

## Chapter 15

### PLANNING AND DEVELOPMENT

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#### ARTICLE I. IN GENERAL

Secs. 15-1--15-15. Reserved.

#### ARTICLE II. PLANNING

##### DIVISION 1. GENERALLY

##### Sec. 15-16. Comprehensive plan.

It shall be a function and duty of the City Planning and Zoning Commission to propose a plan for the physical development of the City, including any areas outside the boundary and within its planning jurisdiction which, in the Commission's judgment bear relation to the planning of the City. The comprehensive plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the Commission's recommendations for the said physical development and may include, among other things, the general location, character, and extent of streets, bridges, viaducts, parks, parkways, waterways and waterfront developments, playgrounds, airports, and other public ways, grounds, places and spaces; the general location of public schools, of public buildings and other public property; a zoning Ordinance for the regulation of the height, area, bulk, location, and use of private and public structures and premises, and of population density as may be provided by law may be included as an adjunct to the comprehensive plan; the general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, heat, sanitation, transportation, communication, and other purposes; the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, or change of use of any of the foregoing public ways, grounds, places, spaces, buildings, properties, utilities, or terminals; the general location, character, layout and extent of community centers and neighborhood units, and the general character, extent, and layout of the replanning of blighted districts and slum areas. The Commission may from time to time propose amendments, extensions, or additions to the plan or carry any of the subject matter into greater detail.

(Code 1953, 17B.12; Ord. No. 590, 6-1-64)

**State law reference**-For similar provisions, see SDCL 1967, 11-6-14.

**Sec. 15-17. Surveys and general purposes of plan.**

In the preparations of the master plan, the City Planning and Zoning Commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the City and its environs. The plan shall be made with the general purpose of building and accomplishing a coordinated, adjusted, and harmonious development of the City which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity, or the general welfare as well as efficiency and economy in the process of development.

(Code 1953, 17B.13; Ord. No. 590, 6-1-64)

**State law reference-**For similar provisions, see SDCL 1967, 11-6-15.

**\*Cross references-**Subdivisions, App. A; zoning, App. B.

**Sec. 15-18. Plan proposed as a whole or in part.**

The City Planning and Zoning Commission shall propose to the Board of Commissioners the comprehensive plan as a whole by a single resolution, or, as the work of making the whole comprehensive plan progresses, may from time to time propose a part or parts thereof, any such part to correspond generally with one or more of the functional subdivisions of the subject matter of the plan.

(Code 1953, 17B.14; Ord. No. 590, 6-1-64)

**State law reference-**For similar provisions, see SDCL 1967, 11-6-16.

**Sec. 15-19. Notice prior to adoption of plan; submission to state.**

Before recommendation to the Board of Commissioners of the comprehensive plan or part thereof, the City Planning and Zoning Commission shall hold at least one public hearing, notice of the time and place of which shall be given at least fifteen days in advance by publication in a newspaper having general circulation in the community. The City Planning and Zoning Commission shall submit the recommended comprehensive plan or part thereof to the State Planning Bureau for its information, at the same time it is submitted to the Board of Commissioners.

**State law reference-**For similar provisions, see SDCL 1967, 11-6-17.

**Sec. 15-20. Adoption of plan.**

The adoption by the Board of Commissioners of the plan or any part, amendment or addition, shall, following the same type of notice and public hearing as required by Section 15-19 of this Code, be by resolution carried by the affirmative votes of not less than a majority of all the members of the Board of Commissioners. The resolution shall refer expressly to the maps, descriptive matter, and other matters intended by the Council to form the whole or part of the plan, and the action taken shall be recorded on the adopted plan or part thereof, by the

identifying signature of the Mayor. If a zoning Ordinance is included as an adjunct to the comprehensive plan, or any part, amendment or addition, that zoning Ordinance shall be subject to the provisions of SDCL 1967, 11-4-5.  
(Code 1953, 17B.14; Ord. No. 590, 6-1-64)

**State law reference**-For similar provisions, see SDCL 1967, 11-6-18.

### **Sec. 15-21. Filing of action adopting comprehensive plan.**

The action of the Board of Commissioners, in adopting the comprehensive plan, shall be filed with the City Auditor and a copy of such action shall be sent to the State Planning Bureau.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-18.1.

### **Sec. 15-22. Summary of plan adoption.**

A summary of the action of the Board of Commissioners shall be prepared by the City Planning and Zoning Commission, reviewed by the City Attorney, and published once in the official newspaper of the City and take effect on the twentieth day after its publication. Any summary published under the provisions of this chapter shall contain a notification that the public may inspect the entire comprehensive plan or any part, adjunct, amendment, or addition thereto at the office of the City Auditor during regular business hours.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-18.2.

### **Sec. 15-23. Referendum; revision of rejected plan.**

The referendum provisions of SDCL 1967, 9-20-6 to 9-20-16, inclusive, shall be applicable to the action of the Board of Commissioners. If the voters shall reject the proposed comprehensive plan, the Board of Commissioners may cause the Planning and Zoning Commission to revise the plan or parts thereof and the board may adopt the same as revised and file and publish the same as required.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-18.3.

### **Sec. 15-24. Commission approval required for construction.**

Whenever the Board of Commissioners shall have adopted the comprehensive plan of the City or any part thereof, then and thenceforth, no street, park, or other public way, ground, place, space, no public building or structure, no public utility, whether publicly or privately owned, if covered by the comprehensive plan or any adopted part thereof, shall be constructed or authorized in the City or within its subdivision jurisdiction as defined in Section 15-29 of this Code, until and unless the location and extent thereof shall have been submitted to and approved by the City Planning and Zoning Commission.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-19.

**Sec. 15-25. Reasons for commission disapproval of construction to be sent to board; overriding.**

In case of disapproval of any construction or authorization submitted under Section 15-24 of this Code, the City Planning and Zoning Commission shall communicate its reasons to the Board of Commissioners and the board, by vote of not less than two-thirds of its entire membership, shall have the power to overrule such disapproval and, upon such overruling the board or the appropriate board or officer shall have the power to proceed.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-2a.

**Sec. 15-26. Submission and approval of street and public improvement projects.**

The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for any street or other public way, ground, place, property, or structure, shall be subject to submission and approval similar to that provided in Sections 15-24 and 15-25 of this Code, inclusive, and the failure to approve may be similarly overruled.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-22.

**Sec. 15-27. Failure of commission to act deemed approval of construction.**

The failure of the City Planning and Zoning Commission to act within sixty-five (65) days from and after the date of official submission to it shall be deemed approval, unless a longer period be granted by the Board of Commissioners or other submitting official.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-23.

**Sec. 15-28. Building or setback lines.**

From and after the time when the Board of Commissioners shall have adopted a comprehensive plan which includes at least a Major Street Plan or shall have progressed in its comprehensive planning to the stage of the making and adoption of a Major Street Plan, the City Planning and Zoning Commission may recommend and the Board of Commissioners is hereby authorized and empowered by Ordinance to establish, regulate and limit, and to change and amend, building or setback lines on such streets and to prohibit any new building being located within such building or setback lines. The regulations authorized by this Section shall not be adopted, changed or amended until a public hearing has been held thereon, following the same notice as provided in Section 15-19 of this Code.

(Code 1953, 17B.17; Ord. No. 590, 6-1-64)

**State law reference**-For similar provisions, see SDCL 1967, 11-6-24.

**Sec. 15-29. Subdivision regulations generally.**

From and after the time when the Board of Commissioners shall have adopted a comprehensive plan which includes at least a Major Street Plan or shall have progressed in its comprehensive planning to the stage of making and adoption of a Major Street Plan, and shall have filed a certified copy of such Major Street Plan in the Office of the Register of Deeds of the county in which the municipality is located, no plat of a subdivision of land lying within the City, or of land within three (3) miles of its corporate limits and not located in any other City, shall be filed or recorded until it shall have been submitted to and a report and recommendations thereon made by the City Planning and Zoning Commission to the Board of Commissioners and the board has approved the plat. This provision shall be applicable to land within three (3) miles of the corporate limits of the City and not located in any other City only if the comprehensive plan or Major Street Plan includes such land. However, in the case of such extra City land lying within three (3) miles of more than one City, the jurisdiction of each municipality shall terminate at a boundary line equidistant from the respective corporate limits of such cities, unless otherwise agreed to by a majority vote of the governing body of each such City. Such plats shall, after report and recommendations of the City Planning and Zoning Commission are made and filed, be approved or disapproved by the Board of Commissioners. The City Planning and Zoning Commission shall make its recommendation to the Board of Commissioners within sixty (60) days of submission.

(Code 1953, 17B.19; Ord. No. 590, 6-1-64)

**State law reference**-For similar provisions, see SDCL 1967, 11-6-26

**Sec. 15-30. Approval of subdivision regulations.**

In exercising the duties granted to it by this chapter, the City Planning and Zoning Commission shall recommend and the Board of Commissioners shall by Ordinance adopt regulations governing the subdivision of land within its jurisdiction as defined in 11-6-26. Such regulations may provide for the harmonious development of the City and its environs; for the co-ordination of streets within subdivisions with other existing or planned streets or with other features of the comprehensive plan of the municipality; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, or prosperity. Before an adoption of its subdivision regulations or any amendment thereof, a public hearing thereon shall be held by the Board of Commissioners.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-27.

**Sec. 15-31. Subdivision regulations concerning streets.**

Subdivision regulations may include requirements as to the extent to which and the manner in which the streets of the subdivision shall be graded and improved, and water, sewer, and other utility mains, piping, connections, or other facilities shall be installed as a condition precedent to the approval of the subdivision. The regulations may provide for the tentative approval of the plat previous to such improvements and installation; but any such tentative approval shall not be entered on the plat.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-28.

**Sec. 15-32. Subdivision bond.**

Subdivision regulations may provide that, in lieu of the completion of such work and installations previous to the final approval of a plat, the Board of Commissioners may accept a bond, in an amount and with surety and conditions satisfactory to it, providing for and securing to the City the actual construction and installation of such improvements and utilities within a period specified by the Council and expressed in the bond; and the City is hereby granted the power to enforce such bonds by all appropriate legal and equitable remedies.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-29.

**Sec. 15-33. Special assessment in lieu of bond.**

Subdivision regulations may provide in lieu of the completion of such work and installations previous to the final approval of a plat for an assessment or other method whereby the municipality is put in an assured position to do said work and make said installations at the cost of the owners of the property within the subdivision.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-30.

**Sec. 15-34. Plats of subdivisions generally.**

Any subdivision of land containing two (2) or more lots, no matter how described, shall be platted or replatted, and must be submitted to the City Planning and Zoning Commission for their consideration and recommendation to the Board of Commissioners for approval or rejection. Any plat submitted shall contain the name and address of a person to whom notice of hearing may be sent, and no plat shall be acted upon by the Board of Commissioners without affording a hearing thereon, notice of the time and place of which shall be sent by mail to said address not less than five (5) days before the date fixed therefore.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-31.

**Sec. 15-35. Approval of subdivision plats.**

The plat shall be approved or disapproved within ninety (90) days after submission thereof; otherwise such plat shall be deemed to have been approved and a certificate to that effect shall be issued by the Board of Commissioners on demand; provided, however, that the applicant for the approval may waive this requirement and consent to the extension of such period. The ground of disapproval of any plat shall be stated upon the records of the Board of Commissioners.  
(Code 1953, 17B.20; Ord. No. 590, 6-1-64)

**State law reference**-For similar provisions, see SDCL 1967, 11-6-32.

**Sec. 15-36. Dedications not accepted by approval of plat.**

The approval of a plat by the Board of Commissioners shall not be deemed to constitute or effect an acceptance by the Board of Commissioners or public of the dedication of any street or other ground shown on the plat.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-33.

**Sec. 15-37. Recording of plat.**

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, or record, any such map, plan, plat or replat unless and until the same shall have been approved by the Board of Commissioners as required by Section 15-29 of this Code.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-34.

**Sec. 15-38. Penalty for sale of lots before approval and recording of plat; injunction or action for recovery of penalty.**

Whoever being the owner or agent of the owner of the land located within platting jurisdiction of the City as described in 11-6-26, knowingly or with intent to defraud, transfers or sells or agrees to sell or negotiates to sell such land by reference to or exhibition of or by other use of a subdivision of such land before such plat has been approved by the Board of Commissioners and recorded in the Office of the Register of Deeds, shall forfeit and pay a penalty of not more than one hundred dollars (\$100.00) for each lot so transferred or sold or agreed or negotiated to be sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. The City may enjoin such transfer or sale or agreement by action for injunction or may recover the said penalty by civil action.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-35.

**Sec. 15-39. Approval of street improvements.**

From and after the time when the platting jurisdiction of the City shall have attached by virtue of the adoption of a major street plan as provided in Section 15-29 of this Code, the City or other public authority shall not, except as provided by Section 15-40 of this Code, accept, lay out, open, improve, grade, pave, or light any street or lay or authorize the laying of water mains, sewers, connections, or other facilities or utilities in any street within the City unless such street shall have been accepted or opened as, or shall have otherwise received the legal status of, a public street prior to the adoption of a comprehensive plan, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by said Council or on a street plat made by the City Planning and Zoning Commission and adopted by the Board of Commissioners.

(Code 1953, 17B.21; Ord. No. 590, 6-1-64)

**State law reference**-For similar provisions, see SDCL 1967, 11-6-36.

**Sec. 15-40. Commission approval of streets.**

The Board of Commissioners may locate and construct or may accept any other street if the Ordinance or other measure for such location and construction or for such acceptance be first submitted to the City Planning and Zoning Commission for its consideration, and, if disapproved by it, be passed by not less than two-thirds of the entire membership of the Board of Commissioners; and a street approval by the City Planning and Zoning Commission upon such submission, or constructed or accepted by said two-thirds vote after disapproval by the City Planning and Zoning Commission, shall have the status of an approved street as fully as though it had been originally shown on a subdivision plat approved by the Board of Commissioners or on a plat made by the City Planning and Zoning Commission and adopted by the Board of Commissioners.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-37.

**Sec. 15-41. Buildings on unapproved streets.**

From and after the time when the platting jurisdiction of the City shall have attached by reason of the adoption of a Major Street Plan as provided in Section 15-29 of this Code, no building permit shall be issued for or no building shall be erected on any lot within the territorial jurisdiction of the City Planning and Zoning Commission and Board of Commissioners as provided in said Section, unless the street giving access to the lot upon which said building is proposed to be placed shall be accepted as opened as, or shall have otherwise received the legal status of, a public street prior to that time, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by said board or on a street plat made by the City Planning and Zoning Commission and adopted by the Board of Commissioners or with a street located or accepted by the board after submission to said commission, and, in case of said commissions disapproval, by the favorable vote required in Section 15-40 of this Code. Any building erected in violation of this Section shall be deemed an unlawful structure, and the City may bring action to enjoin such erection or cause it be vacated or removed.

**State law reference**-For similar provisions, see SDCL 1967, 11-6-38.

**Sec. 15-42-15-48. Reserved.**

**DIVISION 2. City Planning and Zoning Commission**

**Sec. 15-49. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-50. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-51. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-52. Repealed.**  
(Ord. No. 1481, 8-24-09)

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(Ord. No. 1481, 8-24-09)

**Sec. 15-54. Repealed.**  
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(Ord. No. 1481, 8-24-09)

**Sec. 15-56. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-57. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-58. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-59. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-60. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-61. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-62. Repealed.**  
(Ord. No. 1481, 8-24-09)

**Sec. 15-63. Repealed.**  
(Ord. No. 1481, 8-24-09)