Council.

- A. The City Council shall approve, disapprove, or modify the preliminary plan and shall impose those requirements or grant those variances in conformance with this ordinance deemed necessary and appropriate by the City Council for final approval. The action of the Council, together with all modifications, requirements, variances, and reasons thereof, shall be noted on all copies of the master plan application. One (1) copy shall be returned to the subdivider and one copy retained by the Finance Officer.
- B. Effective period of a preliminary approval - The approval of a preliminary plan shall be effective for a period of three (3) years. During the period approval on the subdivision plat or a portion thereof must be received from the City Council. Any plan, which has not received approval for all or a portion of it within the three- (3) years period of time, shall be null and void, and the developer shall be required to submit a new plan for preliminary approval. (Ord. 681, 2001)

16.12.040 Final Plat Process

- A. Following the approval of the Preliminary Plan by the City Council, if the developer wishes to proceed, he shall submit four (4) copies of the utility, drainage, grading, and , if required, erosion control plan to the Administrative Official twenty-one days prior to the Planning Commission meeting at which consideration is requested for final plat approval. One (1) paper copy and one (1) mylar of the plat shall be submitted sixteen (16) days prior to the Planning Commission meeting. (Ord. 846, 2023)

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- B. The final plat is to be drawn from an accurate survey and on one or more sheets whose dimensions meet the filing requirements of the Grant County Office of the Register of Deeds. If more than two sheets are required, an index sheet of the same dimension shall be filed with the streets showing the subdivision subareas shown on the other streets. The final plat shall contain the following information:

1. The proposed name of the subdivision, that does not duplicate by, spelling or pronunciation the name of any other recorded subdivision, unless it is an extension of an adjacent subdivision;
2. The names of all adjacent subdivisions and all lot and block lines, easements, and rights-of-way. Adjoining unplatted property shall be labeled as such;
3. A systematic lot and block numbering pattern, lot lines and street names in accordance with existing patterns;
4. The location and width of all proposed and existing streets, alleys and easements, as well as the location of any parks, water courses, railroad right-of-way and other significant features;
5. The boundary lines of the area being subdivided with accurate angles and 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 will be accurately described on the plat;
6. Accurate location of any portions of the property intended to be dedicated or granted for public use;
7. The accurate location of all-permanent monuments and control points;
8. All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision lots, street, alleys, easements and other areas for public or private use. Linear dimensions are to be given to the nearest one-tenth (1/10) of a foot;
9. The radii, chords, length of curve, point of tangent and central angles for all curvilinear streets and radii for rounded corners;
10. The location of all survey pins, either set or located;
11. The certificate of the surveyor attesting to the accuracy of the survey and the correct location of all pins and monuments shown;
12. Acknowledgment of the owner or owners of the plat of any restrictions, including dedication to public use of all streets, alleys, parks and other uses as required;
13. All formal irrevocable offers of dedication for all streets, alleys, parks and other uses as required; and,
14. Certificates of approval for endorsement by the Mayor and the Finance Officer.

15. Protective covenants shall either be placed directly on the final plat or attached thereto in form for recording.
 16. A copy of the certificate of the County Director of Equalization that he/she has received a copy of such plat.
 17. Endorsed on plat or attached to the certificate of the county treasurer that all taxes which are liens upon any land included.
 18. Certification that the subdivider has complied with one of the alternatives found in Chapter 16.24.
- C. Prior to approval of the final plat, final plans shall be required to be submitted to and approved by the City Engineer and Planning Commission for the drainage, grading, utilities and erosion control for the entire parcel. A request for waiver of the drainage, grading, utilities, and erosion control plan may be made in writing to the sixteen (16) days prior to the Planning Commission meeting. Acceptance or denial of the waiver request and the reasons therefore shall be conveyed in writing to the developer within ten days of the receipt of the request and made a permanent part of the subdivision file.
1. The final site drainage and grading plans shall show the contours with intervals of more than one foot (1') for land with a slope of one percent (1%) or less, two feet (2') for slope between one and one tenth (1.1%) and nine and nine-tenths (9.9%) and five foot (5') for land with a slope exceeding ten percent (10%). The site-grading plan shall also show the top-of-foundation elevation and drainage arrows for each lot with lot corner elevation shown according to city datum.
 2. The street grading plan shall show finished street grades shown to an accuracy of one tenth of a foot, showing existing conditions and proposed curb grades, and a detailed design for all intersection. Where the developer owns only one-half of the property, which makes up a street he shall be responsible for establishing the street grades for said street for approval by the City Engineer.
 3. An overall drainage plan showing proposed drainage ways and storm sewer systems shall be required. The plans shall include calculations of the rainfall duration and intensity and the acreage and the proposed volume of flow for the development area, and the surrounding drainage basin. The proposed channel and or pipe sizes with grades and proposed inlet location and outlet connections shall be shown.
 4. The final utility plan shall show the final sewer system layout showing location of existing sewer lines and proposed pipe sizes, the direction of flow, the manhole locations and their approximate depth to a scale approved by the City Engineer and the final water system layout showing the location of existing water lines and proposed pipe sizes.

5. The erosion control plans shall show all proposed land disturbance, including areas of excavation grading filling, removal or destruction of topsoil and spreading of earth material and provisions for erosion control during construction, including the sequence of the operations listed above, with an estimated time of exposure and the proposed temporary measures to control erosion will be designated to withstand the two year rain and shown on the plan.
- D. A complete set of as-built film reproducible improvement plans will be required. This is not meant to require field surveying after the completion of work, but the as-built plans shall show all revisions that the developer's engineer has made in the plans that were originally presented and approved.
 - E. The final plat shall be considered for approval only after the City Council has assurances required in Section 16.24.010 from the developer identifying the responsibility for the improvements required in Section 16.24.010. Once the assurances have been received, the final plat shall be approved or disapproved within ninety (90) days after submission to the City Council, and a plat shall be considered submitted when it has been filed with the Planning Commission and placed on the agenda for Planning Commission consideration. If no action is taken within ninety (90) days of submittal, said plat shall be deemed to have been approved and a certificate to that effect shall be issued by the City Council on demand by the developer. The applicant for the final plat approval may waive this requirement and consent to the extension of such period. The Council shall have authority to approve, disapprove, modify and amend the motion of the Planning Commission, and it may refer the same to the Planning Commission for further study. A referral to the Planning Commission shall not be deemed a final action thereon by the City Council, and the Planning Commission shall report back thereon no later than forty-five days following the council meeting at which it was referred.
 - F. Upon final decision by the City Council, it shall embrace its decision in a motion, provided, however, it may adopt the motion of the planning commission by reference.
 - G. Upon decision by the City Council, a copy of the motion, or notice of adoption shall be transmitted without change, to the subdivider. (Ord. 681, 2001)

16.12.080 Plat recording.

No plat of any subdivision shall be allowed to be recorded with the Grant County Register of Deeds or have any validity until it has been approved by the City Council. In the event that any such unapproved plat is recorded, it shall be considered invalid and the City Council shall institute proceedings to have the plat stricken from the records. (Ord. 681, 2001)

16.12.090 Plat, use and selling of land.

No owner or agent of the owner of any land located with a subdivision shall transfer or sell any land by reference to, exhibition of or by use of a subdivision plan before a plat

of said land has been approved and recorded in the manner prescribed herein. (Ord. 681, 2001)

16.12.100 Plat, approval process.

All proposed developments shall be approved through the following procedure:

- A. Prior to the submission of the preliminary plan to the Planning Commission, the developer shall present a sketch of the proposed plan to the Administrative Official for discussion and comments regarding the requirements for the layout of streets, reservations of real property, street improvements, drainage, sewage, fire protection and the availability of services.
- B. Based on the discussion of the sketch plan, the developer shall submit the preliminary plan for approval. The preliminary plan shall include all the information as required in 16.12.020. This plan is subject to review and revision by the Planning Commission and City Council.
- C. The final plat, consisting of the plat the final drainage and grading plan, a final utility plan, and, if required, the final erosion control plan, shall be submitted.
- D. The final plat shall provide the information as required in 16.12.020 and shall require the review of the City Engineer and the Planning Commission. Either all or a portion of the preliminary plan may be platted for approval by the City Council. (Ord. 681, 2001)

16.12.110 Replats.

If the land proposed for platting is a resubdivision, it shall meet the same requirements as set forth in Section 16.12.040 except as provided in Section 16.12.130(Ord. 681, 2001)

16.12.120 Filing fee.

See City Fee Schedule. (Ord. 846, 2023)

~~A filing fee is required to be paid at the City Auditor's Office for All plat and replats at the following rates:~~

~~A. Two or fewer lots.....\$50.00~~

~~B. Three or more lots\$50.00 plus \$5.00 per platted lot. (Ord. 681, 2001)~~

16.12.130 Replat requirements.

A replat will be permitted where:

- A. The perimeter of the tract being replatted shall not be altered by the replat;

- B. The grades shall not be changed from the drainage plan which was submitted and approved with the original plat or a new drainage plan shall be submitted and approved for the resubdivision; and,
- C. The replat shall not significantly change any plans that have been prepared for the placement of utilities in the subdivision.
- D. The previous platting lines shall be shown on the new plat.

A replat will not be permitted where:

- A. The proposed replat is to include non-adjoining lot to an existing lot of record. (Ord. 681, 2001)

16.12.140 Exception to replat requirements.

The Milbank City Council may waive the replat requirements where a portion of any existing platted tract, parcel, lot or site is to be conveyed by legal description, without replat, to be added to another existing platted lot of record in common ownership. In this instance, the legally described, but not replatted, addition shall be considered part of the existing lot of record, and, together, shall conform to all zoning requirements for the City of Milbank. The legally described addition to the existing lot of record shall only be conveyed as part of the existing lot of record. The replat requirements will not be waived if the conveyance causes the tract, parcel, lot or site from which the portion is served to be in violation of any existing zoning ordinance or subdivision regulation unless both parcels created by the division are to be added to and considered part of an adjacent existing lot of record in common ownership. The parcels created by the division described in this section shall not be deemed to be in violation of the minimum lot size requirements as long as the parcels are in common ownership with an adjacent existing lot of record. If, in the future, the footage of the legally described addition is needed by the existing lot of record to comply with a any zoning requirement, the property shall be replatted into one lot. (Ord. 681, 2001)

16.12.150 Approval of replats.

If the subdivision meets the requirements set forth for a replat, the plat shall be approved or disapproved within ninety (90) days after submission to the City Council, and a plat shall be considered submitted when it has been filed with the Planning Commission and placed on the agenda for Planning Commission's consideration. If no action is taken within ninety (90) days of submittal, said plat shall be deemed to have been approved and a certificate to that effect shall be issued by the City Council on demand by the developer. The applicant for the plat approval may waive this requirement and consent to the extension of such period. The Council shall have authority to approve, disapprove, modify and amend the motion of the Planning Commission, and it may refer the same to the Planning Commission for further study. A referral to, the Planning Commission shall not be deemed a final action thereon by the City Council and the Planning Commission shall report back thereon no later than forty-five days following the council meeting at which it was referred. (Ord. 681, 2001)

Chapter 16.20 DESIGN STANDARDS

16.20.010 Blocks-Length.

The lengths, widths, and shapes of blocks shall be determined with regard to the following:

- 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.
- D. Block lengths shall be between four hundred feet (400') and one thousand feet (1,000). (Ord. 681, 2001)

16.20.020 Blocks-Width.

The width of the block shall normally be sufficient to allow two tiers of lots of appropriate depth. (Ord. 681, 2001)

16.20.030 Collector streets.

The arrangement of streets in a new subdivision shall conform to the Major Street Plan and shall make provisions for the continuation of existing streets in adjoining areas or other proper projection where adjoining land is not subdivided. The design standards for collector streets should provide for a collector street every one-half mile and there should be a street connecting adjacent subdivisions at intervals not less than one-quarter mile where topographical and land use conditions permit. The arrangement of thoroughfares and collector streets shall be considered in their relation to the reasonable circulation of traffic, to topographic conditions, to run-off storm water, to public convenience and safety, and in their appropriate relation to the proposed use of the area to be served. All streets shall be constructed with the minimum widths as provided in this chapter. Intersection offsets are prohibited. (Ord. 681, 2001)

16.20.040 Minor streets and cul-de-sacs.

Minor streets should be so planned as to discourage their use by non-local traffic. Dead-end streets are prohibited, but cul-de-sacs, while discouraged, will only be permitted where topography or other conditions justify their use. Streets designed as permanent cul-de-sacs shall be provided with a turn around having a minimum right-of-way diameter of one hundred thirty feet (130) and a roadway diameter of one hundred feet (100). Between the street and the circle there shall be a twenty-foot (20') reverse radius unless otherwise approved by the City Engineer. No cul-de-sac shall be longer than five hundred feet. Curb openings for driveways shall be a minimum of twenty feet (20') per

lot. Minimum lot width of seventy-five (75') or chord distance will be measured at the front property in a round cul-de-sac adjacent to right-of-way. (Ord. 846, 2023)

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16.20.050 Future Street Plan.

In undeveloped or vacant areas, streets shall be identified and classified by the Planning Commission. The location of major streets shall conform with the current official Major Street Plan. (Ord. 681, 2001)

16.20.090 Alleys.

Alleys shall be provided 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 Zoning Ordinance. Alleys may be permitted in residential districts when conditions warrant an alternative means of access. (Ord. 681, 2001)

16.20.120 Public ways-Dimensions.

For all public ways hereafter dedicated and accepted, the minimum right-of-way widths for arterial streets, minor arterials, collectors, local, local with parking on one side of street only, and alleys shall be as shown in the comprehensive plan for Milbank. (Ord. 681, 2001)

16.20.130 Street grades. The grades in all streets in any subdivision shall not be greater than the maximum grades for each classification as follows:

Thoroughfare	6.0 percent
Collector street	6.0 percent
Minor street	7.0 percent
Local	8.0 percent
Local with off-street parking	8.0 percent

In addition, there shall be a minimum grade on all streets of not less than five-tenths of one percent. (Ord. 681, 2001)

16.20.140 Street alignment.

The horizontal and vertical alignment standards on all streets shall be as follows:

- A. Horizontal. The clear horizontal visibility, measured along the centerline shall equal or exceed at least 600 feet on arterial streets, 300 feet on collector streets, and at least 200 feet on local and marginal access streets.
- B. Tangent between reverse curves shall be as approved by the City Engineer.
- C. Minimum radii of horizontal curvature on the centerline shall not be less than one hundred feet (100') on collectors and seventy five feet (75') on local streets.
- D. Angular breaks in right-of-way alignments of more than two degrees are not permitted. Street pavement and curbs shall be curved in all cases.
- E. Where there are roads in existence, engineering plans for rights-of-way must be so designed as to eliminate bends, crooks, jogs, and other undesirable hazardous conditions. (Ord. 681, 2001)

16.20.160 Lot areas.

The minimum lot area, width and depth shall not be less than established by the Milbank zoning ordinance. (Ord. 681, 2001)

16.20.170 Corner lot width.

Corner lots for residential use shall have additional width to allow for two front yards. (Ord. 681, 2001)

16.20.180 Lot side lines.

Side lines of lots shall be at right angles to street lines or radial to curved street lines, except when otherwise approved by the City Engineer. (Ord. 681, 2001)

16.20.210 Easements-Width.

Easements centered on rear lot lines shall be provided for utilities and drainage where necessary and shall be a minimum of twenty feet (20') in total width. Where topographical or other conditions warrant side yard easements and easements across lots, easements at least ten feet (10') in total width shall be provided. If necessary for the extension of main water or sewer lines or similar utilities, easements of greater width may be required along lot lines or across lots. (Ord. 681, 2001)

16.20.220 Easements-Utilities connecting.

Lots and easements shall be arranged in such a manner as to eliminate unnecessary jogs or off sets and to facilitate the use of easements for power distribution, telephone service, drainage, and water and sewer services. Utility easements shall connect with easements established in adjoining properties. These easements, when approved, shall not thereafter be changed without the approval of the City Council, by resolution upon the recommendation of the City Planning Commission. (Ord. 681, 2001)

16.20.240 Watercourse easements.

Whenever any stream or surface drainage course is located in an area, which is being subdivided, the subdivider shall provide an adequate dedication along each side of the stream or drainage course when required by the City Engineer. The width of such easements shall be determined by the City Engineer. (Ord. 681, 2001)

16.20.260 Street Names.

The following criteria shall be used in the determining of street names:

- A. Streets in alignment with existing streets shall bear the names of those streets.
- B. No street names shall be used which will duplicate, be the same in spelling or in pronunciation with any other existing streets. All street names should be kept as short as possible to permit signs to be not longer than thirty-six inches (36"). Street name suffixes shall be applied as follows:

- Avenue .. A road running east and west
- Street A road running north and south
- Road A road running east and west or north and south, 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
- Place All private roads
- Boulevard A minor street divided by a median

- C. When, due to topography, off-sets 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.
- D. Subdivision names and apartment project names shall not duplicate, be the same in spelling or alike in pronunciation with any existing subdivision or apartment project names except that apartment names which correspond to the subdivision in which

they are located will be allowed. These names shall be subject to the approval of the Planning Commission. (Ord. 681, 2001)

16.20.270 Private streets.

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

- A. Private streets shall be surfaced by the developer to a width of no less than twenty-eight feet (28'), and maintained in a passable condition. Greater width may be required when necessary. All private streets must provide a height clearance of fourteen feet six inches (14'6") as a minimum and are subject to the same grade requirement as public streets.
- B. A road maintenance agreement among property owners who depend on the private street for access will be required to be filed with the plat. This agreement shall affix the legal responsibilities for the repair and maintenance of any private streets and the required signs.
- C. The Homeowner's Association shall be required to place street signs on all private streets or to pay the city to place street signs for private streets at the locations the City Engineer deems necessary for the safety and convenience of the public. Street signs shall be of such a style and material to render them easily readable at night as well as day, and are subject to the approval of the City Engineer.
- D. Buildings located adjacent to a private street shall be addressed and are subject to the approval of the Planning Commission.
- E. Private streets shall be indicated on the plat with broken lines. Any lots adjacent to a private street shall have their lot lines extended to include the area for streets.
- F. Any private street accepted by the City shall provide permanent unobstructed public access to the area it serves, neither erecting nor permitting the erection of any structure within or adjacent to said access which would in any way interfere with the use of the private street by the public or governmental agency.
- G. Any plat presented for City Council approval which shows a private street as a means of access shall provide language in the Owners Certificate reserving said private street as a permanent unobstructed access easement.
- H. The City of Milbank will not subsequently accept a private street for dedication unless and until it is brought up to city standards, providing adequate right-of-way without requiring variances for setbacks. (Ord. 681, 2001)

16.20.280 Roadway widths.

The following roadway widths shall be required at a minimum; however, the Planning Commission can require greater roadway widths where it deems it necessary. Curb, gutters and streets shall be constructed in accordance with specification adopted by resolution by the City Council.

STREET TYPE	PAVEMENT WIDTH (MEASURED FROM CURB FACES)
ARTERIALS	60 feet (64 feet on 100 feet right-of-way)
MINOR ARTERIALS	50 feet (54 feet on 80 feet right-of-way)
COLLECTORS	38 feet
LOCAL	32feet
LOCAL (parking on one side of street only)	30 feet
PRIVATE STREET	28 feet
ALLEY	16 feet (Ord. 681, 2001)

16.20.290 Intersection standards.

The following standards shall apply to all intersections:

- A. Acute angles at street intersections are to be avoided as much as possible, but in no case will an angle of less than eighty (80) degrees be permitted.
- B. No more than two streets shall intersect at any one point unless specifically approved;
- C. Intersection offsets of less than one hundred twenty-five feet (125) measured from centerline to centerline shall be prohibited except where the street is divided by a median and no median breaks are provided;
- D. Intersection on arterial streets less than six hundred feet (600') apart measured from centerline to centerline shall be avoided;
- E. The minimum radii of intersections shall be as follows:
 1. Property lines at the intersection of two arterial streets shall be rounded with a radius of twenty-five feet. An increased radius shall be required where the angle of intersection is less than ninety degrees; and
 2. Roadway and curb intersections shall be made concentric and shall be rounded by a radius of not less than fifteen feet (15'). (Ord. 681, 2001)

16.20.300 Half-streets.

Whenever an existing half-street is adjacent to a tract being subdivided, the other half of the street shall be platted with said subdivision. A preliminary plan of a subdivision may show half of a street along adjoining property which has not been subdivided, but no lot abutting on such half-street shall have a building permit issued for it until such time as the other half-street is dedicated. (Ord. 681, 2001)

16.20.310 Off-street parking and loading.

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. (Ord. 681, 2001)

16.20.320 Lot orientation.

Where possible, lots shall be orientated in such a way as to provide for active and passive solar system. (Ord. 681, 2001)

16.20.330 Lot lines.

All interior lot lines shall be a straight line or a series of straight lines. Curved interior lot lines shall be prohibited. (Ord. 681, 2001)

16.20.340 Lot abatement.

Each lot shall abut a dedicated public right-of-way or approved private street. (Ord. 681, 2001)

16.20.350 Lot boundary marking .

All subdivision boundary corners shall be marked with monuments to grade and noted on the subdivision plat. (Ord. 681, 2001)

16.20.360 Arterial street development patterns.

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:

- A. Double frontage lots are particularly appropriate for single family development along 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 volume. If double frontage lots are approved for one side of an arterial street, the other side of the arterial street shall be required to plat double-frontage lots, as well to avoid the placement of utilities under arterial street.

- B. In order to avoid private access from individual lots onto arterial streets, lots should be arranged on blocks so that their side yards are adjacent to the arterial street. Lots adjacent to an arterial street shall have an additional width 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.
- C. Access road will be used as the City of Milbank 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 will be required to be constructed to city standards with a right-of-way width of fifty feet (50).
- D. Rear access roads are recommended for commercial developments to prevent dangerous turning onto and off of arterial streets.
- E. Townhouses, multiple-family units, and other non-traditional housing styles are particularly suitable for the intersection of two arterial streets. Any development of this type should be limited access to the arterial street.
- F. Alleys are not encouraged, but will be considered in unique situations. Alleys are allowed at the discretion of the Planning Commission. (Ord. 681, 2001)

16.20.370 Street access control.

An access control easement shall be placed on lots adjoining arterial streets between access points. (Ord. 681, 2001)

16.28.380 Railroad right-of-way setback required.

Plats for residential development adjacent to functioning railroad right-of-way shall provide an additional ten feet (10') of lot depth or width to provide for an extra setback to offset the impact of the railroad traffic. (Ord. 681, 2001)

16.20.390 Sidewalks.

Sidewalks shall be part of the required improvements in subdivision and must meet the following requirements:

- A. Sidewalks shall be included within the dedicated non-government right-of-way of all roads and shall be constructed to specifications as included in the Americans with Disability Act (ADA).
- B. Sidewalks shall be constructed on both sides of the street. Sidewalks shall be five feet (5') in width and constructed to standards approved by the City. A median strip of grassed area at least six feet (6') wide shall separate all sidewalks from adjacent curbs. (Ord. 846, 2023)

~~Sidewalks shall be constructed on both sides of the street. Sidewalks shall be four feet (4') in width and constructed to standards approved by the City. A median strip of grassed area at least six feet (6) wide shall separate all sidewalks from adjacent curbs.~~

- C. The Planning Commission may require, in order to facilitate pedestrian access from roads to schools, parks, playgrounds or other nearby roads, perpetual unobstructed easements of at least ten feet (10') in width.
- D. The Planning Commission in its discretion may waive the requirement that the developer install sidewalks prior to the signing of the subdivision plat, and that as an alternative, require the applicant for a building permit to construct the sidewalks. (Ord. 681, 2001)

16.20.400 Home owners association.

Where the subdivision contains park areas, road maintenance systems or other facilities or services which are necessary to or desirable for the area, and which are of common use or benefit and which are not accepted for maintenance by an existing public agency, provisions shall be made by trust agreement for the proper and continuous maintenance and supervision of such facilities. A final and signed copy of said agreement shall be attached to each and every plat having a facility or service covered by such an agreement. (Ord. 681, 2001)

16.20.410 Easements.

All easement shall be shown on the plat. (Ord. 681, 2001)

16.20.420 Easement maintenance.

The property owner whose property is subject to such easements shall be responsible for it maintenance. The property owner shall keep the easement clear of any structure, permanent fence, debris, trees, shrubs, or landscaping whatsoever, except that lawn grass, which is properly mowed and annual vegetation may be grown thereon. (Ord. 681, 2001)

16.20.430 Park and playground area dedication.

When areas are annexed into the city there shall be property or other resources dedicated for park or playground purposes under the following terms and conditions:

- A. When any land with the exception of commercial and industrial zoned property is annexed into the city limits of this city, the person or persons requesting such annexation shall dedicate an area equal to five percent (5%) of the land so annexed to be set aside for use as parks, or playgrounds under the jurisdiction of Planning Commission of the City of Milbank.
- B. The location of such park and playground land shall be determined by the Planning Commission. In the event the owners of the land to be annexed are unsatisfied with

the decision of the Planning Commission, an appeal to the City Council may be taken within thirty (30) days after written notification to the owner by the Planning Commission.

- C. The Planning Commission may allow the owner to donate a sum in cash equal to one percent (1%) of the value of the property to be annexed, but in no event less than \$100.00 in lieu of the dedication of the land. Such decision shall be within the discretion of the Planning Commission. The value shall be determined by the County Assessor and if not accepted by the owner, the valuation may be appealed to the City Council.
- D. This section shall not apply to forced annexation unless specified in the annexation resolution.
- E. Monies derived from this section shall be placed in a special fund for the sole purpose of park and playground acquisition and development. (Ord. 681, 2001)

16.20.440 Water Facilities.

The general requirements for water facilities for subdivisions is as follows:

- A. Necessary action shall be taken by the subdivider to provide a water supply system capable of providing domestic water use and fire protection.
- B. Where a public watermain is accessible, the subdivider shall install adequate water facilities and fire hydrants subject to the specifications of the City Engineer as shown on the final utility plan.
- C. Water main extensions shall be approved in writing by the City Engineer.
- D. 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. (Ord. 681, 2001)

16.20.450 Fire hydrants.

Fire hydrants shall be required for all subdivisions where city watermains are available. Location of the fire hydrants shall be approved by the Fire Chief and Water Superintendent. The maximum distance between fire hydrants shall be five hundred (500) feet. To eliminate future street openings, all underground utilities for fire hydrants themselves and all other supply improvements shall be installed before any final paving of a street on the subdivision plan. (Ord. 681, 2001)

16.20.460 Sanitary sewer.

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. Where a public sanitary sewer main is accessible, the subdivider shall install adequate sanitary sewer

facilities subject to the specifications of the City Engineer as shown on the final utility plan. (Ord. 681, 2001)

16.20.470 Drainage plan.

The final grading plan for the subdivision shall be submitted to and approved by the City Engineer. The grading plan shall be laid out to conform to the natural contour of the land. (Ord. 681, 2001)

16.20.480 Drainage design methodology.

The final grading plan shall be made prior to all other utility plans. The drainage system shall take into account the ultimate development of the tributary area. Surface water drainage plans shall be shown for each and every lot and block on the Final Drainage Plan. (Ord. 681, 2001)

16.20.490 Drainage easements.

Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within street right-of-way, perpetual unobstructed drainage easements of a minor nature, at least twenty feet (20') in width shall be provided where deemed necessary by the City Engineer. The Planning Commission may require additional width or setback as deemed necessary. Said easements shall be required to be kept clear by the owner from all fill, debris, trees, landscaping, structures, or vegetation which will in any way impede the drainage course or the water carrying capacity of the drainage-way, except that lawn grass which shall be regularly mowed and annual vegetation may be grown thereon. All routine maintenance along said drainage ways shall be performed by the adjacent property owners. All such drainage-way easements shall be indicated on the plat. (Ord. 681, 2001)

16.20.500 Drainage rights required.

Where runoff from the proposed subdivision is redirected or significantly increased, and off-premise drainage easements and improvements are required to carry this water away from the subdivision, appropriate drainage rights must be secured and shown on the plat. (Ord. 681, 2001)

16.20.510 Additional information.

The City Engineer may require whatever additional engineering information he deems necessary on subdivision and other developments, which are in areas of questionable drainage. (Ord. 681, 2001)

16.20.520 Limitations of building type.

The Planning Commission may limit development in areas with high water tables to structures constructed without basements. (Ord. 681, 2001)

16.20.530 Structural elevations.

In areas where drainage ways are allowed, all structural entrances shall have an elevation, which exceeds the water elevation that would be reached during an one hundred-year rainfall. (Ord. 681, 2001)

16.20.540 Design standards.

All storm sewers from streets across lots to rear lots shall be properly drained to carry storm water and approved by the City Engineer. Said drainage-ways shall either be hard surfaced, with curb and gutter and sufficient width to remove snow, or else said drainage-way shall provide a storm sewer inlet with the water carried by pipe to the rear lot line. Landscaping and fill over storm sewer pipe shall leave a depression so that excess surface water can run overland without danger to abutting homes and without causing severe ponding on the streets. (Ord. 681, 2001)

16.20.550 Erosion control standards.

Measures used to control erosion on a development site shall, as a minimum, meet the standards and specifications of the Grant County Soil and Water Conservation District. Stripping of vegetation, during 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 shall be made in conformance with topography in order to create the least erosion potential. (Ord. 681, 2001)

16.20.560 Preservation of existing natural features.

Existing 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. (Ord. 681, 2001)

16.20.570 Sensitive Environmental areas.

Sensitive environmental 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. (Ord. 681, 2001)

16.20.580 Development review in flood areas.

Proposed subdivisions and proposed new developments shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, the floodway and floodplain shall be shown on the plat and elevations must be shown. All such proposals shall be reviewed to assure the following:

- A. All such proposals are consistent with the need to minimize flood damage within the flood prone area;

- B. All public utilities and facilities such as sewer, gas, electrical, water and sewer facilities are located and constructed to minimize or eliminate flood damage;
- C. Adequate drainage is provided to reduce exposure to flood hazards; and,
- D. The proposed development conforms to the Zoning Ordinance. (Ord. 681, 2001)

Chapter 16.24 BASIC IMPROVEMENTS

16.24.010 Approval and agreements.

Before a final plat may be approved by the City Council, the subdivider must comply with one of the following alternatives, which will be determined by the City Council:

- A. All improvements have been installed in accordance with the requirements of this ordinance, or;
- B. Provide a bond with the City Council, which will assure the City that the construction of curb and gutter, storm sewer, gravel and asphalt paving as approved by the City Council will be completed within one year from the date of the last building permit. When building permits have been issued for fifty percent (50%) of any five hundred-foot (500') segment of street within the plat or three years from the date of issuance of the first building permit, or;
- C. At the City Council's discretion, the subdivider shall file a Letter of Assurance to establish the responsibility for the construction of such improvements in a satisfactory manner and within a period specified by the City Council, such period not to exceed three years. An extension to that three-year period may be granted at the discretion of the City Council. Said Letter of Assurance shall be recorded with the Register of Deeds at the time of filing the Plat.

A copy of each Letter of Assurance shall be placed on file in the Finance Officer's Office and prior to the issuance of any permits, the permit applicant shall be presented with the Letter of Assurance so that he or she will be made aware of where the responsibilities lie for the installation of any improvements not yet in place. (Ord. 681, 2001)

Chapter 16.28 VARIANCES

16.28.010 Findings prior to granting.

The Planning Commission may recommend a variance from the provisions of this title when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Commission shall prescribe only conditions that it deems necessary to or desirable for the public interest. In making its findings, as required herein below, the commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the

proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Commission finds:

- A. There are special circumstances or conditions affecting the property such that the strict application of the provisions of this title would deprive the applicant of the reasonable use of his land;
- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
- C. The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated. (Ord. 681, 2001)

16.28.020 Application-Plan guarantee.

Applications for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration by the commission, stating fully and clearly all facts relied upon by the petitioner and shall be supplemented with maps, plans or other additional data which may aid the commission in the analysis of the proposed project. The plans for such development shall include such covenants, restrictions or other legal provisions necessary to guarantee the full achievement of the plan. (Ord. 681, 2001)

Chapter 16.32 COMPLIANCE-PENALTIES

16.32.010 Building permit issuance when.

No building permit shall be issued by the city with respect to the land or to any lot in a subdivision, as defined herein, until the plat thereof shall have been recorded in the office of the register of deeds. (Ord. 681, 2001)

16.32.040 Violation-Penalty.

It is a petty offense for the owner or agent of the owner of the land located within platting jurisdiction of any municipality as described in SDCL 11-6-26, knowingly or with intent to defraud, to transfer or sell, or agree to sell, or negotiate to sell such land by reference to or exhibition of, or by other uses of a subdivision of such land before such plat has been approved by the Council and recorded in the Office of the Register of Deeds, for each lot so transferred or sold or agreed or negotiated to be sold. The description by metes and bounds in the instrument or transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The municipality may enjoin such transfer or sale or agreement by action for injunction or may recover the penalty by civil action. When any map, plan, plat or replat is tendered for filing in the Office of the Register of Deeds, it shall be the duty of any such officer to determine whether such proposed map, plan, plat or replat is or is not subject to the provisions of this chapter and whether the endorsements required by this chapter appear thereon, and no Register of Deeds or Deputy shall accept for record any such map, plan, plat or replat unless and until the same shall have been approved by

the City Council of such municipality as required by Chapter 11-3 of South Dakota Codified Laws, as amended. (Ord. 681, 2001)

16.32.050 General enforcement.

It is the duty of the Administrative Official to enforce this Title of the Municipal Code and any amendments thereto and to bring to the attention of the City Attorney any violations thereof. (Ord. 681, 2001)

16.32.060 Enforcement assistance.

The Planning Commission or an authorized representative may request and shall receive the assistance the cooperation of the City Engineer in determining if the design standards and minimum improvements required have been met; and the assistance and cooperation of the Milbank Chief of Police and Grant County Sheriff in enforcing orders, and the assistance and cooperation of the City Attorney in prosecuting violations and the cooperation and assistance of any other officials he deems necessary. (Ord. 681, 2001)

16.32.070 Violation provisions.

Any person violating any of the provisions of this Title shall be guilty of a misdemeanor and shall be punished under the provisions of Chapter 1.16 of the Milbank Municipal Code. (Ord. 681, 2001)