

Doug & Holly,

This change was explained at the last hearing. Many left before the meeting was over, so you may have missed this. The intent of changing this is for Industrial Development. For example, if someone wanted to build a house across the road from the POET Ethanol Plant, we would require them to sign an Agriculture Use and Industrial Development Covenant, stating they understood they live in an Agriculture or Industrial area and could not complain about noise, etc. A closer to home example would be the reverse action of a Covenant. If someone wanted to build across the road from your business, they too could not complain about your business. You applied for and received a Conditional Use Application in 2008 to operate a trailer sales business in the Agriculture Residential District. As long as you are complying with the intent of the permit, complaints do not have grounds.

The grantee is the person purchasing property and/or the person building on said property. To get approval for a plat and/or building permit the grantee needs to give any adjacent land owners an agricultural use covenant. The Grantee is the Grantor of the covenant. This could be confusing. A grantor is a person or institution that makes a grant or conveyance. A grantee is a person to whom a grant or conveyance is made. At the request of the States Attorney's Office, we will clarify this in the definition. How this will affect the property? This should not have a significant change in any property rights. Again, the purpose of this is to protect farming operations and businesses located in the rural areas from people complaining about their operations.

I will add the sentence in red to the definition in the proposed Ordinance, which will now read:

“Agricultural Use and **Industrial Development** Covenant Running with the Land - An agreement required by ordinance by which the grantee, a United States term in legal conveyancing for the party receiving title or encumbrance, often referring to the purchaser, acknowledges that adjacent land may be subjected to conditions resulting from agricultural operations **or industrial development**. **The Grantee is the Grantor of the covenant**. Once executed, said agreement runs with the land and cannot be separated from the land nor transferred without it.”

Industrial Development is defined as the planning and building of new industries in special areas. I can add this definition to the proposed Ordinance. As for the conditions of adjacent land owners, it would depend on what the development is. Remember, the covenant is the person moving there saying they will not complain. An Ethanol Plant would obviously have a different effect on a person than a combine, so each situation will be addressed individually.

As for the intent and effect of this change, this is to protect agriculture and development in the rural areas. We often, almost on a weekly basis, are asked to provide information on prospective industrial development in the county. The Davison County Zoning Ordinance is very development friendly, and it is our goal to keep it that way. Being too restrictive on development will result in zero growth for the county.



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Subject: Proposed changes to Davison County Ordinance

April 27, 2017
Davison County Planning & Zoning
Mr. Bathke-

Upon reviewing the most recent proposed changes to the Davison County Zoning Ordinance, we have a few questions that we are hoping to get your feed-back and clarification on.

1.- The existing ordinance presently reads: Page 4- under Definitions:

“Agricultural Use Covenant Running with the Land - An agreement required by ordinance by which parties, hereafter known as grantors acknowledge that adjacent land may be subjected to conditions resulting from agricultural operations. Once executed, said agreement runs with the land and cannot be separated from the land nor transferred without it.”

The proposed change for this section reads:

“Agricultural Use and **Industrial Development** Covenant Running with the Land - An agreement required by ordinance by which the grantee, a United States term in legal conveyancing for the party receiving title or encumbrance, often referring to the purchaser, acknowledges that adjacent land may be subjected to conditions resulting from agricultural operations **or industrial development**. Once executed, said agreement runs with the land and cannot be separated from the land nor transferred without it.”

***Can you please explain the intent and effect of the addition of **Industrial Development** and the change from **'grantors'** to **'grantee'** in the verbiage in this section? And specifically, how this impacts equity in the property, and how land rights can be used, transferred or reclaimed?**

*** Also, what does Industrial Development entail: and what conditions might the adjacent land be expected to be subjected to, as a result of Industrial Development? (Industrial Development is not explained in the definitions section of the Ordinance).**

2.- The proposed change for Section 2:17 reads:

Section 2:17. Agricultural Use and Industrial Development Covenant Required - All residential or commercial building permits, plats intended for residential dwellings or commercial use, or requests for rezoning of agricultural land shall be accompanied by an Agricultural Use and Industrial Development Covenant as defined herein. Said Covenant must be approved by the County Zoning Administrator and recorded at the Register of Deeds office in accordance with South Dakota Codified Law prior to issuance of a residential or commercial building permit, approval of the plat, or approval of the rezoning process. A building permit to replace or enlarge an existing residence or commercial building is exempt from this requirement.

***Please also explain the intent and effect of this change to the ordinance.**

We appreciate your time and consideration in addressing our questions and look forward to your insight and response; as we feel a better understanding of the intent of these proposed changes will help everyone concerned to better evaluate the merits.

Respectfully submitted-
Doug & Holly Hansen/ Davison County residents



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