

SOUTH DAKOTA REAL ESTATE COMMISSION  
221 West Capitol Avenue, Suite 101  
Pierre, SD 57501

### **SUBDIVISION APPLICATION**

SDCL 36-21A-92 (4) defines "Subdivision" or "subdivided land" as "any real estate offered for sale and which has been registered under the Interstate Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15 U.S.C. 1701 and following, as such Act existed on January 1, 1980, or real estate located out of this state which is divided or proposed to be divided into fifty or more lots, parcels or units."

This application shall be accompanied by a **filing fee** of one hundred dollars (**\$100.00**) *plus* twenty-five dollars (**\$25.00**) for each one hundred (100) lots or fraction thereof to be offered for sale.

### **INSTRUCTIONS**

Answer all questions in this form, attach the required documents specified below, and file at the office of the South Dakota Real Estate Commission. Total investigation fee shall be determined depending upon the area and distance subdivision is located from that office.

### **REQUIRED DOCUMENTS**

The application shall contain the following information and supporting documents, together with the attached appointment of the Executive Director as agent for service of process in South Dakota and constitute a part thereof:

1. The name, address and business status of the applicant;
2. If the applicant is a partnership or LLC the names and addresses of the partners;
3. If the applicant is a corporation, the place of incorporation and the names and addresses of its officers and members of its board of directors;
4. The legal description and area of the real estate to be offered for sale, including maps and recorded plats showing the area involved;
5. The name and address of the legal owner of the real estate to be offered for sale;
6. A certified, audited financial statement fully disclosing the current financial condition of the developer;
7. A statement of the condition of the title of the subdivided lands, including encumbrances as of a specified date within thirty days of the application;

8. Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrances, if any, with dates as to recording, along with the documentary evidence that any mortgagee or trustee of a deed of trust has subordinated his interest in the real estate to the interest of a purchaser of the real estate;

9. A true statement of the terms and conditions on which it is intended to dispose of the real estate, together with copies of any contracts intended to be used. The contracts shall contain a provision entitling the purchaser, if he has not seen the land, to an unconditional right to rescind the contract and the unconditional right of refund of all payments made under the contract after inspecting the land if inspection is made within a time provided in the contract which may not be less than four months from the date of the contract and if the demand for refund or rescission of the contract is made within twenty days of the inspection. Any payment made by the purchaser shall be held in trust in a bank located in this state for four months or twenty days after inspection, whichever occurs first, and no portion of the payment may be expended for any purpose before the expiration of the trust period. The rescission period may be waived by the purchaser;

10. A statement of the zoning and other governmental regulations affecting the use of the land to be sold or offered for sale disclosing whether or not such regulations have been satisfied;

11. A copy of an offering statement which sets forth the material facts with respect to the land to be offered or sold.

No application may be approved by the commission unless the subdivider offers satisfactory proof of his ability to provide promised public improvements including water, sewer, gas and streets. Satisfactory proof shall be in the form of performance bonds or other security.

After receiving the application, the commission may require such additional information concerning the real estate as it considers necessary.

**FAILURE TO COMPLETELY ANSWER ALL QUESTIONS AND SUBMIT DOCUMENTS PERTAINING TO SUBDIVISION WILL CAUSE DELAY IN REGISTRATION OF SUBDIVISION.**

In support of this application, the following statements are made under oath:

1. Name and address of applicant

(Street)

(City)

(State)

(Zip)

2. If the applicant is a partnership, the names and addresses of the individual members thereof:

3. If the applicant is a corporation, the place of incorporation and the names and addresses of its officers and members of its board of directors.

4. Name of subdivision:

5. Location - City and County (Exact location and means of access):

Miles and/or direction from nearest city/town:

6. Legal description; subdivision map recorded:

Map number \_\_\_\_\_ or Book \_\_\_\_\_ Page \_\_\_\_\_ Date of Recording \_\_\_\_\_

Section(s) \_\_\_\_\_ Twp \_\_\_\_\_ Range \_\_\_\_\_

7. Sizes:

Number of Lots \_\_\_\_\_ Number of Acres \_\_\_\_\_

Will parcels or lots be individually staked? Yes No (All corner stakes and radii or otherwise?)

Explain.

8. Owner(s) Name

Address

(Street)

(City)

(State)

(Zip)

Telephone

9. (a). Record Title Holders (Name, Address, Telephone):

(b). If corporation, name and address of officers:

10. Conditions of Title:

(a). If there are any Mortgages, Trust Agreements, Leases or other encumbrances against this property, list below (use separate sheet if necessary):

Name of Holder

Address

(PO Box or Street)

(City)

(State)

(Zip)

Release Clause

(b). Type of Improvement District, if any, and the amount:

Streets

Sewers

Other(s) Combined

Total

(c). It is agreed that all deposit monies and/or monies received on time or cash sales will be handled in the following manner (explanation as to how deposits are to be handled after sale is consummated and money removed from in-state trust account, viz., Title Companies, Trust Accounts, etc.; exact and in detail).

Name and address indicating location of above:

(PO Box or Street )

(City)

(State)

(Zip)

(d). Has there been any change in condition of title since issuance of policy or report?  
Yes      No

If any changes, furnish copies of documents.

11. Who will handle sales:

(a) Name of broker

(b) If owner, is owner a licensed broker?    Yes      No

(c) Do you understand that sales may be made only by the owner or a person holding a South Dakota real estate license?    Yes      No

(d) Do you plan to sell vacant lots, lots improved with homes, or groups of lots to builders?    Explain

(e) List any other trade names, trade styles, or business names including the names of subsidiary companies and promoters used by or related to sales made by the applicant:

12. Name the states in which you have been licensed or registered in any capacity concerning the sale or development of real estate (if none, state "None").

13. Name and address of bank in South Dakota where trust account will be maintained, including account number:

(PO Box or Street )

(City)

(State)

(Zip)

14. Name of signatory on trust account (see No. 9 of "Required Documents" on page 2):

15. Water Supply (see below item No. 11, Page 2):

State whether water supply company will be municipal, public utility, co-op, irrigation district, etc.

Name of Company

Address of Company

(PO Box or Street )

(City)

(State)

(Zip)

Who will pay the costs of installation of water system?

When will system be installed (Date)

What costs, if any, will purchasers have to pay for installation of service to his house?

16. Has certificate of approval from State Health Department for water, sewage and garbage disposal been applied for? Yes            No

Certificate of approval issue date

17. Fire Protection:

What provision is or will be made available for fire protection?

Name of fire department/district, if any?

18. Public Utilities:

Name and address of electric company

(PO Box or Street )

(City)

(State)

(Zip)

Has electricity been installed to individual lots? Yes No If not, projected date

What costs to purchaser to receive service?

Is natural gas available? Yes No

Telephone service available? Yes No If not, projected date?

Name and address of company?

(PO Box or Street )

(City)

(State)

(Zip)

Purchaser costs to receive telephone service?

19. Sanitation: Public sewers installed? Yes No

If not, will they be installed Yes No (date)?

Who will pay sewer installation costs?

Who will pay sewer extension to house?

Where will tract sewers discharge?

If no public sewers, will septic tanks be used? Yes No

Cost of septic tank borne by purchaser?

20. Streets and Roads: Are streets bounding tract public streets? Yes No (If not, explain on separate sheet how purchasers will have legal access to the tract).

Are streets within tracts now dedicated? Yes No If not, will they be dedicated? Yes No

Are streets within tracts now surfaced? Yes No If not, will they be surfaced, bladed, or graded (asphalt, gravel, dirt)? Yes No

Date streets to be completed

Who will pay for surfacing, blading, grading?

Will there be curbs and sidewalks? Yes No

Who will maintain streets?

21. Public Transportation: State type, location and distance from tract?

22. Public Schools:

Location and distance of Elementary school from farthest tract?

Location and distance of Middle school/Jr. High from farthest tract?

Location and distance of High School from farthest tract?

School bus available? Yes No Cost?

Available to Elementary school? Yes No

Jr. High? Yes No

High School? Yes No

23. State distance to nearest community shopping center.

24. Do you understand that any instrument conveying an interest in any of the above-mentioned real estate shall be in recordable form and that the instrument may be recorded in the county where the real estate is located? Yes No

25. Do you understand that the South Dakota Real Estate Commission may thoroughly investigate all matters relating to this application, and may require a personal inspection of the real estate by a person or persons designated by it prior to registration, and that all expenses incurred by the commission in investigating such real estate and the proposed sale thereof shall be borne by the applicant?

Yes      No

**IMPORTANT**

The undersigned hereby agrees to abide by the following regulations of the Real Estate Commission.

No broker or salesperson may shall in any manner refer to the South Dakota Real Estate Commission or any member of employee thereof, in selling, offering for sale, or advertising, or otherwise promoting the sale, mortgage or lease of any such real estate, nor make any representation whatsoever that such real estate has been inspected or approved or otherwise passed upon by said commission or any state official, department, or employee.

It is unlawful for any owner, agent or subdivider, after submitting to the Executive Director the plan under which a subdivision is to be offered for sale or lease, and securing registration therefor, to change the plan materially without first notifying the Executive Director in writing of the intended change.

The South Dakota Real Estate Commission must be kept informed as to the names and addresses of all agents representing or negotiating the sale of the subdivision in the state of South Dakota.

STATE OF \_\_\_\_\_)

) ss.

COUNTY OF \_\_\_\_\_)

\_\_\_\_\_, being duly sworn, deposes and says: that the statements herein contained, and the documents submitted are full, true and complete, and that he is the subdivider, or that he is the owner of the subdivision described herein, or will be the owner at the time lots are offered for sale or lease – or that he is the agent authorized by such person to complete this questionnaire.

\_\_\_\_\_  
Owner

By \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

**State Of South Dakota  
Real Estate Commission**

APPOINTMENT OF THE EXECUTIVE DIRECTOR OF THE SOUTH DAKOTA REAL ESTATE COMMISSION, PIERRE, SOUTH DAKOTA, AS THE TRUE AND LAWFUL ATTORNEY FOR THE SERVICE OF PROCESS.

\_\_\_\_\_, having made application for registration of an out-of-state subdivision with the South Dakota Real Estate Commission under the laws of the State of South Dakota, does by these presents, pursuant to the provisions of SDCL 36-21A-55 irrevocably consent to and hereby does constitute and appoint the EXECUTIVE DIRECTOR of the SOUTH DAKOTA REAL ESTATE COMMISSION, with address of Pierre, South Dakota, or his successor in office, as the true and lawful attorney upon whom the service of any process or pleading authorized by the laws of this state may be made for any suits and actions which may be commenced against the party or parties hereto in the proper court of any county of the State of South Dakota in which a cause of action may arise or in which the plaintiff may reside.

It is hereby further stipulated and agreed that such service of process or pleading shall be taken and held in all courts to be as valid and binding as if due service had been made upon the said party or parties hereto in this state.

This appointment to continue irrevocably in force and effect as long as any liability of the party or parties hereto remains outstanding in the state of South Dakota.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Corporation

By \_\_\_\_\_ President

By \_\_\_\_\_ Secretary

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**CORPORATE ACKNOWLEDGMENT**

State of \_\_\_\_\_)

) ss.

County of \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_,

before me, \_\_\_\_\_,

a Notary Public in and for said state and county, personally appeared \_\_\_\_\_ and

\_\_\_\_\_, personally known to me to be the President and Secretary, respectively, of the corporation that is described in and that executed the within instrument and acknowledged to me that they as such officers for and in behalf of such corporation did execute the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

(SEAL)

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.