

ORDINANCE NO. 763

AN ORDINANCE AMENDING TITLE 17 ZONING, BY AMENDING CHAPTER 17.04 GENERAL PROVISIONS BY CORRECTING ERRORS, ADDING SECTION 17.04.080 RELATING TO NONCONFORMING LAND USES, AND AMENDING CHAPTER 17.12 RESIDENTIAL DISTRICT (R), SECTION 17.12.060 RESTRICTIONS AND REQUIREMENTS, BY PROVIDING AN EXCEPTION REGARDING DWELLINGS ON EXISTING SMALL LOTS AND CLARIFY VACATED STREET PROPERTY LINES.

BE IT ORDAINED by the Common Council of the City of Custer, Custer County, South Dakota:

Section 1. That Title 17, Chapter 17.04 of the Custer Municipal Code of the City of Custer, South Dakota is hereby amended to correct errors and include Section 17.04.080 as follows:

Chapter 17.04

GENERAL PROVISIONS

Sections:

- 17.04.010 General.
- 17.04.020 Zoning affects every building and use.
- 17.04.030 Performance standards.
- 17.04.040 Open space or off-street parking or loading space.
- 17.04.050 Yard and lot reducing prohibited.
- 17.04.060 Subdivision regulation.
- 17.04.070 Provisions of title declared to be minimum requirements.
- 17.04.080 Nonconforming Land Use.

17.04.010 General.

The zoning regulations set forth by this title within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided. (Ord. 432 (part), 1995)

17.04.020 Zoning affects every building and use.

No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located. (Ord. 432 (part), 1995)

17.04.030 Performance standards.

No building or other structure shall hereafter be erected or altered:

- A. To exceed the height or bulk;
- B. To accommodate or house a greater number of families;
- C. To occupy a greater percentage of lot area;
- D. To have narrower or smaller rear yards, front yards, side yards or other open spaces; than herein required; or

E. in any other manner contrary to the provisions of this title. (Ord. 432 (part), 1995)

17.04.040 Open space or off-street parking or loading space.

No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this title shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building. (Ord. 432 (part), 1995)

17.04.050 Yard and lot reducing prohibited.

No yard or lot existing at the time of passage of the ordinance codified in this title shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of said ordinance shall meet at least the minimum requirements established by this title. (Ord. 432 (part), 1995)

17.04.060 Subdivision regulation.

Any plat hereafter made, for each subdivision or part thereof lying within the jurisdiction of this title, shall be prepared, presented for approval, and recorded as herein prescribed. The subdivision regulations contained in Title 16 shall apply to the land for the purpose of sale or of building development, whether immediate or future, including the resubdivision or replatting of land or lots. (Ord. 494, 1998: Ord. 432 (part), 1995)

17.04.070 Provisions of title declared to be minimum requirements.

In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Whenever the provisions of this title require a greater width or size of yards, courts or other spaces, or require a lower height of building or lesser number of stories, or require any other percentage of lot to be left unoccupied, or impose other higher standards than are required in any other ordinance, the provisions of this title shall govern. Wherever the provisions of any other ordinance require a greater width or size of yards, courts or other open spaces, or require a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this title, the provisions of such ordinance shall govern. (Ord. 432 (part), 1995)

17.04.080 Nonconforming Land Use.

1. Continuance of nonconforming uses permitted - Discontinuance.

Any lawful use, lot, or occupancy of land or premises existing at the time of the adoption of the zoning ordinance may be continued, even though the use, lot, or occupation does not conform to the provisions of the ordinance. However, if the nonconforming use, lot, or occupancy is discontinued for a period of more than one year, any subsequent use, lot, or occupancy of the land or premises shall conform with the zoning ordinance.

(Source: SDCL 11-2-26)

2. Gradual elimination of discontinued nonconforming uses.

The governing body may by resolution as provided in SDCL 11-2-25 prescribe such regulations not contrary to law or SDCL 11-2-26, as it deems desirable or necessary to

regulate and control, or reduce the number or extent of or bring about the gradual elimination of nonconforming uses, lots, or occupancies. However, in accordance with the provisions of SDCL 11-2-26, any lawful use, lot, or occupancy of land or premises existing at the time of the adoption of the zoning ordinance may be continued, even though the use, lot, or occupancy does not conform to the provisions of the zoning ordinance. If the use, lot, or occupancy is discontinued for more than one year, the board may adopt, after notice by registered or certified mail to the property owners, an amortization schedule to bring about the gradual elimination of the nonconforming use, lot, or occupancy.

(Source: SDCL 11-2-27)

Section 2. That Title 17, Chapter 17.12, Section 17.12.060 of the Custer Municipal Code of the City of Custer, South Dakota is hereby amended to correct errors, clarify vacated street property lines and include an exception as follows:

17.12.060 Restrictions and requirements.

All structures, land and uses in the residential district (R) shall be in compliance with the following restrictions and requirements:

A. Minimum Lot Requirements.

1. The minimum lot area per single-family dwelling unit shall be seven thousand five hundred (7,500) square feet, provided, that for multifamily dwelling units the minimum lot area shall be seven thousand five hundred (7,500) square feet for the first dwelling unit and three thousand seven hundred fifty (3,750) square feet for each additional dwelling unit. The minimum lot width shall be fifty (50) feet.

Exception: Dwellings on Small Lots.

Where there is an existing recorded lot which does not meet the minimum lot area requirement, and said lot is not contiguous with other lots under the same ownership, a single-family dwelling may be maintained, continued, constructed or reconstructed provided that one (1) side yard shall be not less than four feet (4') and the sum of the side yards shall be not less than ten feet (10'), and provided that all other requirements, except lot size, are met.

2. Townhouses.

- a. Lot Size. There shall be no minimum lot size of a townhouse development lot or an individual townhouse lot. However, all applicable setback, density and open space requirements of this chapter must be met.
- b. Lot Area. Individual townhouse lots shall have land area in addition to the area upon which the structure is built. This land area shall, at a minimum, meet open space requirements for individual townhouse lots.
- c. Density. Maximum density for townhouses shall be seven thousand five hundred (7,500) square feet of land area for first townhouse unit and three

thousand seven hundred fifty (3,750) square feet for each additional townhouse unit located on the townhouse development lot.

d. Open Space Requirements. Individual townhouse lots shall have a minimum of four hundred (400) square feet of open space. A townhouse development lot shall have a minimum of eight hundred (800) square feet of open space per unit overall. Open space does not include driveways, parking or service areas.

B. Minimum Yard Requirements. There shall be a front yard of not less than a depth of thirty (30) feet. There shall be a rear yard of not less than a depth of twenty-five (25) feet. Each side yard shall not be less than six feet. All townhouse setbacks shall be measured from the property line of the townhouse development lot to the group of townhouses.

C. Minimum Dwelling Size. The minimum single-family dwelling size shall not be less than six hundred (600) square feet.

D. Maximum Height. The height of all buildings and structures shall not exceed thirty-five (35) feet.

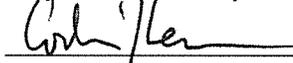
E. Sanitation. All occupied structures shall be connected to municipal sewer and water facilities.

F. Off-Street Parking. One off-street parking space shall be provided for each townhouse unit. (Ord. 434 (part), 1995; Ord. 432 (part), 1995)

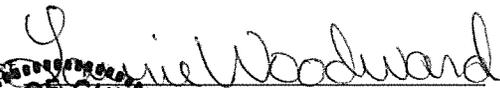
NOW BE IT ORDAINED that all ordinances or parts thereof in conflict with this ordinance are hereby repealed. Should any section or part of this ordinance be determined to be invalid, the same shall not invalidate the remaining section(s) of this Ordinance.

Dated this 20th day of April, 2015

City of Custer City



Corbin Herman, Council President

Attest: 

Julie Woodward, Finance Officer



First Reading: April 6, 2015

Second Reading: April 20, 2015

Publication: May 6, 2015

Vote:

Schleining: Yes

Heinrich: Yes

Fischer: Yes

Maciejewski: Yes

Herman:

Kothe: Yes