

First Reading: _____

Second Reading: _____

Adopted: _____

Publication Date: _____

Effective Date: _____

BUTTE COUNTY ORDINANCE # 2022-____

SUBDIVISION ORDINANCE

WHEREAS, the Butte County Board of County Commissioners has the authority pursuant to SDCL 11-2-17.1 to enact a permanent subdivision ordinance; and

WHEREAS, SDCL 11-2-1(7) defines a “subdivision ordinance” as an ordinance adopted by the Board of County Commissioners to regulate the subdivision of land so as to provide coordination of streets with other subdivisions and the major street plan, to provide for adequate areas set aside for public uses, water, and sanitation facilities, drainage and flood control, and conformity with any comprehensive plan, and

WHEREAS, it is in the best interests of the citizens of Butte County to protect the tax base of Butte County, and will guide the physical, social, economic, and environmental development of land within the County, and

WHEREAS, it is in the best interests of the citizens of Butte County to encourage land use that will protect and ensure adequate transportation, water supply, sanitation, and recreational opportunities for the citizens of Butte County.

NOW THEREFORE, The Board of County Commissioners for Butte County does hereby ordain as follows:

Section 1 - Jurisdiction:

1. This Ordinance shall govern the subdivision of all land within Butte County except for land within a town or municipality. This Ordinance shall also apply to further subdivision of lands which have been previously subdivided prior to the adoption of this Ordinance.
2. The 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.

Section 2 - Definitions

1. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted to give them the meaning they have in common usage and to give this Ordinance its most reasonable application. 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.
2. For the purposes of this Ordinance, certain words, terms and phrases are to be used and interpreted as defined:
 - a. **BOARD:** The Butte County Board of County Commissioners
 - b. **COMMISSION:** The Butte County Planning Commission.
 - c. **COMPREHENSIVE PLAN:** A document which describes in words, and may illustrate by maps, plats, charts or other descriptive matter, the goals, policies, and objectives of the board to interrelate function and natural systems and activities relating to the development of the territory under its jurisdiction.
 - d. **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.
 - e. **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.
 - f. **DENSITY:** The ratio of lot size to number of lots created in a subdivision.
 - g. **LOW DENSITY:** A subdivision created by division of land into one or more tract(s), where tract contains five (5) or more acres.
 - h. **MEDIUM DENSITY:** A subdivision created by division of land into one or more tract(s), where each lot, tract or parcel contains one (1) or more acres, but less than five (5) acres.
 - i. **HIGH DENSITY:** A subdivision created by division of land into one or more tract(s), where any lot, tract, or parcel contains less than one (1) acre, but more than ten thousand (10,000) square feet.

- j. **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.
- k. **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.
- l. **GOVERNING BODY:** The Butte County Board of County Commissioners.
- m. **IMPROVEMENTS:** Any movement or alteration of the natural landscape, including building roads, infrastructure, or structures.
- n. **LOT:** A part of subdivided lands having established boundaries. The term shall include tracts and parcels.
- o. **MINOR SUBDIVISION:** A subdivision consisting of three (3) lots or less.
- p. **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.
- q. **MOBILE HOME PARK:** 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.
- r. **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.

- s. MUNICIPALITY: A city or town, however organized.
- t. 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.
- u. PHASED SUBDIVISION: A subdivision where the subdivider proposes or intends to immediately subdivide a portion of the property but will develop additional portions of the property over time.
- v. PLANNING COMMISSION: The Planning Commission of Butte County.
- w. PRELIMINARY PLAN: The documentation which is required by this Ordinance to accompany the Preliminary Plat to explain or supplement the information required as a condition of approval of the Preliminary Plat.
- x. PRELIMINARY PLAT: 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.
- y. SKETCH PLAN: A written sketch outlining how a proposed division of land will comply with this Ordinance and which will discuss or address any unusual or unique circumstances expected with the division of land.
- z. STATEMENT OF INTENT: A written statement that provides sufficient detail to clearly state the nature and purpose of a proposed division of land.
- aa. STRUCTURE: Anything erected, constructed, enlarged, altered, repaired, moved, improved, or converted. The term "Structure" does not include:
 - i. Agricultural or residential fences,
 - ii. Any non-commercial structure under 100 square feet,
 - iii. Pools,
 - iv. Retaining walls, or
 - v. Roofless animal containment or shelter (windbreak).
- bb. SUBDIVIDER: The person(s), firm(s), or corporation(s) owning land in the process of being subdivided.

- cc. 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 re-subdivision.
- dd. SUBDIVISION ORDINANCE: An Ordinance adopted by the Board to regulate the subdivision of land so as to provide coordination of streets with other subdivisions and the major street plan, adequate areas set aside for public uses, water and sanitation facilities, drainage and flood control, and conformity with any comprehensive plan.

Section 3 – Procedure for Subdividing Property

A. Sketch Plan and Statement of Intent.

1. Any person seeking to subdivide property shall first submit to the Planning Commission a sketch plan and statement of intent to permit unofficial review by the Planning Commission and to assist in establishing the legality of the proposed subdivision, determining if any unusual conditions or circumstances may arise in development of the subdivision, and to answer questions and assist the subdivider in the application of this Ordinance.

Statement of Intent Requirements

1. The subdivider shall prepare a written statement of intent concerning the land to be subdivided in sufficient detail to clearly inform the Planning Commission of the nature and purpose of the subdivision. The Planning Director may create forms for subdividers to use for the Statement of Intent, however, it is important that the Statement of Intent convey information in a clear, concise manner that will detail all necessary information.

Sketch Plan Requirements

1. The subdivider shall prepare a sketch plan outlining how a proposed subdivision will comply with the requirements of this Ordinance, and any unusual or unique circumstances that are expected to arise in the proposed subdivision. The sketch plan shall include sufficient detail to permit the Planning Commission to discuss and understand the following:
 - a. Proposed 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 manmade features of the proposed subdivision.
 - f. Lot and street layout. The layout should detail acreages to 1/2 acre scale.

- g. Existing streets, roads, and right of ways, to include section line highways.
 - h. Details of any proposed water supply and distribution system.
 - i. Present use of land contained with the proposed subdivision.
 - j. Present use of adjacent land.
 - k. Proposed improvements to be installed or constructed by the subdivider.
 - l. Proposed sewage disposal system and soil types and suitability of soils for the proposed sewage disposal system.
 - m. Type of structures and density of structures to be contained within the subdivision.
2. After receipt and discussion, the Planning Commission may:
- a. approve the Sketch Plan and Statement of Intent or
 - b. approve the Sketch Plan and Letter of Intent with certain contingencies to comply with the requirements of this Ordinance or
 - c. reject the Sketch Plan and Statement of Intent.

B. Preliminary Plat and Plan.

- 1. After the Planning Commission approves the Sketch Plan and Statement of Intent, any person seeking to subdivide property shall submit a Preliminary Plat and Plan to the Planning Commission for preliminary approval of the proposed subdivision, pending receipt of detailed engineering plans necessary for final approval.
- 2. Upon receipt of a preliminary plan, the Planning Commission will review the Preliminary Plan for compliance with this Ordinance.

Preliminary Plat Requirements

- 1. The subdivider or his/her representative shall submit the following to the Butte County Planning Department:
 - 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 of all adjacent landowners.
- 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. Topography of the area displayed in not more than twenty (20) foot intervals when the terrain of the proposed area could affect its development.
- k. Location, dimension and area of all proposed or existing lots. All lots and blocks shall be numbered or lettered consecutively.
- l. 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.
- m. Location and dimensions of all land proposed to be dedicated or reserved for parks, schools or other public uses.
- n. Proposed improvements to be installed or constructed by the subdivider including roads, water systems, sewer development, utilities or other improvements to subdivision property.

Preliminary Plan Requirements

1. The subdivider or his/her representative shall submit a narrative or other evidence detailing the following information to the Butte County Planning Department:
 - a. Present use of land contained within the proposed subdivision.
 - b. Present use of adjacent land.
 - c. Proposed improvements to be installed or constructed by the developer.
 - d. Proposed water supply and distribution system, including a narrative detailing how the proposed water supply and distribution system will comply with Design Standards set forth in this Ordinance.

- e. A copy of the agreement between the subdivider and any utility company anticipated to provide water, gas, electrical or telephone or cellular service to the subdivision, outlining the financial arrangements that have been made to install such utilities.
 - f. Proposed sewage disposal system and soil types and suitability of soils for the proposed sewage disposal system, including a narrative detailing how the proposed sewage disposal system will comply with Design Standards set forth in this Ordinance.
 - g. 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 Agriculture and Natural Resources, including, but not limited to, those contained in ARSD 74:53:01 and 74:03:01.
 - h. Copies of percolation tests for each lot within the proposed subdivision, if no central sewer system is proposed. In a major subdivision, the Planning Commission may accept percolation testing of a required number of representative sites to determine the suitability of soils for septic systems.
 - i. Type of structures and density of structures to be contained within the subdivision.
 - j. A narrative detailing the impact of the proposed subdivision upon the adjacent properties and the county as a whole.
2. If portions of the subdivision lie in an established flood plain, the subdivider must show evidence that the subdivider has applied for appropriate remediation of flood plain requirements.
 3. Where the proposed subdivision includes four (4) or more lots, the subdivider must include 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.
 4. The subdivider must provide a copy of the Butte County Highway Supervisor's preapproval for road and road access points, or statement of concerns regarding access points.
 5. 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.
 6. 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.

Homeowner's or Landowner's Associations Requirements

1. Every subdivision consisting of four (4) or more lots shall show provision for creation of a homeowners' association, landowners' association, or equivalent. The homeowner's, landowners, or equivalent association will include covenants that will run with the land. A homeowner's or landowner's association and covenants are optional for subdivisions consisting of less three (3) lots or less. Phased subdivisions require homeowners' or landowner's associations or the equivalent and covenants that run with the land on all phases of the subdivision, even when the phases of the subdivision are approved at different times, and despite the number of lots in each phase. A draft of these documents must be presented with the Preliminary Plat and Plan.
2. The Homeowner's or Landowner's or equivalent association through its Constitution or By-Laws. shall, at a minimum, provide for the following:
 - a. Provisions for mandatory membership for all owners of lots within the subdivision.
 - b. Provisions to provide for repair and maintenance of common areas,
 - c. Provisions for enforcement of covenants.
 - d. Provisions for adequate funding, if required, for enforcement of covenants and internal rules adopted by the Association.
 - e. Association fees should be listed and described as to allocations of funds, penalties for non-payment, procedure for change in fees.
 - f. A provision that the homeowners' or landowners' association covenants or agreements, or the equivalent, may not be amended without approval of the majority of all lot in the association.
 - g. No homeowner's or landowner's association covenants or agreements or the equivalent may be amended 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, may be amended according to the terms of the Covenants, Articles and/or By-Laws.
 - h. Provisions 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.
 - i. Provision for assessment of individual lots for the purpose of maintenance of common roads, water systems and any other common Improvements within the subdivision.
 - j. Provisions for receiving and processing complaints.
 - k. Provisions for dissolution of homeowner's or landowner's association. No homeowners' or landowners' association covenants, or the equivalent, may be dissolved without a

public hearing and approval of both the planning commission and the Butte County Board of Commissioners.

3. The Covenants between the Homeowner's, Landowner's, or equivalent association and lot owners within the subdivision must, at a minimum, provide for the following:
 - a. Provisions describing the types of homes and other structures permitted within the subdivision.
 - b. Provisions regarding the maintenance of animals within the subdivision.
 - c. Provisions for construction and maintenance of perimeter fences.
 - d. Provisions for abatement of nuisances, to include provisions prohibiting accumulation of junk, trash, debris, unlicensed motor vehicles, and provisions for regular removal of garbage.
 - e. Provisions for prohibiting any of the following, unless contained in a structure or container suitable for the purpose:
 - i. 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.
 - ii. 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.
 - iii. The accumulation, storage or maintenance of abandoned, wrecked, dismantled or inoperable motor vehicles, trailers, campers, boats, or parts thereof.
 - f. Provisions prohibiting abandoned or dilapidated structures.
 - g. Provisions for continuous health and safety inspections, if necessary.
 - h. Provisions for maintaining partition boundary fences which adjoin agricultural lands surrounding the subdivision, in accordance with SDCL Ch. 43-23.
 - i. 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 the Subdivision.
 - j. Provisions prohibiting dogs or other domestic animals from running at large within the subdivision.
4. The provisions of this paragraph may be separately enforced by a Homeowners Association, or the Butte County States Attorney in accordance with SDCL Ch. 21-10.

Distribution

1. 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 for comment within twenty (20) days of mailing. These agencies may include:
 - 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 Agriculture and Natural Resources (DANR)
 - h. South Dakota Department of Health
 - i. The United States Department of Environmental Protection,
 - j. Local fire departments, police departments, ambulance services, and the Butte County Sheriff
 - k. Irrigation districts or ditch companies
 - l. Any other agency with an interest in the subdivision.

Public Hearing Requirements

1. If the Planning Director is satisfied that all preliminary information has been properly submitted, the Planning Director shall set a date for public hearing on the proposed subdivision at the next scheduled Planning Commission meeting.
2. The public hearing may be held in conjunction with the Planning Commission's consideration of the Preliminary Plat and Plan, or may be scheduled at a separate time, depending on the complexity of the issues surrounding the Subdivision.
3. If there is an exemption from the requirement for a Preliminary Plat and Plan, the Planning Director may set the Public Hearing concurrent with consideration of the Final Plat and Plan.

4. Land that is subdivided under an exemption is not required to have a public hearing, unless there are unusual circumstances that, in the judgement of the Planning Board, would make a public hearing advisable.
5. 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 and/or on the County's website. 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 Planning office, and that any interested person may appear at the public hearing to comment or may submit written comments on the proposed subdivision.
6. The Planning Commission shall also require the subdivider or his/her representative to give written notice of the proposed subdivision to all adjacent landowners 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.
7. The Planning Commission must consider information, if any, given or raised at the public hearing in their decisions and recommendations.

Preliminary Plat and Plan Approval.

1. The Planning Commission may either approve or disapprove the Preliminary Plat and Plan immediately after the public hearing or may table the proposed Preliminary Plat and Plan to gather additional facts or to resolve issues. The Planning Commission may also disapprove the Preliminary Plat and Plan, if the Preliminary Plat and Plan does not comply with the requirements of this Ordinance.
2. If the Preliminary Plat and Plan is approved by the Planning Commission, the subdivider shall comply with all conditions of the preliminary approval and will accept and agree to the improvements required by the Planning Commission.
3. When a Preliminary Plat and Plan has met the requirements of this Ordinance, it is then eligible to be submitted to the Butte County Board of County Commissioners as a Final Plan
4. Approval of a Preliminary Plat and Plan does not constitute approval to begin site work, construction, or other subdivision improvements.
5. Approved preliminary plans shall be effective for one (1) year from the date of approval by the Planning Commission. If a Final Plat and Plan is not submitted to the Planning Commission within one (1) year from the date of approval, the subdivider must begin the approval process again.

Exceptions to Preliminary Plan Requirements:

1. Division of land for the purposes of road or utility rights of way.
2. Division of land for the establishment of cemeteries.
3. Division of land to effectuate a minor border change that will not have an impact on neighboring land owners.
4. Division of land that qualifies as “Agricultural” under the provisions of SDCL 10-6-112, for the primary purpose of providing residential housing for family member(s) engaged in agriculture.
5. Division of land at the request of current residential owners, to allow for obtaining a mortgage when the mortgage company will only allow loans or mortgages on smaller tracts of land.

C. Final Plat and Plan.

1. After the subdivider or his/her representative complies with all conditions of the preliminary approval the subdivider may prepare and submit a Final Plat and Plan for submission to the Planning Commission for approval.
2. The original or reproducible Final Plat shall be drawn in black ink upon mylar or other material acceptable to the Butte County Registrar of Deeds, preferably sized at 11 inches by 17 inches.

Final Plat Requirements

1. The subdivider or his/her representative shall present to the Planning Commission a final plat showing the following:
 - a. Boundary lines of the subdivision including distances and angles or bearings and all section lines.
 - b. Street lines, pedestrian ways, lots, reservations, easements and other 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. All setbacks must follow design standards contained in this Ordinance or other applicable Ordinances.
- g. Easement lines for services or utilities.
- h. Subdivision name, scale, north point, and date.
- i. All other information required to be in the Preliminary Plat or required for preliminary approval of the Preliminary Plat.

Final Plan Requirements

1. The subdivider or his/her representative will submit a final plan consisting of narrative descriptions or attachments showing the following:
 - a. Detailed engineered drawings and written reports demonstrating that proposed water and sewer systems are in compliance with both the Design Standards of this Ordinance and with all Department of Agriculture and Natural Resource (DANR) requirements including, but not limited to, those contained in ARSD 74:53:01 and 74:03:01.
 - b. Reports or certifications establishing compliance with all other Design Standards contained in this Ordinance,
 - c. Reports or certifications that the subdivider has met any conditions or requirements made by the Planning Commission as a condition of preliminary approval.
2. Upon finding that the Final Plat and Plan is in compliance with this Ordinance, the Planning Commission will recommend its approval or disapproval to the governing body.
3. No Final Plat and Plan will be approved or executed by the Chairman of the Planning Commission until all other signatures required by law, or this Ordinance have been obtained.
4. Approval of a Final Plan and Plan does not constitute approval to begin site work, construction, or other subdivision improvements. However, a subdivider may request permission to proceed with improvements upon payment of surety or bond.

Final Approval.

1. The Planning Commission shall forward the Final Plat and Plan, accompanied by their recommendation of approval or disapproval, and all supporting documents and public comments to the Butte County Board of Commissioners to consider at their next regular meeting.
2. All Final Plat and Plans must be accompanied by a disclosure statement.
3. 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. Garbage disposal - statement to define financial and physical responsibilities.
 - f. Telephone company construction charge - statement to define financial responsibility.
 - g. Cable TV charges - statement to define financial responsibilities.
 - h. Street and traffic control signs and devices - statements to define construction and maintenance responsibilities.
 - i. Street lighting, if required - define construction and maintenance responsibilities, if lighting is provided.
 - j. Culverts, Drainage - define construction and maintenance responsibilities.
 - k. The manner in which amendments to any covenant may be made.
 - l. Fire protection - status and description.
 - m. Building Codes - statutes of applicable codes which apply to construction within the subdivision.
 - n. Electricity - statement to define financial responsibility for construction and connections.
 - o. Postal Service - define level of service and responsibility of homeowner and developer as concerns mailbox construction and maintenance.
4. 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.
 5. The Butte County Board of Commissioners may approve the Final Plat and Plan or may return the Final Plat and Plan to the Planning Commission for additional consideration.
 6. No Final Plat will be approved or executed by the Chairman of the Butte County Commission until all other signatures required by this Ordinance shall have been obtained.

7. If approved, the Final Plan and Plan will be filed with the Register of Deeds.

Section 4 - Additional Provisions

1. The Planning Commission or the Butte County Board of County Commission may adopt official forms for use in carrying out any provision of this Ordinance.
2. The subdivider 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 Butte County Board of 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 with a clearly demonstrated need.

Section 5—Design and Plan Standards

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

A. General Design and Plan Standards

1. The following standards shall be followed when planning a subdivision:
 - a. 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. The subdivider must stabilize all disturbances by seeding or planting within the next growing season.
 - b. The subdivider shall preserve existing features which would enhance the residential development of the area such as trees, historic sites and similar irreplaceable assets in the design of the subdivision. The subdivider shall not remove trees nor any change of grade of the land affected until the Planning Commission unconditionally approves the Preliminary Plan.
 - c. Any subdivision of land may not leave land adjacent to a proposed subdivision land-locked by the proposed subdivision.
 - d. The subdivider must provide each lot with deeded access to a street.
 - e. The subdivider must provide sufficient ingress/egress into and out of the subdivision to allow for public safety, depending on the topography of the subdivision and the needs of the public. The following are minimum standards for ingress/egress. However, safety and the needs of the public may require additional points of ingress/egress.

- i. When the subdivision consists of one (1) to three (3) lots, there must be one (1) point of ingress/egress.
 - ii. When the subdivision consists of more than four (4) lots, there must be two (2) points of ingress/egress.
 - iii. If the topography of the subdivision impedes required ingress/egress requirements, the subdivider may request a variance.
- f. The subdivider must specifically provide easements for utilities and drainage ways.
- g. The subdivider may not develop low areas subject to periodic flooding without evidence of remediation, except for such uses that are compatible with such an area, such as recreational uses, parks, or other purposes and uses permitted by any Butte County Flood Damage Prevention Ordinance.
- h. The subdivider may not subdivide land in a manner which omits part of the original tract to avoid otherwise necessary improvements, such as drainage.
- i. The subdivider may not duplicate street or subdivision names by spelling, sound or otherwise that may be confused with the names of existing streets or subdivisions. Subdivision and street names are subject to approval of the Planning Commission and must comply with any E-911 standards.
- j. Where there are existing structures, the subdivision must comply with setbacks of 25 feet on each side of the lot or tract and 50 feet on the front of the lot or tract. A subdivider may request a variance to this setback requirement if extraordinary circumstances exist,
- k. When determining individual lot sizes within a proposed subdivision, the subdivider must apply the following standards for health reasons:
 - i. If a lot is to have its own well and sewer tank or septic system, minimum lot area is five (5) acres, (Low Density).
 - ii. If a lot is serviced by either a public water or sewer system, minimum lot area is one (1) acre, (Medium Density). 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 (1) acre.
 - iii. 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).

A. Design Standards for Water and Sewer Systems

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

Water Standards.

1. Where individual water systems are proposed, the subdivider shall demonstrate the availability of an adequate supply of potable water suitable for human consumption. The subdivider must provide written documentation showing water is suitable for human consumption, including water testing results from the water provider. Where ten (10) or more lots are proposed, the system shall meet all requirements of the DANR.
2. 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 DANR and Environmental Protection Agency (EPA) standards.
3. 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.
4. Written approval of a public system by the South Dakota Department of Agricultural and Natural Resources (DANR) shall be received before the Planning Commission approves the Preliminary Plan and Plat.
5. In order to obtain this approval, the subdivider must provide a copy of all engineered plans for domestic water sources to the Planning Director prior to submission of the preliminary plan and plat to the Planning Commission.
6. 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.
7. 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, as long as the well is suitable for human consumption. 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 prior to approval of the preliminary plan and plat. Proof of water safety must be presented as a part of the preliminary plan.

Standards for Sanitary Sewers and Sewage Disposal Systems:

1. 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, or sufficient testing to provide evidence that any individual sewage disposal system is sufficient to meet adequacy and safety standards established by the Department of Agriculture and Natural Resources (DAN). 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 and approved by the DANR or EPA accompany the plat.
2. 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 Agriculture and Natural Resources (DANR) shall be received before presentation of the Preliminary Plan and Plat to the Planning Board.
3. Public sanitary sewers shall be installed as required by the standards and specifications as may be established by the South Dakota Department of Agriculture and Natural Resources. See South Dakota Administrative Rules Chapter 74:03:01
4. Where a public wastewater 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.
5. 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
6. No person shall install in any subdivision now or hereafter existing in Butte County, a septic system without first complying with Butte County's Wastewater Ordinance.

B. Design Standards for Streets, Alleys and Sidewalks

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.

C. Design Standards for Mobile Homes and Mobile Home Parks

1. 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, unless the mobile home is located within an established mobile home park.
2. Mobile Home Parks shall contain not less than five thousand (5,000) square feet of lot area for each space provided on the site.
3. If the Mobile Home Park contains more than twenty (20) mobile home sites, the space ratio is to include: hard surface access roads, auto parking and, if necessary, recreation areas.
4. Mobile Home Parks shall have a detailed lot plan showing the following:
 - a. If the mobile home park contains more than twenty (20) mobile home sites, there must be common recreation space 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.

- b. Provisions for the removal of trash and garbage.
 - c. Utility Service connections, including easements.
 - d. Provisions for the lighting of roadways, driveways and pedestrian walks, if applicable.
 - e. Water availability and quality approved by both County and State Health Departments.
5. Sewage facilities in mobile home parks cannot consist of individual septic tanks and drain fields where the mobile home lots are less than one acre. All waste disposal systems must be approved by the County Commission and the State Health Department. Septic systems may be permitted on lots of an acre or more.
 6. A typical lot plan including adequate parking site.
 7. The Mobile Home Park will conform to all requirements of the South Dakota State Fire Code.

D. Design Standards for Commercial Activities

1. A subdivider who is dividing property for the purpose of commercial activity, including medical cannabis facilities, must comply with all requirements imposed on the commercial activity by Butte County Ordinances, South Dakota State statutes, or South Dakota Administrative Rules applicable to that commercial activity.

Section 6--Variances

A. Hardship.

1. Where the Planning Commission finds that extraordinary hardships may result from strict compliance with these regulations, due to unusual topographic or other conditions which are beyond the control of the subdivider, the Planning Commission may vary the regulations 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 or purpose of this Ordinance.

B. Conditions for Granting Variances.

1. 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.

Section 7—Miscellaneous Provisions

A. Severability.

1. 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.

B. Relationship to Other Laws.

1. 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.

C. Conflicting Ordinances and Laws.

1. All Ordinances or parts of ordinances in conflict with these Ordinances, or inconsistent herewith are hereby superseded 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 supersede any more restrictive requirements imposed by any other lawfully adopted Ordinances, statutes, or regulations.

Section 8—Penalties.

A. Criminal Penalty.

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.

B. Injunctive Relief.

1. Butte County may bring an action for injunctive relief against any owner or agent of the owner of any land located within Butte County, outside of a town or municipality, found to be in violation of any of the regulations of this Ordinance. The Governing Body may recover the same penalty by civil action in any court of competent jurisdiction, according to SDCL §11-2-34.

Section 9—Appeals.

A. Appeal to Circuit Court.

1. 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.

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 the _____ day of _____, 2022.

 Kim Richards
 Chair, Butte County Board of Commissioners

ATTEST:

 Annie Capp
 Butte County Auditor

Contents

Section 1 - Jurisdiction:	1
Section 2 - Definitions	2
Section 3 – Procedure for Subdividing Property	5
A. Sketch Plan and Statement of Intent.	5
Statement of Intent Requirements.....	5
Sketch Plan Requirements	5
B. Preliminary Plat and Plan.....	6
Preliminary Plat Requirements	6
Preliminary Plan Requirements	7
Homeowner’s or Landowner’s Associations Requirements.....	9
Distribution	11
Public Hearing Requirements	11
Preliminary Plat and Plan Approval.....	12
Exceptions to Preliminary Plan Requirements:	13
C. Final Plat and Plan.	13
Final Plat Requirements	13
Final Plan Requirements	14
Final Approval.	14
Section 4 - Additional Provisions	16
Section 5—Design and Plan Standards	16
A. General Design and Plan Standards	16
A. Design Standards for Water and Sewer Systems.....	17
Water Standards.	18
Standards for Sanitary Sewers and Sewage Disposal Systems:.....	19
B. Design Standards for Streets, Alleys and Sidewalks.....	20
C. Design Standards for Mobile Homes and Mobile Home Parks	20
D. Design Standards for Commercial Activities	21
Section 6--Variances	21
A. Hardship.	21
B. Conditions for Granting Variances.	21
Section 7—Miscellaneous Provisions	22

A. Severability. 22

B. Relationship to Other Laws. 22

C. Conflicting Ordinances and Laws..... 22

Section 8—Penalties..... 22

 A. Criminal Penalty. 22

 B. Injunctive Relief..... 22

Section 9—Appeals. 23

 A. Appeal to Circuit Court..... 23