

Ordinance No. 2005-2

Butte County, South Dakota

**Titled: "An Ordinance of Butte County providing regulations for the Subdivision of Land".
The Governing Body of Butte County does hereby ordain as follows:**

**ARTICLE I
AUTHORITY AND JURISDICTION**

Section 1 - Authority:

Pursuant to the authority granted by SDCL Chapter 11-2, the following regulations are hereby adopted by the County Commissioners of Butte County, South Dakota.

Section 2 - Statement of Purpose:

The purpose of this Ordinance is to (1) promote the orderly division and development of land within Butte County; (2) promote the health, safety and welfare of occupants of newly subdivided lands as well as adjoining property owners and occupants; and, (3) to consider the social, economic, health and environmental impact to Butte County, including the vested property rights of Butte County residents in the consideration of further subdivision within the County.

Section 3 - Jurisdiction:

This Ordinance shall govern the subdivision of all land within Butte County except as provided by Article III. This Ordinance shall also apply to further subdivision of lands which have been previously subdivided prior to the adoption of this Ordinance. Article V, Section 2 (relating to design standards for sewer systems) shall apply to all existing subdivisions and lots which have not previously installed a sewer or septic system prior to the adoption of this Ordinance.

**ARTICLE II
DEFINITIONS**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

For the purposes of this Ordinance, and in order to carry out the provisions and intentions as set forth herein, certain words, terms and phrases are to be used and interpreted as defined hereafter. Words used in the present tense shall include the future tense; words in the singular number include the plural, and words in the plural number include the singular; the word "person" includes a firm, partnership or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; and the word "may" is permissive.

DEDICATED PRIVATE ROAD: A road leading to or within a subdivision, which is specifically designed and built according to Butte County Highway standards, and which is reflected on the plat as not available or intended for general public use, or which use is limited to serve property within the subdivision;

DEDICATED PUBLIC ROAD: A road leading to or within a subdivision, which is specifically designed and built according to Butte County Highway standards, and which is reflected on the plat as open to the public;

FINAL PLAN: The documentation which is required by this Ordinance to accompany the Final Plat to explain or supplement the information required as a condition of approval of the Final Plat.

FINAL PLAT: A map of an area of land which meets the requirements of these regulations and is in the proper form for recording in the office of the Register of Deeds of Butte County.

GOVERNING BODY: The Butte County Board of County Commissioners.

LOT: A part of subdivided lands having established boundaries. The term shall include tracts and parcels.

MINOR SUBDIVISION: A subdivision consisting of three (3) lots or less where no new improvements or street dedications would be required to comply with this Ordinance.

MOBILE HOME: Any vehicle, trailer, or portable dwelling which has a manufacturer's serial number, a certificate of title and which is constructed to be towed on its own chassis or propelled under its own power, having either a permanent foundation or supported by wheels, jacks, or blocks, connected to utilities or designed or constructed to permit occupancy of one (1) or more persons for dwelling purposes. This vehicle, trailer, or portable dwelling structure may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated precut dwelling units or those manufactured in sections or parts away from the site and transported thereto for erection or assembly, provided that when completely erected, such prefabricated, precut, or manufactured dwelling unit shall be placed on and connected to a permanent foundation and in all respects comply with the Uniform Building Code, 1967 Edition and Amendments, thereto recommended by the International Conference of Building Officials.

MOBILE HOME COURT: A parcel of land owned, leased or controlled by an individual, corporation, partnership, joint venture, or limited partnership that contains more than five mobile homes on not less than 5 acres.

MODULAR HOME: A type of manufactured home that will meet most building codes and is subject to standard regional or state building codes for modular construction. A modular home can be transported on a steel undercarriage although the undercarriage is not usually a permanent and necessary or integral structural component and can be removed when the

home is placed on a foundation.

PERMANENT FOUNDATION: As this term relates to Mobile Homes, shall mean a foundation meeting the standards of the Federal Housing Authority, after all bolted on tongue, hitch assemblies and running gears have been removed.

PLANNING COMMISSION: The Planning Commission of Butte County.

PRELIMINARY PLAN: The initial map or maps and supporting material of a proposed subdivision, drawn and submitted in accordance with this Ordinance, to permit the evaluation of the proposal prior to detailed engineering and design.

SUBDIVIDER: The person(s), firm(s), or corporation(s) owning land in the process of being subdivided.

SUBDIVISION: Any division of land into two or more lots, tracts, or parcels whether by plat or deed describing property by governmental survey and subdivision for the purpose of sale, lease or development, immediate or future, and includes resubdivision.

SUBDIVISION, LOW DENSITY: A subdivision created by division of land into one or more tract(s), all of which contain five (5) or more acres.

SUBDIVISION, MEDIUM DENSITY: A subdivision created by division of land into one or more tract(s), of which any lot, tract or parcel contains one (1) or more acres, but less than five (5) acres.

SUBDIVISION, HIGH DENSITY: A subdivision created by division of land into one or more tract(s), of which any lot, tract, or parcel contains less than one (1) acre, but more than ten thousand (10,000) square feet.

ARTICLE III EXEMPTIONS

The following situations, when involving the division of land, shall be exempt from this Ordinance:

1. Division of land for purposes of road or utility rights of way or cemeteries;
2. A sale, lease or gift of agricultural land to be used for agricultural purposes only.
3. A sale of land of 40 or more contiguous acres, to be occupied as a single family residence only.
4. Any subdivision of agricultural land for the primary purpose of providing residential housing for family member(s) engaged in agriculture.

5. Current residential owners, who may own 20 or more acres, requesting a division of land at the request of a financial institution or mortgage company because the financial institution or mortgage company will only loan money and accept a mortgage on a smaller tract of land of five (5) or ten (10) acres. Amended 12-17-2002.

ARTICLE IV PROCEDURE

Section 1 - Outline of Procedure:

1. The subdivider shall submit to the Planning Commission a sketch plan and statement of intent so as to permit unofficial review by the Planning Commission to assist in establishing the legality of the proposed subdivision, any unusual conditions or circumstances that may arise in development of the subdivision, and to answer questions and assist the subdivider in the application of this Ordinance.
2. Upon receipt of a preliminary plan, the Planning Commission will review it for compliance with this Ordinance. Upon completion of all requirements, and upon an express finding by the Planning Commission that the proposed subdivision complies with this Ordinance, the Planning Commission will forward the plan with the preliminary plat and its recommendation for approval to the governing body.
3. If the preliminary plan and plat is approved by the governing body, the subdivider shall comply with all conditions of the preliminary approval, and install or complete all improvements required, and otherwise comply with the requirements of the final plan and plat.
4. After all conditions of approval have been complied with, and all improvements completed or bonded as provided by this Ordinance, the subdivider may prepare and submit a final plan and plat for submission to the Planning Commission.
5. Upon finding that the final plan and plat is in substantial compliance with the approved preliminary plan, the Planning Commission will recommend its approval or disapproval to the governing body.
6. The final plan and plat will be filed with the Register of Deeds upon approval by the governing body.
7. Minor subdivision, as that term is defined herein, may proceed directly with the final plan and plat. The contents of a minor subdivision plan and plat, and the procedures for approval shall be the same as required for final plats, excluding the requirement of preliminary plan approval. Supporting material for minor plats shall include all applicable supporting materials required for both preliminary and final plans.

Section 2 - Statement of Intent and Sketch Plan:

The following information shall be submitted by the subdivider to provide for informal review and discussion as provided in Section 1 above:

1. The subdivider shall prepare a written statement of intent concerning the land to be subdivided in sufficient detail to clearly state the nature and purpose of the subdivision.
2. The subdivider shall prepare a sketch plan complying with the provisions of this Ordinance to be submitted to and discussed with the Planning Commission in order to establish the requirements of the subdivision Ordinance, and any unusual or unique circumstances that are expected to arise in the proposed subdivision. The content of the sketch plan shall be as follows:

SKETCH PLAN - submission requirements

- a. Subdivision name and legal description
- b. Name(s) and address (es) of owner(s) and subdivider(s) and any existing mortgage holders:
- c. Maps showing the general location of the property in context with surrounding properties;
- d. Proposed property boundaries;
- e. Significant natural and man made features of the proposed subdivision;
- f. Lot and street layout (with acreage's to 1/2 acre)
- g. A written report discussing the following:
 - (1) Proposed water supply and distribution system;
 - (2) Present use of land contained with the proposed subdivision;
 - (3) Present use of adjacent land;
 - (4) Proposed improvements to be installed or constructed by the developer;
 - (5) Proposed sewage disposal system and soil types and suitability of soils for the proposed sewage disposal system;
 - (6) Type of structures and density of structures to be contained within the subdivision.

Section 3 - Preliminary Plan:

The subdivider or his representative shall submit to the planning commission ten copies of the preliminary plan and proposed drawings of the proposed subdivision which shall include the following:

1. Map or maps showing the following information:
 - a. Name of proposed subdivision.
 - b. Name and address, including telephone number of the subdivider.
 - c. Name and address, including telephone number of the person responsible for subdivision design, improvement design and surveys.
 - d. Date, north arrow and graphic scale.
 - e. Location of the property by legal description.
 - f. Boundary of the proposed subdivision showing its location and dimensions.
 - g. Names and addresses, including telephone numbers of all adjacent land owners.
 - h. Present usage of land within the proposed subdivision and present use of adjacent land.
 - i. Location of any existing or proposed development, utilities, power lines, easements and rights-of-way within the proposed subdivision and adjacent area.
 - j. Location of drainage ways and areas subject to flooding within the proposed subdivision and adjacent area.
 - k. Topography of the area displayed in not more than twenty (20) foot intervals when the terrain of the proposed area could affect its development.
 - l. Location, dimension and area of all proposed or existing lots. All lots and blocks shall be numbered or lettered consecutively.
 - m. Names, locations and widths of all existing and proposed streets or roads within the proposed subdivision and adjacent area, together with a map showing the point of connection with existing federal, state and/or county roads.
 - n. Location and dimensions of all land proposed to be dedicated or reserved for parks, schools or other public uses.
 - o. Proposed improvements to be installed or constructed by the subdivider including roads, water systems, sewer development, utilities or other improvements to subdivision property.

2. Written reports or narratives covering the following:
 - a. Proposed water supply and distribution system;
 - b. Present use of land contained with the proposed subdivision;
 - c. Present use of adjacent land;
 - d. Proposed improvements to be installed or constructed by the developer;
 - e. Proposed sewage disposal system and soil types and suitability of soils for the proposed sewage disposal system;
 - f. Type of structures and density of structures to be contained within the subdivision;
 - g. The impact of the proposed subdivision upon the adjacent properties and the county as a whole;
 - h. If septic systems will be used for sewage disposal, sufficient information shall be provided to determine the suitability of soils and other conditions within the proposed subdivision to determine suitability of lands for the safe installation of septic systems in accordance with South Dakota laws and regulations of the Department of Environment and Natural Resources, including, but not limited to, those contained in ARSD 74:53:01 and 74:03:01. Percolation tests for each lot within the proposed subdivision shall be submitted if no central sewer system is proposed;
 - i. Provisions for the establishment and maintenance of Homeowners Associations, including drafts of proposed Articles of Incorporation and By-laws, or other means of providing for maintenance and upkeep of roads, common areas, water and sewer systems and for the enforcement of covenants within the proposed subdivision;
 - j. A copy of the agreement between the subdivider and any utility company anticipated to provide water, gas, electrical or telephone service to the subdivision, outlining the financial arrangements that have been made to install such utilities.
3. A draft of covenants to be recorded and run with the land, identifying and providing for the following:
 - a. Provisions for assessment of lots to fund the Homeowners Association, provide for repair and maintenance of common areas, and enforcement of covenants;
 - b. Types of homes and other structures permitted within the Subdivision;

- c. Provisions limiting maintenance of animals within the Subdivision;
 - d. Provisions prohibiting accumulation of junk, trash, debris, unlicensed motor vehicles, and provisions for regular removal of garbage;
 - e. Provisions for construction and maintenance of perimeter fences;
 - f. Provisions for abatement of nuisances;
 - g. Provisions for installation of septic systems in accordance with any ordinances adopted by Butte County, including, but not limited to, those contained in ARSD 74:53:01 and 74:03:01;
 - h. Provisions limiting amendment of Covenants and Homeowners Association Articles and/or Bylaws, without the consent of the Butte County Planning Commission and Board of County Commissioners until a majority of lots within the proposed subdivision have been sold, and thereafter, according to the terms of the Covenants, Articles and/or By-Laws;
 - i. Requiring all property owners within the Subdivision to mark or identify each improved property in accordance with rules adopted by the Butte County E-911 Coordinator;
 - j. Provisions limiting use of improved property within the Subdivision to single family residential use, unless otherwise permitted by the action of the Butte County Commission in approving such subdivision;
4. Disclosure Statement. A full disclosure statement shall be submitted for review and approval by the County Commissioners - prior to approval of a final plat. Copies of disclosure statements will be filed with the Register of Deeds and kept at the office of the County Auditor and will be available on request to the public. Copies of disclosure statements shall be provided to each prospective purchaser, prior to entering into any binding sale agreement. Disclosure statements shall clearly and concisely present all the facts related to the following items:
- a. Street construction and maintenance (including snow removal responsibility).
 - b. Water supply - design criteria and maintenance responsibilities.
 - c. Sewage disposal - design criteria and maintenance responsibilities.
 - d. Restrictive covenants - where copies are available and describe how they are enforced.

- e. Association fees - should be listed and described as to allocations of funds, penalties for non-payment, procedure for change in fees.
 - f. Garbage disposal - statement to define financial and physical responsibilities.
 - g. Telephone company construction charge - statement to define financial responsibility.
 - h. Cable TV charges - statement to define financial responsibilities.
 - i. Street and traffic control signs and devices - statements to define construction and maintenance responsibilities.
 - j. Street lighting, if required - define construction and maintenance responsibilities, if lighting is provided for-
 - k. Culverts, Drainage - define construction and maintenance responsibilities.
 - l. The manner in which amendments to any covenant may be made.
 - m. Fire protection - status and description.
 - n. Building Codes - statutes of applicable codes which apply to construction within the subdivision.
 - o. Electricity - statement to define financial responsibility for construction and connections.
 - p. Postal Service - define level of service and responsibility of homeowner and developer as concerns mailbox construction and maintenance.
5. The Planning Commission may distribute copies of the preliminary plan or portions thereof to those agencies and people having possible concern with the proposed subdivision. Such agencies when applicable would be:
- a. Appropriate school districts
 - b. Affected municipalities
 - c. Utility companies
 - d. South Dakota Department of Transportation
 - e. Butte County Highway Department
 - f. Soil Conservation Service

- g. South Dakota Department of Environment and Natural Resources
- h. South Dakota Department of Health
- i. Local fire departments, police departments, ambulance services, and the Butte County Sheriff
- j. Irrigation districts or ditch companies

The above shall have twenty (20) days from the date information is mailed to them to comment.

6. The Planning Commission shall examine the Preliminary Plans. If satisfied that all preliminary information has been properly submitted, the Planning Commission shall set a date for public hearing on the proposed subdivision at the next scheduled Planning Commission meeting. Notice of the date and time for public hearing shall be conspicuously published once each week for 2 successive weeks prior to the hearing in the legal newspaper of Butte County. The notice shall describe the general location, nature and extent of the proposed subdivision, that copies of the Preliminary Plans may be inspected at the office of the Butte County Auditor, and that any interested person may appear at the public hearing to comment, or may submit written comments on the proposed subdivision.
7. The Planning Commission shall also require written notice of the proposed subdivision to be given to all adjacent land owners who may be affected by the proposed subdivision. The written notice shall specify the general nature and extent of the proposed subdivision, the date and time of public hearing, and the right to appear personally, by an attorney or representative, and to submit written comments.
8. Within 30 days after the public hearing, the Planning Commission shall consider the proposed subdivision and approve or disapprove it, or approve the subdivision with additional requirements.
9. The Planning Commission shall forward the preliminary plan, accompanied by their recommendation of approval or disapproval, and all supporting documents and public comments to the Governing Body at their next regular meeting.
10. The Governing Body shall consider the preliminary plan, the Planning Commission's recommendations and then approve or disapprove the preliminary plan.
11. When a preliminary plan has met the requirements of this Guidelines, those requirements imposed by the Planning Commission, and has the approval of the Governing Body, it is then eligible to be submitted as a final plat.

Approved preliminary plans shall be effective for one (1) year from the date of approval by the Governing Body.

Section 4 - Final Plan:

1. A final plan and plat of the proposed subdivision, meeting the requirements of this Ordinance, and any condition or requirements contained in the approval of the preliminary plan, shall be submitted to the Planning Commission for its approval. The following information is required for final plats of subdivisions:
 - a. The original or reproducible final plat shall be drawn in black ink upon tracing cloth or tracing vellum fifteen (15) by twenty-six (26) inches or eight and one-half (8 1/2) by fourteen (14) inches. The scale shall be one (1) inch equals one-hundred (100) feet for tracts under forty (40) acres, and one (1) inch equals four hundred (400) feet for tracts over forty (40) acres .
2. The final plat shall show the following information:
 - a. The boundary lines of the subdivision including distances and angles or bearings and all section lines.
 - b. Street lines, pedestrian ways, lots, reservations, easements, and areas to be dedicated to public use, to include acreage contained in each.
 - c. All roads, streets, and alleys shall be designated as “DEDICATED PUBLIC RIGHT-OF-WAY” or “DEDICATED PRIVATE ROAD”, with the exception of private driveways.
 - d. The length of all straight lines, angle of intersection, length of curves and radius. All dimensions of each lot shall also be shown thereon. All dimensions shall be shown in feet and decimals of a foot. The boundaries of the property locations, scales and true north shall be shown. The acreage of each lot to two decimal places.
 - e. Number to identify each lot and block.
 - f. Minimum building and setback lines on all lots and other sites. Setbacks shall be at least 50 feet from the front of the lot, and at least 25 feet from the sides and rear boundaries of each lot.
 - g. Easement lines for services or utilities.
 - h. Subdivision name, scale, north point, and date.
3. The following written information:
 - a. Written reports on water and sewer systems required by Article V, Section 2 establishing compliance with DENR requirements including, but not limited to,

those contained in ARSD 74:53:01 and 74:03:01. and,

- b. Reports or certifications establishing compliance with all design and plan standards contained in Article V, and any conditions or requirements of the preliminary approval.
4. To insure that the developer installs or constructs those improvements listed in Article V and/or set forth by the Planning Commission, the final plat will not be approved until such improvements are completed or provided for by surety.

Section 5 - Additional Provisions

1. The Planning Commission or the County Commission may adopt official forms for use in carrying out any provision of this Ordinance.
2. The sub-divider shall pay a non-refundable fee of \$100.00 per lot within the proposed subdivision, to a maximum of \$500.00, upon submission of the preliminary plan/plat to cover the cost of the notices, hearing publication notices, mailings and photocopies required by this Ordinance.
3. The Planning Commission or the County Commission may impose additional requirements or restrictive covenants that will serve and protect the public interest in safety, health and welfare, but-only under extraordinary circumstances.
4. No Final Plat will be approved or executed by the Chairman of the Butte County Commission until all other signatures required by law or this Ordinance shall have been obtained.

ARTICLE V DESIGN AND PLAN STANDARDS

The design and plan standards set forth in this Ordinance shall be considered as minimum requirements and may be exceeded by the subdivider.

Section 1 - General Plan Standards

The following standards shall be followed when planning a subdivision:

1. Topsoil and natural vegetation shall be disturbed as little as possible. Topsoil removed in the grading of the subdivision shall not be used as spoil, but shall be redistributed over the disturbed area. All disturbances shall be stabilized by seeding or planting within the next growing season.
2. Existing features which would enhance the residential development of the area as a whole, such as trees, historic sites and similar irreplaceable assets, shall be preserved in

the design of the subdivision. No trees shall be removed from any subdivision nor any change of grade of the land effected until approval of the preliminary plan has been granted.

3. Land adjacent to a proposed subdivision shall not be left land-locked by such proposed subdivision.
4. Each lot shall be provided with deeded access to a street.
5. Easements for utilities and drainage ways shall be provided.
6. Low areas subject to periodic flooding shall not be developed, except for such uses that are compatible with such an area, such as recreational uses, parks, or other purposes and uses permitted by the Butte County Flood Damage Prevention Ordinance.
7. Land shall not be subdivided in a manner which omits part of the original tract to avoid otherwise necessary improvements, such as drainage.
8. Street or subdivision names shall not duplicate by spelling or sound or otherwise be confused with the names of existing streets or subdivisions. Such names are subject to approval of the Planning Commission, and shall also comply with any E-911 standards.
9. When determining individual lot sizes within a proposed subdivision, the following standards will be followed for health reasons:
 - a. If a lot is to have its own well and sewer tank or septic system, minimum lot area is five (5) acres, (Low Density).
 - b. If a lot is serviced by either a public water or sewer system, minimum lot area is one (1) acre, (Medium Density).
 - c. If a lot is serviced by both public water and sewer systems, minimum lot area required is ten thousand (10,000) square feet. (High Density).
 - d. If a lot is serviced by a public water system, but is not serviced by a public sewer system but the sewage generated on that lot is collected in a holding tank, the minimum lot area is one acre.
10. Every subdivision consisting of four (4) or more lots shall create and maintain a homeowners' association, landowners' association or equivalent association prior to the approval of the final plan. The association shall, at a minimum, provide for the following:
 - a. Mandatory membership for all owners of lots within the subdivision;
 - b. Adequate provision for assessment of individual lots for the purpose of maintenance of common roads, water systems and any other common

- improvements within the subdivision;
- c. Provisions for adequate funding for enforcement of covenants and internal rules adopted by the association;
- d. Continuous health and safety inspections;
- e. Receiving and processing complaints; and,
- f. Maintaining partition boundary fences which adjoin agricultural lands surrounding the subdivision, in accordance with SDCL Ch. 43-23.

No homeowners' or landowners' association or equivalent may be amended or dissolved without prior consent of the county commission.

11. No subdivision now or hereafter authorized shall permit, outside of containers or buildings suitable for the purpose, any of the following:
 - a. The accumulation, storage or maintenance of junk, trash, noxious weeds, scrap metal, garbage, refuse, tires, batteries, wood, debris, waste, motor vehicle parts, salvage materials or any other similar kind of personal property, within the subdivision;
 - b. The accumulation, storage or maintenance of abandoned, discarded or unused furniture, stoves, sinks, appliances, toilets, cabinets or other discarded items of household fixtures and furnishings;
 - c. The accumulation, storage or maintenance of abandoned, wrecked, dismantled or inoperable motor vehicles, trailers, campers, boats, or parts thereof;
 - d. Abandoned or dilapidated structures;
 - e. Any structure, building or other improvement which is kept or permitted to remain in a condition by which the building, structure or improvement is inoperable or unusable for the purposes and manner for which said property is customarily and lawfully used, and which is in a state of disassembly, major disrepair or in a damaged condition, and which has been maintained in such condition for a period in excess of thirty (30) days;
 - f. Dogs or other domestic animals from running at large within the subdivision.

The provisions of this paragraph may be separately enforced by a Homeowners Association, or the Butte County States Attorney in accordance with Article VIII or SDCL Ch. 21-10.

12. If the subdivision is located within the boundaries of an irrigation district or within lands served by a ditch, irrigation company or association or by an unorganized ditch, evidence

that the plan has been approved by the district board, company, or association, or the remaining appropriators in the case of an unorganized ditch.

13. Where an irrigation ditch or canal traverses land proposed for subdivision, evidence that provisions have been made to insure access to the ditch for maintenance and operational purposes.

Section 2 - Design Standards for Water and Sewer Systems

The following standards are to be used when designing water and sewer systems within a proposed subdivision.

1. Water Standards.
 - a. Where individual water systems are proposed, the subdivider shall demonstrate the availability of an adequate supply of potable water; suitable for human consumption. Where ten (10) or more lots are proposed, the system shall meet all requirements of the DENR.
 - b. Where individual water systems are proposed which include the use of cisterns and hauling potable the subdivider shall demonstrate the availability of an adequate supply of potable water suitable for human consumption. The subdivider shall show that other adequate systems cannot be developed and meet DENR and EPA standards.
 - c. Where a public or semi-public water system is proposed as a domestic water source, drawings shall be submitted. The plans shall include a written certification of a licensed South Dakota engineer certifying to the adequacy and safety of the domestic water source intended to be used for the subdivision, and that the plan for domestic water supply meets County, State, Federal, and other local governing authority standards. Written approval of a public system by the South Dakota Department of Environment and Natural Resources shall be received before presentation of the Final Plat to the Board of County Commissioners.
 - d. If a public water supply system is accessible and a public water main is available within one-half (1/2) mile of a proposed subdivision, the subdivider shall be required to connect to this main for the purpose of supplying potable water to every lot in the proposed subdivision, except where restricted by capacity of the public water supply system or limited by topography or easement, or in cases of economic hardship.
 - e. If a public water system is not available, a central water supply and distribution system shall be established if the proposed subdivision consists of more than ten (10) lots. Smaller subdivisions may use individual wells. In either event the plans for the water supply and distribution system and water samples shall be submitted to the State Department of Environmental protection for its approval.

2. Sanitary Sewers Standards:

- a. Where individual sewage disposal systems are proposed by the subdivider, a written certification of a licensed South Dakota engineer certifying as to the adequacy and safety of individual sewage disposal systems proposed for the subdivision, including the adequacy of the proposed systems in relation to the topography of the subdivision, the proposed population density, soil conditions and water sheds located on or draining into or over the proposed subdivision, shall be shown on the plat. Soil percolation tests shall be conducted at a frequency of at least one (1) test per lot. Where ground water problems exist, private sewage disposal systems may not be approved unless detailed plans for an adequate system, signed by a licensed South Dakota engineer, accompany the plat.
- b. Where a public sewer system is proposed by the subdivider, drawings shall be submitted providing sufficient information to assure that the proposed sewage system meets County, State, Federal, and other local governing authority standards. The plans shall include a written certification of a licensed South Dakota engineer certifying as to the adequacy of the proposed system in relation to the topography of the subdivision, the proposed population density, soil conditions and water sheds located on or drainage into or over the proposed subdivision. Written approval of the system by the South Dakota Department of Environment and Natural Resources shall be received before presentation of the Final Plat to the Board of County Commissioners.
- c. Public sanitary sewers shall be installed as required by the standards and specifications as may be established by the South Dakota Department of Environment and Natural Resources. See South Dakota Administrative Rules Chapter 74:03:01
- d. Where a public waste water system sewer is not available, the Board of County Commissioners may, by Ordinance, grant approval for such sewers to serve all properties in the area where a complete and adequate community sanitary sewer system and plant are designed, and complete plans for the system and plant are submitted to and approved by the Department of Health, the South Dakota Department of Environment and Natural Resources before construction.
- e. Individual sewer systems shall be constructed according to standards and regulations set forth by the South Dakota Department of Environment and Natural Resources. See South Dakota Administrative Rules Chapter 74:03:01
- f. Installation of septic system:

3. No person shall install in any subdivision now or hereafter existing in Butte County, a septic system without first complying with this provision.

- a. Prior to any installation of a septic system in a medium or high density subdivision, the design and location of the system shall be certified as safe and appropriate by a licensed South Dakota engineer, in good standing and legally authorized to practice engineering in the State of South Dakota. The certification shall take into account the soil type, drainage, percolation, slope, terrain, topography, as well as nearby wells, water courses, ground water levels, and such other considerations as may be appropriate to insure that the septic system is safe, for the benefit of the property owner, but also taking into account the interests of adjoining properties, water supplies and courses, and subsurface waters.
- b. No engineering design or engineering inspection shall be required in low density subdivisions, but all provisions for installation by a licensed South Dakota engineer, or an installer certified by the South Dakota Department of Environment and Natural Resources pursuant to ARSD 74:03:01.01, as amended, shall apply. No septic system in a low density subdivision shall be covered up or placed in service until inspected by an authorized agent of Butte County, which shall be paid for by Butte County.
- c. No septic system shall be installed in any subdivision in Butte County, now existing or hereafter created, except by a licensed South Dakota engineer, or an installer certified by the South Dakota Department of Environment and Natural Resources pursuant to ARSD 74:03:01.01, as amended.
- d. No septic system installed in any medium or high density subdivision in Butte County, now existing or hereafter created, shall be covered up or in any manner utilized until the system, as installed, is certified by a licensed South Dakota engineer as having been installed in compliance with the design requirements and certification required in paragraph 1.
- e. If a public sanitary sewer is accessible and a sanitary sewer line is available within one-half (1/2) mile of a proposed subdivision, the subdivider shall be required to connect to this sewer for the purpose of disposing of waste, and it shall be unlawful for the subdivider or any occupant to maintain an individual sewage disposal system on this property. Exceptions shall be made where restricted by the capacity of the public sanitary sewer system or limited by topography or easement.

Section 3 - Design Standards for Streets, Alleys and Sidewalks

The following standards are to be used when designing streets within a proposed subdivision.

1. Streets designed to have one end permanently closed shall have at the closed end, a turnaround having a minimum roadway diameter of fifty (50) feet.
2. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall not be permitted.

3. Acute angles at street intersections are to be avoided but in no case will an angle of less than seventy-five (75) degrees be permitted.
4. A minimum of six (6) inches of compacted gravel surface shall be applied to all streets in a proposed subdivision unless the net developed area exceeds three (3) lots per acre, then an asphalt, concrete or asphaltic concrete surface shall be required.
5. Cross slopes and gradients of all roads and streets shall be approved by the County Highway Superintendent.
6. The minimum rights-of-way and widths for all dedicated public and dedicated private roads within any subdivision shall comply with minimum standards adopted for County Roads by the Butte County Commission, and the Butte County Highway Department.
7. Alleys, when provided, shall be at least fifteen (15) feet wide and surfaced with compacted gravel.
8. The subdividing of land shall be such as to provide each lot with satisfactory access to an approved public road. The street or road layout shall conform to any duly adopted county road policy.

Section 4 - Mobile Homes and Mobile Home Parks

No subdivision shall permit the placement of any mobile home on any lot within a subdivision within Butte County that is not placed upon a permanent foundation (see definition p.3).

To handle the placement of mobile homes within Butte County, not on permanent foundations, mobile home parks may be established.

1. Mobile Home Parks shall contain not less than ten thousand (10,000) square feet of lot area for each space provided on the site. The space ratio is to include: hard surface access roads, auto parking and recreation area.
2. There shall be a lot plan in detail showing the following:
 - a. Common recreation space shall be provided at the rate of four hundred (400) square feet of space for each trailer site, but in no case shall the common recreation space be less than ten thousand (10,000) square feet. This requirement may be waived, however, if the court abuts a public park.
 - b. Fencing and screen planting on the premises.
 - c. Provisions for the removal of trash and garbage.
 - d. Utility Service connections, including easements.

- e. Provisions for the lighting of roadways, driveways and pedestrian walks.
 - f. Water availability and quality approved by both County and State Health Departments.
 - g. Sewage facilities cannot be individual septic tanks and drain fields. Systems must be approved by the County Commission and the State Health Department.
 - h. A typical lot plan including hard surface parking site, curb and gutter, plus two hundred (200) square feet pave patio for each space.
3. The Mobile Home Park will conform to all requirements of the South Dakota State Fire Code.

ARTICLE VI VARIANCES

Section 1 - Hardship

Where the Planning Commission finds that extraordinary hardships, due to unusual topographic or other conditions, beyond the control of the subdivider, may result from strict compliance with these regulations, it may vary the regulations that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent or purpose of the Subdivision Ordinance.

Section 2 - Conditions

In granting variances, modifications, and approvals for subdivisions, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied, modified, or approved. These conditions may include, without being limited to personal, surety, performance, or maintenance bonds, affidavits, covenants, or other legal instruments.

ARTICLE VII MISCELLANEOUS PROVISIONS

Section 1 - Severability

This Ordinance and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection or section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

Section 2 - Relationship to Other Laws

This Ordinance is not intended to interfere with or annul any other Ordinance, rule or regulation, state statute, or other provision of law. Where the provisions of this Ordinance impose restrictions which are different from those imposed by any other Ordinance, rule or regulation, statute or other provision of law, whichever provision is deemed most restrictive or imposes a higher standard shall control.

Section 3 - Conflicting Ordinances and Laws

All Ordinances or parts of ordinances in conflict with these Ordinances, or inconsistent herewith are hereby superceded to the extent necessary to give these Controls full force and effect. This Ordinance shall be held to be minimum requirements and shall not be deemed to supercede any more restrictive requirements imposed by any other lawfully adopted Ordinances, statutes, or regulations.

**ARTICLE VIII
PENALTIES**

Section 1.

Any person who intentionally violates any provisions of this Ordinance or any amendment thereto, or who intentionally fails to perform any act required hereunder, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than \$100 per day for each and every day the person is found to be in violation of this Ordinance, or imprisonment in the County Jail for not more than thirty (30) days, or both, for each offense, and in addition, shall pay all costs and expenses involved in the case. Any violation of this Ordinance is hereby declared to be a public nuisance per se.

Section 2.

Whoever, being the owner or agent of the owner of any land located within Butte County being found in violation of any of the regulations of this Ordinance shall be subject to an action for injunctive relief brought by Butte County. The Governing Body may recover the same penalty by civil action in any court of competent jurisdiction, according to SDCL §11-2-34.

**ARTICLE IX
COURT REVIEW OF DECISION OF GOVERNING BODY**

Appeals from any decision of the Governing Body by any person or persons jointly or severally, aggrieved by any decision of the Governing Body, or any taxpayer, or any officer, department, Board or bureau of the cities or county, may be taken to the court of competent jurisdiction. Such appeal shall be taken pursuant to SDCL 7-8-27 et seq.

First Reading: August 17, 2005

Second Reading: September 6, 2005
Adopted: September 6, 2005
Published: September 10, 2005, September 14, 2005
Effective: October 4, 2005

THIS ORDINANCE WILL BECOME EFFECTIVE ON THE 20TH DAY AFTER ITS COMPLETED PUBLICATION. THIS ORDINANCE WAS PASSED BY A MAJORITY VOTE OF THE BUTTE COUNTY COMMISSIONERS.

DATED THIS 6th DAY OF September, 2005

ATTEST:

Elaine Jensen, Butte County Auditor

Kim W. Kling, Chairman
Butte County Commission

The Commissions' decision to adopt this ordinance may be referred to a vote of the people as provided in SDCL 7-18A.

A referendum petition form for the above ordinance may be obtained from the office of the Butte County Auditor.

Dated at Belle Fourche, South Dakota, this 6th day of September, 2005.
Board of Butte County Commission
Kim W. Kling, Chairman
Elaine Jensen, Butte County Auditor