

ORDINANCE # 98-1

TITLE

“FLOOD DAMAGE PREVENTION ORDINANCE”

SECTION 1.0

STATUTORY AUTHORIZATION, FINDINGS OF FACT,
PURPOSE AND OBJECTIVES

1.1 STATUTORY AUTHORIZATION

The legislature of the State of South Dakota
has in Sec. 7-18-14 & Sec. 7-18-15

(State Statute delegating authority)

delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of County Commissioners

(Governing Body)

of Butte County, SD
(Name of Community) (State)

does ordain as follows:

1.2 FINDINGS OF FACT

(1) The flood hazard areas of Butte County
(Name of Community)

are subject periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increases flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

SECTION 2.0 DEFINITIONS

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

“Area of special flood hazard” means the land in the floodplain subject to a one percent or greater chance of flooding in any given year.

“Base flood” means flood having a one percent chance of being equalled or exceeded in any given year.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of waters, and/or
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Hazard Boundary Map” means an official map of the community on which the Federal Emergency Management Agency has delineated areas of special flood hazard designated as Zone A.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent foundation when attached to the required utilities. The term “manufactured home” does not include “recreational vehicle.”

“Structure” means a walled and roofed building or manufactured home that is principally above ground.

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

SECTION 3.0
GENERAL PROVISIONS

3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Butte County.
(Name of Community)

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard is not identified by the Federal Emergency Management Agency in its Flood Hazard Boundary Map (FHBM). Therefore, Butte County relies on the map of flood prone areas dated 1951, provided by the U.S. Department of Interior, and is adopted herein by reference and declared to be part of this ordinance.

3.3 COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.

3.4 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenant, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.5 INTERPRETATION

In the interpretation of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and

- (3) Deemed neither to limit nor repeal any other powers granted under State statute.

3.6 WARNING AND DISCLAIMER OF LIABILITY

The degree of Flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas of special of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Butte County, any officer

(Name of Community)

or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION 4.0
ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A development permit shall be obtained before construction or development begins within an area of special flood hazard established in Section 3.2.

Application for a development permit shall be made on forms furnished by the Butte County Civil Defense Director and may
(Local Administrator)
include, but not limited to:

Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following is required.

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Certification by a registered professional engineer that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 5.2-2; and
- (3) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Any elevation certificate requirement, no risk certificate requirement, or hiring of registered professional engineer will be at the applicants expense.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Butte County Civil Defense Director is hereby appointed
(Local Administrator)
to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Butte County Civil Defense Director shall include but
(Local Administrator)
not be limited to:

4.3-1 Permit Review

- (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (2) Review all development permits to determine that permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (3) Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
 - (i) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.
 - (ii) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.
 - (iii) If the proposed development is a building, then the provisions of this ordinance shall apply.

4.3-2 Use of other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Civil Defense Director

(Local Administrator)

shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 5.2, SPECIFIC STANDARDS.

4.3-3 Information to be Obtained and Maintained

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures:
 - (i) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - (ii) Maintain the floodproofing certifications required in Section 4.1 (3).

4.3-4 Alteration of Watercourses

- (1) Notify adjacent communities and the South Dakota Emergency Management prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5

Interpretation of FIRM Boundaries

Make interpretations, where needed, as to the exact location of the Boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

SECTION 5.0
PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazard, the following standards are required:

- 5.1-1 (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting hydrostatic and hydrodynamic loads.
- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
- (i) over-the-top ties be provided at each four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.
 - (ii) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side.
 - (iii) All componets of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - (iv) any additions to the manufactured home be similarly anchored.

5.1-2 Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.

- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

5.1-5 Encroachments

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

5.2 SPECIFIC STANDARDS

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 4.3-2, Use of Other Base Flood Data, the following standards are required:

5.2-1 Residential Construction

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation.

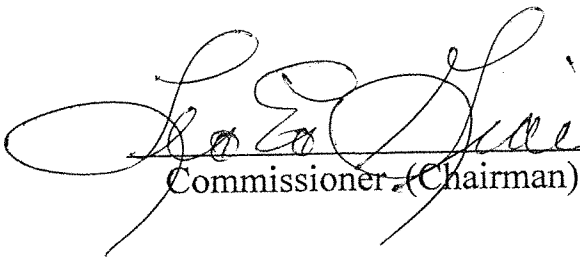
5.2-2 Nonresidential Construction

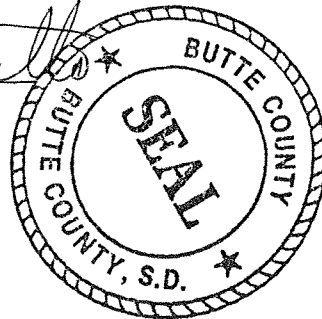
- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:


- (a) be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- (b) have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (c) be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certification shall be provided to the official as set forth in Section 4.3-3 (2).

FIRST READING: 9-1-98
SECOND READING: 10-6-98

This ordinance was passed by a majority vote of the Butte County Commissioners, passed this 6th day of October, 1998.


Commissioner (Chairman)




Auditor

This ordinance will become effective on the twentieth day, after its completed publication.