

CUSTER COUNTY ORDINANCE NUMBER 2

**AN ORDINANCE PROVIDING REGULATIONS
FOR THE SUBDIVISION AND USE OF LAND
WITHIN CUSTER COUNTY**

EFFECTIVE JANUARY 30, 2007

PROVIDED BY:
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ARTICLE I – AUTHORITY AND JURISDICTION

SECTION 1 -- STATUTORY AUTHORIZATION

Whereas Title 11-2-2, South Dakota Codified Laws (SDCL) has delegated the responsibility to the Board of County Commissioners of each county to adopt and enforce regulations designed for the purpose of promoting health, safety, and the general welfare of the county, the Board of Commissioners of Custer County, South Dakota hereby ordain the following:

SECTION 2 -- JURISDICTION

This Ordinance shall govern all unincorporated lands within the jurisdiction of the Board of County Commissioners for Custer County, South Dakota.

SECTION 3 -- AMENDMENTS

The regulations, restrictions, area, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, revised or repealed as provided by law. The Director of Planning for Custer County is to review this Ordinance annually and make recommendations for revisions to the Board as provided by law.

SECTION 4 -- STATEMENTS OF POLICY

If at any time during the course of completion of subdivisions, construction or any other development authorized under the provisions of this Ordinance, the Board becomes aware of impracticable procedures, unforeseen circumstances, or other cogent situations not compatible with the intent of this Ordinance, a Statement of Policy will govern the continuance of the problem area and/or any other projects requiring the application of the same. A Statement of Policy will govern any given situation or peculiar problem area for a period of time not to exceed twelve (12) months.

SECTION 5 -- SEVERABILITY AND SEPARABILITY

Should any Article, Section, Subsection or Provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

ARTICLE II – DEFINITIONS

Unless specifically defined below, words used in this Ordinance are to be understood in their ordinary sense, except as they may be defined in general by SDCL 2-14.

ACCESSORY: Incidental to a primary use or structure on the same lot or tract of land.

APPROACH: That portion of a driveway or private access road located within a public right-of-way between the driving surface of the public road and the boundary of the public right-of-way.

BOARD: The Board of County Commissioners.

BUILDING: For the purposes of this Ordinance, the definition of BUILDING is the same as the definition of STRUCTURE as hereinafter defined.

BUILDING, AGRICULTURAL: Any building used solely for agricultural purposes, such as a barn, livestock shelter, loafing shed, hay storage lean-to, or livestock feeder.

BUILDING PERMIT: The instrument used by the Planning Department to permit the construction, fabrication, alteration, improvement, storage, destruction or moving of any structure within the procedures and restrictions contained in this Ordinance.

CLUSTER SUBDIVISION: A residential subdivision with a minimum inclusive area of fifty (50) acres with a common-use area for subdivision residents that encompasses at least fifty percent (50%) of the total subdivision area. The plat of a cluster subdivision shall contain a note stating that the common-use area is not subject to future development except ancillary subdivision structures and utility or road rights-of-way and that no changes in area, location, or use may be made within the common-use area without prior approval, by resolution, of the Board.

COMMUNITY WATER SYSTEM: A public water system that serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-four (24) year-round residents.

DEDICATED PUBLIC RIGHT-OF-WAY: A parcel of land that is conveyed to the public by the notation “DEDICATED PUBLIC RIGHT-OF-WAY” on a recorded plat for use as a public right-of-way.

DENR: The South Dakota Department of Environment and Natural Resources.

DUPLEX: A building containing two (2) dwelling units.

DWELLING: A structure or portion thereof that is used exclusively for human habitation.

DWELLING, MULTIFAMILY: A building containing three (3) or more dwelling units.

DWELLING UNIT: One (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

EASEMENT: A grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person(s) or entity. An easement is self-perpetuating and runs with the land unless otherwise stipulated.

EASEMENT, CONSERVATION: The grant of a property right stipulating future or additional development.

FEMA: The Federal Emergency Management Agency.

GOVERNING BODY: The duly elected officials of a corporate political entity to whom authority is given to make, adopt, revise, and amend ordinances and regulations. Specifically in this Ordinance the Board of County Commissioners.

GRADING PERMIT: The instrument used by the Planning Department to permit the excavation, grading, or fill of earth or other material within the procedures and regulations contained in this Ordinance. The Grading Permit is intended to regulate: development of residential, public, commercial, and industrial properties; grading of land within or adjacent to FEMA-designated flood hazard areas; and construction of subdivision roads.

HIGHWAY DEPARTMENT: The Custer County Highway Superintendent and/or his/her staff, agents, or assigns.

HOMEOWNERS ASSOCIATION: An association comprised of homeowners who reside in the subdivision or development or landowners who purchase property in the subdivision or development. The association may assess maintenance or common area fees as set forth in the association by-laws.

IMPROVEMENTS: Changes and additions to land necessary to prepare it for building sites. These include but are not limited to: road paving and curbing, grading, survey monuments, drainage ways, sewers, fire hydrants, water mains, sidewalks, pedestrian ways, and other public works and appurtenances.

LOT: A tract or parcel of land within a subdivision.

LOT AREA: The total level area included within the lot lines.

MOBILE OR MANUFACTURED HOME: Manufactured structures built on a steel undercarriage with the necessary wheel assembly to be transported to a permanent or semi-permanent site. The wheel assembly can be removed when placed on a permanent foundation, and the steel undercarriage may remain intact if it is a structural component. Manufactured homes must meet Federal Manufactured Home Construction and Safety Standards as outlined in Title VI, Housing and Community Development Act of 1974.

MOBILE HOME PARK OR COURT: Any parcel of land whereon two (2) or more mobile or manufactured homes as defined herein are placed, located or maintained, or intended to be placed, located or maintained, including all accessory buildings. All land within the park or court shall be held in common ownership, with individual home spaces rented to residents.

MOBILE HOME SPACE: A plot of ground within a mobile home park or court that is designed as the location for one (1) mobile home and any customary accessory use thereof.

MOBILE HOME SUBDIVISION: Any parcel of land subdivided as a residential subdivision according to the provisions of this Ordinance, which is intended to be an area where lots are sold to individual mobile home owners.

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.

NONCOMMUNITY WATER SYSTEM: A public water system that is not a community water system and regularly serves a transient population of twenty-five (25) or more people each day.

NONCONFORMING USE: A building, structure or use of land existing at the time of enactment of this Ordinance that does not conform to the regulations herein provided.

PLANNING COMMISSION: The Planning Commission for Custer County, South Dakota.

PLANNING DEPARTMENT: The Custer County Planning Director and/or his/her staff, agents, or assigns.

PLANNING DIRECTOR: The person employed by the Board to coordinate activities between landowners, subdividers, the Planning Commission, other government agencies, and the Board. The Planning Director will also administer other regulatory land development and land use programs.

PLAT: A map drawn to scale from an accurate survey for the purpose of recording a subdivision of land.

PLAT, FINAL: A plat that includes all items, certificates and statements as set forth in Article III, Section 8 of this Ordinance.

PLAT, PRELIMINARY: A plat to be reviewed by the Planning Commission prior to review of a final plat. This plat shall include all items set forth in Article III, Section 5 of this Ordinance.

PUBLIC RIGHT-OF-WAY: A strip of land defined by right-of-way lines on a plat or easement document that is intended to be occupied by a road, recreation trail, utility line, or other similar use and to be used by the public. Public rights-of-way intended to be occupied by a road shall have a minimum width of sixty-six feet (66').

PUBLIC ACCESS AND UTILITY EASEMENT: A portion of a parcel of land that is defined by a notation on a recorded plat or easement document as a permanent easement for use as a public right-of-way.

RECORDED ACCESS: A permanent easement providing legal access to an isolated tract of land.

RESERVE STRIP: An easement granted to the public for a strip of land to be held in trust until needed for road development or other beneficial public use. The easement may be converted to a Public Access and Utility Easement by resolution of the Board.

ROADS: Any public or private thoroughfare that affords the principal means of access to abutting property. This term may be used interchangeably with “street”, “roadway”, “drive”, or “highway”. All roads must be within a public right-of-way, excluding Private Access Roads.

1. High-Volume Roads -- Roads of considerable continuity connecting various sections of a community or regions. These roads provide the primary access to subdivisions of land containing more than twenty-five (25) dwelling units.
2. Medium-Volume Roads -- Roads that provide the primary access to subdivisions of land containing six (6) to twenty-five (25) dwelling units.
3. Low-Volume Roads – Roads that are used or will be used primarily for access to abutting properties containing no more than five (5) dwelling units.
4. Private Access Roads – Roads that lie within Private Access Easements and provide access into isolated tracts of land where a public right-of-way is deemed not to be necessary by the Board.

ROAD DISTRICT ASSOCIATION: An association of land owners formed under the provisions of SDCL 31-12A, to develop a community or subdivision road district with the intent and purpose of maintaining the system of roads within the subdivision such that they have the capacity to handle all of the internal traffic and provide adequate ingress and egress to the members of the entire subdivision. The association shall develop rules and by-laws to govern the operation of the association including the election of officers, collection of fees, and the authorization to develop, repair, and maintain all roads within said system. The initial development of all roads within a subdivision is the responsibility of the developer or subdivider. All subdivision roads must meet County Road Specifications as provided by this Ordinance, and be approved by the Highway and Planning Departments.

ROAD, INTERIOR: Any road located within the boundaries of a subdivision.

ROAD SPECIFICATIONS: The required standards to which public roads within Custer County must be constructed.

SANITARY SEWER: A municipal, community, small, or individual sewage disposal system of a type approved by DENR.

SETBACK: The required distance between any structure and any property line on the lot on which it is located.

SEWER DISTRICT ASSOCIATION: An association of land owners formed to develop a community or subdivision district with the intent and purpose of developing a private sewage system with the capacity to handle the refuse of its members or the entire subdivision. The association shall develop rules and by-laws to govern the operation of the association including the election of officers, collection of fees, and the authorization to develop, repair, and maintain said system. The plans for all sewer district associations shall be submitted to DENR for approval subsequent to any construction or development.

SPECIFICATIONS: Design standards that have been adopted by the Board.

STRUCTURE: A combination of materials that form a construction for use, occupancy, or ornamentation whether installed or stored on, above, or below the surface of land or water.

SUBDIVIDER: The person(s), firm(s), or corporation(s), owning land and in the process of creating a subdivision of said land.

SUBDIVISION: The creation of any tract or parcel of land by plat or other means into one (1) or more lots, sites, or other creations thereof.

SUBDIVISION BY CHANGE OF ALIQUOT DESCRIPTION: A subdivision by change of aliquot description is any subdivision of land which will cause the Department of Equalization to change the aliquot description recorded in its property information records.

SUBDIVISION PRIVATE RIGHTS-OF-WAY: Within a Cluster Subdivision, a strip of land that is defined by right-of-way lines on a plat and is intended to be occupied by a private road, recreation trail, utility line, or other similar use and to be used by subdivision residents, their guests, emergency responders, government employees, utility service employees, and vehicles and/or employees of subdivision service providers. Subdivision Private Rights-of-way shall not be gated or otherwise obstructed and shall be considered the equivalent of public rights-of-way for the platting and subdivision purposes of Ordinance 2. Signage shall be installed, at the developer's expense, at subdivision entrances notifying the public that the subdivision private roads (or trails) are for the use of residents and service vehicles only.

SUBDIVISION, LOW-DENSITY: A subdivision created by division of land into one (1) 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 (1) or more tract(s), of which any lot, tract, or parcel contains two (2) or more acres, but less than five (5) acres.

SUBDIVISION, HIGH-DENSITY: A subdivision created by division of land into one (1) or more tracts(s), of which any lot, tract, or parcel contains less than two (2), but more than one (1) acre.

SUPPLEMENTAL MATERIALS: Those plans, reports, narratives, designs, requirements, agreements, covenants, and other materials necessary for the development of a subdivision. These include, but are not limited to, those items listed in Article III, Section 6 of this Ordinance.

USPLSS: United States Public Land Survey System.

VARIANCE: A specific exception, granted by the Board, to the terms of this Ordinance where such deviation will not be contrary to the public interest and will be granted due to circumstances peculiar to this property. A variance shall not be granted if such issuance violates the intent and spirit of this Ordinance.

WASTEWATER DISPOSAL PERMIT: The instrument used by the Planning Department to permit construction of an individual or small on-site wastewater system. All systems shall meet the provisions of SDAR 74:53 and Ordinance Number 2.

WATER DISTRICT ASSOCIATION: An association of land owners formed to develop a community or subdivision district with the intent and purpose of developing a private water carriage system with the capacity to handle the requirements of its members or the entire subdivision. The association shall develop rules and by-laws to govern the operation of the association including election of officers, collection of fees and the authorization to develop, repair, and maintain said system. The plans for all water district associations shall be submitted to DENR for approval prior to any construction or development, as required.

ARTICLE III – PROCEDURE FOR THE SUBDIVISION OF LAND

STATEMENT OF INTENT

It is the intent of the Board that all subdivision of land within Custer County shall be reviewed, either by Access Map Review or by Plat Review, to ensure that the provisions of Ordinance 2, especially the regulations concerning public access and road construction to County Specifications, are uniformly applied to all lands proposed for subdivision.

SECTION 1 – GENERAL REQUIREMENTS

1. Plats shall be filed on any parcel that is subdivided into an aliquot or non-aliquot part of the USPLSS. However, the Board, upon completion of an Access Map Review per requirements of Section 2 of this Article, may waive the requirement to create and file a plat for subdivision by change of aliquot description. Subdivision by change of aliquot description is not allowed within previously platted parcels or within previously recorded Government Lots, Homestead Entry Surveys (H.E.S.), or Mineral Surveys (M.S.).
2. The subdivider is required to install or construct the improvements hereinafter described prior to review of the final plat or access map by the Board. The Board may allow the subdivider to provide a cash or surety bond in lieu of immediate construction of improvements if so recommended by the Planning Commission and the County Highway Department. All improvements required under this Ordinance shall be constructed in accordance with specifications provided by, and under the inspection of, the Highway and Planning Departments.
3. All public roads shall be constructed to County Road Specifications. Such road construction will be subject to inspection by the Highway and Planning Departments, during construction and upon completion.
4. Maintenance of public roads shall be the responsibility of adjacent landowners unless said maintenance is accepted by the Board. Landowners are encouraged to form a Road District Association as specified in SDCL 31-12A but may petition the Board for acceptance of maintenance by the County as follows:
 - A. This petition shall contain a description of the exact location of the roadway to be maintained by the County.
 - B. A statement shall be included describing the requested maintenance, or improvements the petitioners desire the County to undertake. This statement is to be of sufficient detail to enable the Highway Department and the Board to reasonably determine the likely costs of the proposed action.
 - C. An explanation shall be provided detailing why a Road District Association cannot or should not be formed.
5. Private Access Roads are allowed and shall be indicated on plats, easement documents, or access maps within Private Access Easements. Private Access Roads are intended to serve only one (1) residence. The Board may allow a Private Access Road to be shared by two (2) adjoining residences where topography or access restrictions onto Federal, State,

or County highways make such sharing necessary. Development of Private Access Roads is not required.

6. Storm sewers and drainage structures shall be designed and installed as required by the Highway Department and in accordance with good engineering practice. Culverts shall be designed to withstand the effects of a 25-year, 24-hour rainfall, and may be required to be certified as such by a Professional Engineer. No culvert shall have a diameter of less than eighteen inches (18").
7. All property corners, including the beginning (point of curvature) and ending (point of tangency) of curves along property lines, shall be accurately marked on the ground with a five-eighths inch (5/8") to one and a quarter inch (1 1/4") diameter iron rod at least eighteen inches (18") in length. These bars are to be capped with an aluminum or plastic cap indicating the license number of the surveyor who placed the bar in the ground. Rock monument caps may be used where the corner falls on solid rock.
8. The subdivider shall contract with Custer County for the installation of durable road name and traffic signs for all public roads serving the subdivision before the final plat or access map is approved by the Board.
9. All required improvements in the subdivision shall be installed under the inspection of the Highway and Planning Departments.
10. The Planning Commission may formulate additional written administrative rules that govern the procedure for processing subdivisions. These procedures will outline the responsibility of parties concerned with subdivisions and processing, and they will contain other information necessary to systematize handling and processing.
11. Subdivision Review Fees shall be set by the Board.

SECTION 2 – ACCESS MAP REVIEW PROCEDURE

1. The subdivider shall submit a Subdivision Review Application (which consists of a Subdivision Review Application Form, a Subdivision Review Fee, a Statement of Intent, an Access Map, and supplemental materials) to the Planning Department more than three (3) weeks (inclusive) before the next regularly scheduled meeting of the Planning Commission. This submission shall include nine (9) copies of the Access Map, prepared on eight and one-half by eleven inch (8 1/2" x 11") or larger paper, and nine (9) copies of the Subdivision Review Application Form and any supplemental

material. Subdivision Review Fees are due and payable with the Subdivision Review Application.

2. Upon official receipt of the Subdivision Review Application, the Planning Department will inform the subdivider of the date, time, and location of the Planning Commission meeting at which the Access Map will be reviewed. The Planning Department shall also mail or provide a copy of the Subdivision Review Application to each Planning Commission member for review and comment before the Planning Commission meeting. The Planning Department may also solicit comments on the Access Map from County Departments or other agencies before the Planning Commission meeting. The Planning Commission shall review the Subdivision Review Application and approve recommendations to the Board for compliance with this Ordinance at the scheduled meeting.
3. The subdivider shall submit with the Subdivision Review Application a Statement of Intent concerning the tract of land to be subdivided in sufficient detail to clearly indicate both present and future purposes of the subdivision, and any subsequent subdivision of land.
4. The subdivider shall also submit with the Subdivision Review Application an Access Map that shall be discussed with the Planning Department and the Planning Commission in order to establish the requirements of Ordinance Number 2 which will influence the design of the subdivision. The Access Map is not intended to represent a property survey by a Registered Land Surveyor. The Access Map is intended to graphically represent the intent of the subdivider by showing the locations, with sufficient estimated dimensions to convey the intent of the subdivider, of existing and proposed property lines and public and private roads. The Planning Commission may require the submission of supplemental materials as described in Section 4 of this Article.
5. The Board shall review Subdivision Review Applications of proposed subdivisions by change of aliquot description and consider the Planning Commission's recommended conditions of approval of the subdivision. The Board may waive the requirements for Plat Review and plat filing for the subdivision if it finds that: the Access Map is adequate for review purposes; the public roads serving the subdivision meet County Road Specifications and the requirements of Paragraph 3 of Section 4 of this Article (or the subdivider has provided a cash or surety bond in lieu of immediate construction as recommended by the Highway and Planning Departments); the subdivider has entered into contracts with Custer County for installation of road name and traffic signs for all public roads serving the subdivision and; Public Access and Utility Easements have been recorded with the Register of Deeds for all public roads serving the subdivision.

SECTION 3 – PLAT REVIEW PROCEDURE

1. The subdivider shall discuss subdivision plans and intent with the Planning Department to determine applicable Custer County Ordinance Number 2 plat and subdivision requirements.
2. The subdivider may submit a sketch plan to the Planning Department for Administrative Review in the following manner:
 - A. The subdivider shall submit a sketch plan to the Planning Department more than three (3) weeks (inclusive) before the next regularly scheduled meeting of the Planning Commission. This submission shall consist of nine (9) copies of: a Subdivision Review Application Form; a statement of intent concerning the tract of land to be subdivided in sufficient detail to clearly indicate both present and future purposes of the subdivision, and any subsequent subdivision of land; and a sketch map of the proposed subdivision. A Subdivision Review Fee shall not be charged for this Administrative Review.
 - B. The subdivider shall be present to discuss the sketch plan with the Planning Commission in order to establish the requirements of Ordinance Number 2 which will influence the design of the subdivision for the creation of the preliminary plat. The subdivider may request review of the sketch plan and Planning Commission requirements by the Board.
3. The subdivider shall submit a Subdivision Review Application (which consists of a Subdivision Review Application Form, a Subdivision Review Fee, the preliminary plat, and supplemental materials) to the Planning Department more than three (3) weeks (inclusive) before the next regularly scheduled meeting of the Planning Commission. This submission shall consist of ten (10) copies of the preliminary plat, prepared on fifteen by twenty-six inch (15" x 26") paper, and ten (10) copies of the Subdivision Review Application Form and any supplemental material. Subdivision Review Fees are due and payable with the Subdivision Review Application.
4. Upon official receipt of the Subdivision Review Application, the Planning Department will inform the subdivider of the date, time, and location of the Planning Commission meeting at which the preliminary plat will be presented. The Planning Department shall also mail or provide a copy of the preliminary plat to each Planning Commission member for review and comment before the Planning Commission meeting. The Planning Department, may also solicit comments on the preliminary plat from County Departments or other agencies before the Planning Commission

meeting. The Planning Commission shall review the preliminary plat for compliance with this Ordinance at the scheduled meeting.

5. The Planning Commission shall have a maximum of thirty (30) days following the presentation of the preliminary plat at a regular Planning Commission meeting, unless otherwise agreed to by the subdivider, in which to review the preliminary plat and to approve, approve with conditions, or disapprove the preliminary plat. The Planning Commission decision on the preliminary plat may be appealed to the Board.
6. Approval by the Planning Commission of a preliminary plat shall be effective for three (3) years from the date of approval. An extension(s) beyond three (3) years, for a period not to exceed one (1) year, may be granted upon agreement between the Planning Commission and the subdivider. Approval of extensions may reflect changes to Ordinance 2.
7. Following approval of the preliminary plat by the Planning Commission, the subdivider may proceed with the construction of roads and installation of other indicated improvements. The subdivider may request that the final plat be immediately considered for review by the Planning Commission.
8. Alternately, the subdivider may, upon inspection and approval of roads and other indicated improvements by the Highway and Planning Departments, submit a final plat to the Planning Department more than three (3) weeks (inclusive) before the next regularly scheduled meeting of the Planning Commission. This submission shall consist of ten (10) copies of the final plat prepared on fifteen by twenty-six inch (15" x 26") paper.
9. Upon official receipt of the final plat, the Planning Department will inform the subdivider of the date, time, and location of the Planning Commission meeting at which the plat will be presented.
10. Upon presentation of the final plat at a regular meeting, the Planning Commission shall have a maximum of thirty (30) days in which to review, prepare, and submit its recommendation, along with the plat, to the Board, provided however, that the subdivider may agree to an extension(s) not to exceed thirty (30) days.
11. The subdivider shall submit the mylar original and six (6) paper copies of the final plat to the Planning Department more than six (6) days (inclusive) before the next regularly scheduled meeting of the Board. The final plat, when submitted, shall include corrections required by the Planning Commission and the signatures of the owner(s), the surveyor, the appropriate highway authority(s), and the County Treasurer.

12. The Board shall have a maximum of thirty (30) days after receipt of the final plat, unless otherwise agreed to by the subdivider, in which to review the final plat and to approve, approve with conditions, table, or disapprove the final plat.
13. The Planning Department shall submit the mylar original of the approved final plat to the office of the Register of Deeds to be recorded within fifteen (15) days after approval by the Board or such approval shall become void.
14. The Planning Department shall not approve building, grading, or wastewater disposal permits within the newly-platted subdivision until the Board has approved the final plat of the subdivision and the Custer County Register of Deeds has recorded the approved final plat.

SECTION 4 -- INFORMATION REQUIRED FOR PRELIMINARY PLAT REVIEW

The subdivider shall submit the following information to the Planning Department with the Subdivision Review Application:

1. A preliminary plat indicating the layout of all property lines, lots, roads, easements, watercourses, parks, and open spaces. This plat should show its relation to any surrounding development, including property lines, roads, and recorded utility easements or visible utilities.
2. If any portion of the platted area falls within any area of special flood hazard as identified by FEMA, a note shall be placed on the plat which states "Flood Insurance Rate Map Panel 460018 ***** with an effective date of **/**/** indicates the presence of a flood hazard area within the subdivision area represented on this plat."
3. If the proposed subdivision does not adjoin an existing county, state, or federal highway, the developer must provide evidence to the Planning Department that a road that meets current County Road Specifications exists within a public right-of-way that connects the proposed subdivision with such a highway. This requirement does not apply to subdivisions where no new lots are being created (i.e. lot line adjustments or lot consolidations). If a Road District Association governs the connecting road, then the developer shall petition said Association to add all land within the proposed subdivision to the District or enter into a road maintenance agreement with that Road District Association.

The following supplemental materials may be required at the request of the Planning Commission or the Board:

4. NARRATIVE ON THE INTENDED DEVELOPMENT

The narrative will describe the nature of the intended development, its integration into surrounding development, and its impact on the community. Any contemplated future development shall be included.

5. ROADWAY DESIGN PLANS

When requested, all public roads are to be designed under the direction of a Professional Engineer and his/her seal shall be affixed to all drawings as stipulated in SDCL 36-18-27.1. The design plans shall include the following:

- A. Plan and profile drawings are to be prepared for all proposed public roadways within the subdivision.
- B. The plan view shall indicate stationing, centerline, the location of drainage structures, guardrails, signage, horizontal curve data, superelevation, road right-of-way, benchmarks, horizontal control points, north point, property owners, and other significant features.
- C. The profile view shall indicate the existing centerline grade, the finish centerline grade, the exact location and elevation of all vertical curves, the location of drainage structures, and the estimated amount of cut and fill.
- D. Cross-sections are to be drawn at every full station and every major break in grade. They are to show existing and finish ground lines. Cross-sections are to be drawn at all points where a drainage structure crosses the road. The drainage structure is to be shown.

6. BRIDGE PLANS

Bridges are to be designed by a Professional Engineer.

7. PLANS FOR PROPOSED WATER AND SEWER SYSTEMS

Plans for any proposed water and sewer systems indicating points of connection with existing public systems. If existing systems are not available, reports by a Professional Engineer may be requested that indicate, based on available information, the suitability of the soil to accommodate individual and small on-site wastewater systems.

8. ENGINEERS REPORT ON PRIVATE WATER SYSTEMS, SEWER SYSTEMS, AND SIGNIFICANT HYDROLOGIC PROBLEMS

9. STORM DRAINAGE PLAN

The storm drainage plan shall be made under the direction of a Professional Engineer. Storm drainage structures are to be designed to withstand the effects of a 25-year, 24-hour rainfall. This plan shall contain the following information:

- A. The location of all proposed drainage ways, streams, and ponds within the subdivision.
- B. The location and size of proposed and existing drainage structures, including culverts, bridges, pipes, and drop inlets.
- C. The area of land contributing runoff to each drainage structure.
- D. The location of easements, rights-of-way, and maintenance access for all drainages.
- E. The direction of water flow throughout the subdivision.
- F. With prior approval of the Planning Department, the drainage plan may be combined with the roadway design plan.
- G. A more detailed drainage plan may be required by the Planning Commission.

10. SUPPLEMENTAL DATA

If the property involves areas where the soil characteristics, terrain, drainage, geology, ground cover, or location imposes unusual requirements, the Planning Commission may request supplementary data to demonstrate the feasibility of subdividing the land.

SECTION 5 – CONTENT OF PRELIMINARY PLATS

The following information shall be shown on all preliminary plats:

1. TITLE

Plat titles are to be broken into two parts, a primary title and a secondary title. The primary title shall be the subdivision name and shall comply with Article 4, Section 6 of this Ordinance. The secondary title shall state the names or numbers of the newly created lots of the subdivision and the subdivision name, state the legal parcel(s) from which these lots are taken, and describe the location of the lots being created. If reference is made to an existing plat of record, the book and page number of the plat is to be cited in a note on the plat.

2. VICINITY MAP

The vicinity map shall show the boundary of the subdivision and the location of internal roads with their relation to external roads. The internal roads shall be drawn with "double lines". Scope and size of the vicinity map shall be approved by the Planning Commission.

3. NORTH ARROW, BAR SCALE, AND LEGEND

4. EASEMENTS

The location of boundary lines for all new, known, and recorded easements shall be shown or indicated. The purpose of the easement shall be indicated.

5. PUBLIC LAND

The location and dimension of land to be dedicated or reserved for public rights-of-way, parks, open space, or other public use shall be shown. No private roads shall be platted within a subdivision, and no reserve strips shall be platted, except where their control is vested in the Board. Rights-of-way for County-maintained roads shall be drawn and noted on the plat as DEDICATED PUBLIC RIGHT-OF-WAY.

6. TRACTS

The name of each tract shall be clearly indicated and the exact length and bearing of all property lines shall be shown. Distance units are to be in feet to two (2) decimal places and bearings are to be shown to the nearest second. The area of the tract shall be shown in acres to at least two (2) decimal places. Tract names shall be subject to the approval of the Planning Commission.

7. LOTS AND BLOCKS

Lot and block numbers shall clearly identify each parcel of land. The exact length and bearing of all lot and block lines shall be shown. Distance units are to be in feet to two (2) decimal places and bearings are to be shown to the nearest second. Numbering shall be subject to the approval of the Planning Commission.

8. ROADS

The plat shall contain the following information:

- A. The location of all existing and proposed road rights-of-way within and adjacent to the subdivision.
- B. The widths of all existing and proposed rights-of-way.
- C. The names of all public roads shown on the plat. New road names are subject to approval by the Planning Commission.

SECTION 6 – CONTENT OF FINAL PLATS

The following information is required on all final plats.

- 1. The original final plat shall be drawn in waterproof black ink upon mylar. The size of the mylar shall be fifteen by twenty-six inches (15" x 26").
- 2. The title shall be the same as that approved for the preliminary plat.
- 3. The final plat shall show the following:
 - A. The exact location of the exterior boundary lines of the subdivision and all parcels within the subdivision. The exterior boundary is to be the same as that approved on the preliminary plat.
 - B. All property corners are to be identified with a symbol and legend designating the type of monument. This legend shall also indicate the registration number of the surveyor who set the monument, if known or available.
 - C. The length and radius of all curves along boundary lines are to be indicated. The point of curvature (PC) and the point of tangency (PT) are to be shown. These points are property corners and are to be monumented as such.
 - D. All section lines, section corners, and quarter corners are to be shown if surveyed, and a description of the corner monuments included.
 - E. The titles of adjoining subdivisions. These are to be ghost lines.
 - F. The names of former subdivisions, parcels, and tracts that are being subdivided. These are to be shown as ghost lines.
 - G. The exact location of the boundary lines and widths of all public rights-of-way, reservations, easements, and areas dedicated to public use.
 - H. All public rights-of-way shall be designated as either "DEDICATED PUBLIC RIGHT-OF-WAY" or "PUBLIC ACCESS AND UTILITY EASEMENT".
 - I. All dimensions are to be shown in feet and decimals of a foot to two (2) decimal places.
 - J. All bearings are to be shown to the nearest second.

- K. The acreage of every new parcel is to be shown to at least two (2) decimal places.
 - L. True north is to be indicated with a north arrow.
 - M. A bar scale shall be included.
 - N. Each tract shall be named, and each lot and block shall be numbered.
 - O. The primary title shall be the name of the subdivision. The secondary title shall be a complete legal description of the subdivision.
 - P. A vicinity map.
 - Q. All public roads shall be named. The Planning Commission will accept or reject proposed road names.
 - R. Floodplain Note (if FEMA-defined flood hazard area is present within the subdivision): Flood Insurance Rate Map Panel 460018 ***** with an effective date of **/**/** indicates the presence of a flood hazard area within the subdivision area represented on this plat.
 - S. Water Protection Note: Pursuant to SDCL 11-3-8.1 and 11-3-8.2, the developer of the property described within this plat shall be responsible for protecting any waters of the state, including groundwater, located adjacent to or within such platted area from pollution from sewage from such subdivision and shall in prosecution of such protections conform to and follow all regulations of the South Dakota Department of Environment and Natural Resources relating to the same.
 - T. Utility Easement Note: A 20' wide utility easement shall exist centered on all subdivision lot lines not adjacent to public rights-of-way or unplatted land and on the interior side of lot lines that border land that has not been subdivided, unless other suitable utility easements have been shown.
4. The following certifications and signatures shall appear on all final plats:
- A. Every plat shall be certified by the landowner, or his duly authorized agent, as having been made at his request and under his direction for the purposes indicated therein, that he is the owner of all the land included therein, and that the development of this land shall conform to all existing applicable zoning, subdivision, and erosion and sediment control regulations. This certification shall be acknowledged before some officer authorized to take acknowledgment of deeds, and this acknowledgment shall be endorsed on the plat.
 - B. Every plat shall be certified by the registered land surveyor who actually performed the survey or had the survey performed under his/her direct supervision. His/her official seal shall be affixed thereto as specified in SDCL 36-18-27.1 as being in all respects correct.
 - C. Every plat shall bear a certificate of the County Treasurer that all taxes that are liens upon any land included within the plat, as shown by the records of his/her office, have been fully paid.

- D. Every plat shall bear a certificate of the appropriate highway or road authority(s) that it appears that every lot has an acceptable approach location onto a public road and the location of the intersection(s) of the proposed subdivision road(s) with the existing public road(s) is hereby approved.
- E. Every plat shall bear a certificate of the County Director of Equalization that he/she has received a copy of such plat.
- F. Every plat shall bear a copy of the resolution of the Board, and this resolution shall state that:

“WHEREAS there has been presented to the County Commissioners of Custer County, South Dakota, the within plat of the above described lands, and it appearing to this Board that:

- a. the system of roads conforms to the system of roads of existing plats and section lines of the county,
- b. adequate provision is made for access to adjacent unplatted lands by public dedication or section line when physically accessible,
- c. all provisions of the County subdivision regulations have been complied with,
- d. all taxes and special assessments upon the property have been fully paid, and
- e. the plat and survey have been lawfully executed,

NOW THEREFORE, BE IT RESOLVED that said plat is hereby approved in all respects.”

This resolution shall be signed and dated by the Chairperson of the Board and certified by the County Auditor.

G. Every plat shall bear a certificate of the County Register of Deeds indicating the date and time of recording. This certification shall also indicate the location of filing by plat book and page number.

- 5. The plat preparer shall submit to the Planning Department an electronic copy of the final plat map that is directly importable into ArcView 9.x. The electronic copy shall include a complete layout of the subdivision, including Lot and Block numbers, street names, right-of-way and easement width dimensions, and all lot lines with length and bearing data. The electronic copy shall not include the certification and signature section of the plat. The electronic copy shall be submitted with the final plat and be subject to review and approval by the Planning Department. The Planning Department may accept media, content, and format of data that does not meet the above standards.

ARTICLE IV – DESIGN STANDARDS FOR RESIDENTIAL SUBDIVISIONS

SECTION 1 -- CONFORMITY TO CUSTER COUNTY ORDINANCE #2

1. All proposed residential subdivisions shall conform to Custer County Ordinance #2.
2. Residential developments are those that are intended for dwelling purposes. Individual mobile homes are permitted in residential subdivisions and are subject to the same building and lot requirements as other residential dwellings. The following requirements are established to provide for orderly development of residential uses of various types along with accessory uses and structures in a pleasant and stable manner.
3. Densities established by Ordinance #2 shall be observed by the subdivider.
4. The following activities are permitted under this Section:
 - A. single family dwellings;
 - B. duplexes;
 - C. individual mobile homes;
 - D. home occupations and home professional offices; and
 - E. accessory uses and structures normally appurtenant to residential uses and structures.
5. Building and Grading Permits are required for new residential and accessory structures constructed in Custer County.
6. No more than two (2) dwelling units shall be allowed on any lot, tract or parcel. Each dwelling unit is required to have a separate wastewater disposal system.
7. Building and Lot Requirements:
 - A. In no case shall a lot be less than one (1) acre (43,560 square feet) in size.
 - B. The minimum distance between any structure and a public road right-of-way boundary shall be thirty feet (30').
 - C. The minimum distance between any structure and any property line other than a right-of-way shall be fifteen feet (15').
8. All sites for parks, schools and other public facilities shown on plats and located within the proposed subdivision shall be dedicated to Custer County or the Independent School District Board, subject to their consent.

9. Any improvements the owner proposes to make outside the boundaries of the proposed subdivision, pursuant to the development of the subdivision, shall be submitted to the Planning Commission, in writing, with the preliminary plat. These improvements shall relate to roads, drainage, utilities, and other improvements necessary to permit development within the subdivision.

SECTION 2 – LOW-DENSITY SUBDIVISIONS

1. All public roads shall be constructed to County Road Specifications. Such construction will be subject to inspection by both the Highway and Planning Departments during construction and upon completion.
2. Private Access Easements are allowed and may be indicated on the plat. Private Access Roads may serve only one (1) parcel unless otherwise approved by the Board. There is no requirement that Private Access Roads be developed.
3. Development of all required improvements shall be the responsibility of the subdivider.
4. Central water systems are not required.
5. Central sewer systems are not required. The Planning Commission may request that the subdivider provide further evidence prepared by a competent professional that the subject land is capable of accommodating any proposed wastewater disposal system without causing pollution.

SECTION 3 – MEDIUM-DENSITY SUBDIVISIONS

1. All public roads shall be constructed to County Road Specifications. Such construction will be subject to inspection by both the Highway and Planning Departments during construction and upon completion.
2. Private Access Easements are allowed and may be indicated on the plat. Private Access Roads may serve only one (1) parcel unless otherwise approved by the Board. There is no requirement that Private Access Roads be developed.
3. Development of all required improvements shall be the responsibility of the subdivider.
4. Medium-density subdivisions intended for residential dwellings, public buildings, commercial enterprises, or industrial use, shall have an acceptable water supply and distribution plan. All plans for water supply and distribution are the responsibility of the subdivider and will conform to

the requirements of the Planning Commission and/or the Board, and comply with all Federal, State, and County Health Department codes and regulations. These plans may include private wells.

5. Medium-density subdivisions intended for residential dwellings, public buildings, commercial enterprises, or industrial use, shall have an acceptable plan for disposal of wastewater. All plans for wastewater disposal are the responsibility of the subdivider and shall conform to the requirements of the Planning Commission and/or the Board, and comply with all Federal, State, and County Health Department codes and regulations. These plans may include individual septic systems, however, the Planning Commission may request that the subdivider provide further evidence prepared by a competent professional that the subject land is capable of accommodating the proposed individual sewer systems(s) without causing pollution.

SECTION 4 – HIGH-DENSITY SUBDIVISIONS

1. All public roads shall be constructed to County Road Specifications. Such construction will be subject to inspection by both the Highway and Planning Departments during construction and upon completion.
2. Private Access Easements are allowed and may be indicated on the plat. Private Access Roads may serve only one (1) parcel unless otherwise approved by the Board. There is no requirement that Private Access Roads be developed.
3. Development of all required improvements shall be the responsibility of the subdivider.
4. The water system within the subdivision shall be connected to a public water system where the said system is within one-half (½) mile of the subdivision, except where restricted by the Municipality or limited by topography.
5. High-density subdivisions intended for residential dwellings, public buildings, commercial enterprises, or industrial use, and not located within one-half (½) mile of a public water system, or which cannot be connected to the public water system, shall have an acceptable water supply and distribution plan. All plans for water are the responsibility of the developer and/or subdivider and will conform to the requirements of the Planning Commission and/or the Board, and comply with all Federal, State, and County Health Department codes and regulations. These plans may include private wells.

6. The sewer system within the subdivision shall be connected to a public sewer system where said system is within one-half (½) mile of the subdivision, except where restricted by the Municipality or limited by topography.
7. High-density subdivisions intended for residential dwellings, public buildings, commercial enterprises, or industrial use, and not located within one-half (½) mile of a public sanitary sewer system, or which cannot be connected to a public sanitary sewer system, shall have an acceptable wastewater disposal plan. All plans for wastewater disposal are the responsibility of the subdivider and shall conform to the requirements of the Planning Commission and/or the Board, and comply with all Federal, State, and County Health Department codes and regulations. These plans may include individual septic systems, however, the Planning Commission may request that the subdivider provide further evidence prepared by a competent professional that the subject land is capable of accommodating the proposed individual sewer systems(s) without causing pollution.

SECTION 5 -- ROAD REQUIREMENTS

1. The Planning Commission and Highway Department shall recommend to the Board the classification of public roads as High-, Medium-, or Low-Volume Roads.
2. All public roads within Custer County shall comply with County Road Specifications adopted by the Board.
3. A Grading Permit Application must be reviewed and approved by the Highway Department before construction is begun on the approach connecting any private access road or driveway to a public road. Building permits, wastewater disposal permits, or 9-1-1 addresses shall not be issued until said Application is approved.

SECTION 6 -- NAMES

1. All subdivisions and roads shall be named.
2. Subdivision names shall not duplicate or otherwise be confused with the names of existing subdivisions. Subdivision names are subject to approval by the Planning Commission.

3. No road name shall be used which will duplicate by spelling or sound or may otherwise be confused with the names of existing roads. All road names are subject to approval by the Planning Commission.

SECTION 7 -- UTILITY AND DRAINAGE EASEMENTS

1. Easements are to be provided across lots, or adjacent to public rights-of-way, or centered on rear or side lot lines for utilities or drainage where necessary.
2. Utility easements shall not be less than twenty feet (20') in width unless otherwise approved by the Planning Commission.
3. A twenty-foot-wide (20') utility easement shall be provided centered on all subdivision lot lines not adjacent to public rights-of-way or unplatted land and on the interior side of lot lines that border land that has not been subdivided, unless other suitable utility easements have been shown.
4. Where a subdivision is traversed by a water course, drainage way or stream, a drainage easement or right-of-way may be required that conforms substantially to the channel banks of such existing or planned drainage way.

SECTION 8 -- DRAINAGE PLANS

1. The Planning Commission may require a drainage plan for any proposed subdivision. Adequate provision shall be made within each subdivision to provide for needed drainage facilities, and these provisions shall account for the ultimate development within the tributary area.
2. A storm sewer plan shall be prepared prior to other utility plans. These plans shall give preferential engineering considerations to gravity flow improvements.
3. Off-premise drainage easements and improvements shall be designed to provide for subdivision runoff into a natural channel.
4. Low areas subject to periodic inundation or that fall within an area of special flood hazard as identified by FEMA, shall not be developed until evidence is provided to the Planning Commission that:
 - A. The nature of the land use will not impede surface water runoff and that the land will not be subject to appreciable damage by inundation.
 - B. The area may be filled or improved in such a manner as to prevent such periodic inundation, provided that such fill does not retard the

flow of surface waters or result in the increase of water level endangering life and property of others.

- C. Lowest floor elevations will be established to prevent damage to any structures. (See Ordinance #6, Revised -- FLOOD DAMAGE PREVENTION ORDINANCE).
5. The Planning Commission may require additional engineering information if they deem it necessary to make decisions regarding areas of questionable drainage.

ARTICLE V – NON-RESIDENTIAL SUBDIVISIONS

SECTION 1 -- COMMERCIAL SUBDIVISIONS

- 1. All proposed Commercial Subdivisions shall conform to Custer County Ordinance #2.
- 2. Commercial developments consist of retail, wholesale and service businesses. Non-industrial activities that are incompatible with agricultural and residential developments may be created using the following commercial development requirements. These requirements are established to provide for the orderly, harmonious and safe development of commercial enterprises in the County.
- 3. The following activities with accompanying structures are permitted under this section:
 - A. agricultural uses,
 - B. multi-family residential uses,
 - C. wholesale or retail distribution of goods,
 - D. business or personal services,
 - E. educational and religious services,
 - F. recreational and amusement services,
 - G. medical and health services,
 - H. veterinarian services (including animal boarding),
 - I. the provision of food and drink,
 - J. overnight lodging,
 - K. utilities (including water, electric, heating gas and oil, etc.),
 - L. warehouse and storage except for salvage or junk, and
 - M. communications towers.
- 4. Other uses require approval by the Board. The Board may require public hearings regarding any other use.

5. Building and Grading Permits are required for any new commercial buildings constructed in Custer County.
6. Building and Lot Requirements:
 - A. For each major use, and buildings accessory thereto, there shall be a lot area of not less than one (1) acre (43,560 square feet).
 - B. No lot shall have a width of less than one hundred feet (100') between any two side lines.
 - C. The minimum distance between any structure and a right-of-way boundary line shall be thirty feet (30').
 - D. The minimum distance between any structure and any property line other than a right-of-way shall be fifteen feet (15').
 - E. The Planning Department and appropriate state agencies must approve a wastewater disposal system.
 - F. The Board may require: the installation of fencing or screening plantings; lighting of roadways, driveways, and pedestrian walkways; off-street parking sufficient to serve the major use; and other improvements that it deems necessary for the safe and orderly development of the property.
7. All public roads shall be designed, constructed, and maintained to County Road Specifications. Such construction and maintenance shall be subject to inspection by both the Highway and Planning Departments during construction and upon completion. Any public road that does not meet the above minimum standards shall not be approved for use.

SECTION 2 -- INDUSTRIAL SUBDIVISIONS

1. All proposed Industrial Subdivisions shall conform to Custer County Ordinance #2.
2. Industrial developments are businesses that construct, manufacture, fabricate, salvage, transport, mine, or mill products or raw materials. Activities that are incompatible with agricultural, residential or commercial developments may be created using the following industrial development requirements. These requirements are established to protect other nearby activities from undesirable conditions.
3. Uses along with accompanying structures for agricultural, residential, and commercial developments are permitted within an industrial development. Industrial uses and structures require the approval of the Board.
4. The Board may require public hearings for the establishment of, or any other use within an industrial development.

5. Building and Grading Permits are required for any new industrial building constructed in Custer County.
6. Building and Lot Requirements:
 - A. For each major use, and buildings accessory thereto, there shall be a lot area of not less than one (1) acre (43,560 square feet).
 - B. No lot shall have a width of less than two hundred feet (200') between any two side lines.
 - C. The minimum distance between any structure and a public right-of-way boundary line shall be fifty feet (50').
 - D. The minimum distance between any structure and any property line other than a public right-of-way shall be twenty-five feet (25').
 - E. The Planning Department and appropriate state agencies must approve a wastewater disposal system.
 - F. The Board may require: the installation of fencing or screening plantings; lighting of roadways, driveways, and pedestrian walkways; off-street parking sufficient to serve the major use; and other improvements that it deems necessary for the safe and orderly development of the property.
7. All public roads shall be designed, constructed, and maintained to County Road Specifications. Such construction and maintenance shall be subject to inspection by both the Highway and Planning Departments during construction and upon completion. Any public road that does not meet the above minimum standards shall not be approved for use.

ARTICLE VI – SECTION-LINE HIGHWAYS

Any resident or landowner within Custer County desiring to have a section-line highway developed or improved must petition the Board to that end. Petitions filed under this ordinance shall contain the following:

1. A statement describing the exact location of the section-line highway within Custer County.
2. A statement describing the requested maintenance, improvement or construction the petitioner desires the County to undertake. This statement is to be of sufficient detail to enable the County Highway Department and the Board to reasonably determine the likely cost of the proposed action.
3. An indication of the proposed allocation of costs between the County and the residents or landowners affected by the action.

4. A statement by the petitioner(s) indicating whether or not they will post a performance bond, or, in the alternative, what other assurance of adequate performance they can give the Board.
5. A scale drawing sufficiently detailed to provide necessary information to assist the Board in the formulation of their response to the petition.

ARTICLE VII – MOBILE HOME PARKS OR COURTS

All mobile home courts in Custer County are classified as Commercial Subdivisions, and they must meet Commercial Subdivision requirements as established by Ordinance #2.

1. A mobile home court shall contain not less than six thousand five hundred (6,500) square feet of lot area for each mobile home space.
2. A mobile home court plan shall be approved by the Planning Commission.
3. The following improvements shall be provided and shown on the mobile home court plan:
 - A. Common recreation space shall be provided at the rate of four hundred (400) square feet of space per mobile home, but in no case shall the common recreation area space be less than four thousand (4,000) square feet.
 - B. Proposed fencing and screen planting.
 - C. Provisions for the removal of trash and garbage.
 - D. Utility easements and service connections.
 - E. Provisions for the lighting of roadways, driveways, and pedestrian walkways.
 - F. Water availability and quantity must be approved by the appropriate state departments, including DENR, the Department of Commerce, and the South Dakota Department of Health, or the Division of Health Protection.
 - G. A central water system (required).
 - H. A wastewater disposal system approved by the Planning Department and the appropriate state agency. Individual septic tanks and drainfields are not allowed.
 - I. Graveled off-road parking for each lot adequate to accommodate two (2) vehicles.
4. Mobile Home Courts shall not be used for transient or overnight camping purposes.

5. Compliance is required with all ordinances and regulations regarding health, plumbing, electrical, building, stormwater discharge, fire prevention and all other applicable ordinances and regulations.
6. Any addition or expansion of existing facilities shall be required to meet current standards and receive approval from all appropriate agencies. All improvements must comply with the current requirements of this Ordinance.

ARTICLE VIII – WASTEWATER DISPOSAL SYSTEMS

1. Only persons certified under ARSD 74:53:02 may install or repair individual and small on-site wastewater systems in Custer County. These persons shall be known as certified installers.
2. Percolation tests shall be performed by a certified installer.
3. All wastewater disposal systems shall be designed, installed, and maintained in accordance with the minimum requirements set forth in ARSD 74:53:01 and Article VIII of this Ordinance.
4. A site evaluation shall be performed by a Planning Department representative prior to excavation for the installation of a wastewater disposal system. This evaluation shall consist of the following:
 - A. A visit to the site must be made by the landowner, or his/her designee, with a representative of the Planning Department. A proposed location for the system shall be determined at this time.
 - B. An eight-foot (8') deep hole shall be dug on the proposed drainfield site. The Planning Department representative shall inspect this hole for indications of soil depth sufficient to allow for the installation of an absorption system. If the water table or geology is suspect, this hole shall sit in an undisturbed state for 24 hours prior to the inspection.
 - C. A percolation test shall be performed on the site by a certified installer in accordance with ARSD 74:53:01:30. Test results shall be annotated on a report filed with the Planning Department.
5. Results of the site evaluation are to be reviewed by the Planning Department. The proposed wastewater disposal system will be sized based upon this evaluation and in accordance with ARSD 74:53:01. A Wastewater Disposal Permit shall not be issued until the minimum requirements for the proposed system are approved by the Planning Department.

6. The Planning Department shall inspect the installation of all wastewater disposal systems. This inspection shall occur before any part of the wastewater disposal system is covered. This inspection shall ensure that the wastewater disposal system is installed and assembled to the following minimum standards:
 - A. The minimum installation standards required by ARSD 74:53.
 - B. Schedule 40 PVC pipe shall be installed for the first six feet (6') of the lines entering and exiting the septic tank.
 - C. Schedule 40 PVC, or stronger, pipe shall be installed as a sleeve over the portion of sewer connection lines that lie under roads, private access roads, paths, or other areas of high soil compaction.
 - D. A cleanout pipe shall be installed in the sewer line connecting the residence to the septic tank. This cleanout shall be at least thirty inches (30") away from the exterior wall of the dwelling foundation and shall have a removable, aboveground cap.
 - E. A continuous tracer wire shall be installed along all wastewater disposal system components beginning at the exterior wall of the dwelling foundation.
 - F. The installer of any wastewater disposal system that is incorrectly or incompletely installed at the time of the inspection and requires an additional inspection trip by the inspector shall pay a Failed Inspection Fee to the Planning Department before the Planning Department approves the system for use.

Any wastewater disposal system that does not meet the above minimum standards shall not be approved for use by the Planning Department. Wastewater disposal systems that are not approved for use by the Planning Department shall not be allowed to operate within Custer County.

7. All inspection reports shall include a sketch of the entire septic system. This sketch shall indicate the location of laterals, the drainfield, seepage bed, and septic tank. Distances, in feet, shall be shown from the septic system to significant monuments or important features. These include, but are not limited to; the location from the house, distance from on-site wells or cisterns, distances from rights-of-way, and distance from roads, driveways, utilities, and property lines.
8. Percolation and inspection reports shall be kept on file by the Planning Department.

ARTICLE IX – BUILDING, GRADING, AND WASTEWATER DISPOSAL PERMITS

1. Wastewater Disposal Permits are required in Custer County prior to the installation of any individual and small on-site wastewater system. Wastewater Disposal Permits shall not be issued by the Planning Department until percolation test results (which shall be submitted on a form approved by the Planning Department and signed by a certified installer) have been received by the Planning Department.
2. Wastewater Disposal Permits are required in Custer County prior to the replacement of any portion of an existing individual and small on-site wastewater system.
3. Approved Grading Permits are required in Custer County before commencement of clearing, filling, or grading of: an aggregate total per parcel of one or more acres of land for non-agricultural or non-gardening purposes; approaches; previously undisturbed or undeveloped parcels of land for residential, public, commercial, or industrial uses; land within or adjacent to FEMA-designated flood hazard areas or; land for construction of subdivision roads. Grading Permits are not required for clearing, filling, or grading of land for agricultural (including logging) or gardening purposes or for previously disturbed or developed land for expansion of existing residential, public, commercial, or industrial uses of less than one (1) acre that are located outside of FEMA-designated flood hazard areas.
4. Grading Permit Applications shall be accompanied by a site plan map that indicates the extent and areas to be cleared, filled, or excavated. Said map shall convey the location of any existing or proposed: approach; structure; well; cistern; septic tank; absorption field; utility line; driveway; parking area; road; flood hazard boundary; stream or drainage way; water body; rock outcrop; and property line. The estimated total area to be disturbed shall be noted on said map.
5. Building Permits are required in Custer County for any of the following:
 - A. construction of all new structures except: appurtenances attached to residential structures (such as decks, porches, or window awnings); storage buildings smaller than one hundred and sixty square feet (160 sq. ft.); canopy-type carports and; agricultural structures smaller than three hundred square feet (300 sq. ft.).
 - B. additions made to any structure.
 - C. buildings that are to be moved from one parcel to another.
 - D. buildings that are to be demolished or removed from the property.
 - E. mobile homes that are to be located within the County, moved from one location to another within the County, or moved out of the County.
 - F. construction or installation of communications towers and other unoccupied structures.

6. Building Permits are not required for: remodeling or normal maintenance of existing buildings, or for repair to facilitate such maintenance, provided the area of the structure is not being enlarged; installation of fences, corrals, or similar livestock enclosures; installation of swings or other playground equipment or; finish work such as painting, papering, tiling, carpeting, or cabinetry. Fire or storm damage repair does not require a Building Permit provided the structure is not being enlarged or additions made thereon. A Building Permit for such damage repair is required if the structure is located within an established flood hazard area or the structure is a non-conforming structure under this Ordinance.
7. All construction shall conform to South Dakota codes and regulations including, but not limited to, individual and small on-site wastewater systems, stormwater discharge, plumbing, electrical, and standard building codes.
8. Building, Grading, and Wastewater Disposal Permits shall only be issued to the owner of the property or his/her designated agent or the holder of a contract for deed for the property.
9. If the work described in any Building, Grading, or Wastewater Disposal Permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire.
10. If the work described in any Building, Grading, or Wastewater Disposal Permit has not been substantially completed within one (1) year of the date of issuance thereof, said Permit shall expire. Notice shall be given to persons affected that further work as described in the expired Permit shall not proceed unless and until an extension has been obtained.
11. All structures will in general comply with sound engineering and safety regulations normally required by standard building codes.
12. There are no exceptions for Building, Grading, or Wastewater Disposal Permits.
13. Building, Grading, and Wastewater Disposal Permits shall not be issued for construction on any land in Custer County that has no evident legal access or that fails to conform to the requirements of this Ordinance.
14. Subdivisions that contain residential, commercial, industrial, or other buildings will conform to all requirements of the State of South Dakota.
15. Fees for all Permits shall be set by the Board and shall be due and payable upon submission of the Application for the Permit to the Planning Department. A Late Application Fee shall be added to the Fee for any

Permit where construction, installation, excavation, grading, fill, demolition, or development has commenced before the Application has been submitted to the Planning Department.

ARTICLE X – VARIANCES

The Board, upon the recommendation of the Planning Commission, may vary these regulations due to unusual topography or other conditions so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of this Ordinance.

ARTICLE XI – VIOLATIONS AND PENALTIES

Any person who violates any provision of this Ordinance or any amendments thereto, or who fails to perform any act required thereunder or who does any prohibited act, shall be guilty of a Class II misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed two-hundred dollars (\$200) or by imprisonment for a period not to exceed thirty (30) days, or by both fine and imprisonment for each offense, pursuant to SDCL Chapter 7-18A-2. Each and every day during which any violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such thereunder.

Additionally, any person who violates any provision of this Ordinance or any amendments thereto, or who fails to perform any act required thereunder or who does any prohibited act, shall be subject to an action for civil injunctive relief, pursuant to SDCL Chapter 21-8.

Effective Date: January 30, 2007

Chairman, Custer County Board of Commissioners

Custer County Commissioner

Custer County Commissioner