

Davison County Zoning Ordinance

**Adopted
April 1, 1998**

**Amended
March 7, 2000
October 24, 2000
December 14, 2004
November 15, 2005
April 1, 2008
January 16, 2009
August 14, 2009
May 11, 2010**

**Prepared By:
Planning & Development District III
Amended by Davison County**

Table of Contents:

Definitions.....5

Article 1/Jurisdiction 29

Article 2/Application of District Regulations 31

Article 3/Establishment of Districts 33

Article 4/Official Zoning Map and Boundary Interpretation35

Article 5/Agricultural District (AG). 37

Article 6/Agricultural – Residential Districts (AR)..... 47

Article 7/Rural Estate District (RE)..... 55

Article 8/Rural Residential District (RR). 59

Article 9/Platted Town Site Residential District (PTR)..... 63

Article 10/Planned Unit Development (PUD)..... 65

Article 11/Rural Commercial District (RC)..... 67

Article 12/Supplementary District Regulations..... 71

Article 13/Administrative Procedure and Enforcement 74

Article 14/Planning Commission..... 78

Article 15/Board of Adjustment..... 84

Article 16/County Commission.90

Article 17/Amendments..... 94

Article 18/Nonconformance.....96

Article 19/Violations, Complaints, Penalties, and Remedies 100

Article 20/Legal Status Provisions.....102

DEFINITIONS

For the purpose of this Ordinance, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word shall means mandatory, not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied.

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Abut - Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

Accessory Agricultural Structure - A structure customarily incidental and necessary to farming and the raising of animals including barns and other animal shelters, corrals and fences, silos and storage sheds for machinery and crops.

Accessory Building - A subordinate building, the use of which is purely incidental to the main building, is less than one hundred (100) percent of the area of the largest floor of the principal building, and is unattached from the principal building at least ten (10) feet.

Accessory Use or Structure - A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

Actual Construction - Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially commenced, preparatory to building, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Addition - Any construction that increases the size of a building such as a porch, attached garage or carport, or a new room.

Adult Entertainment – Any premises or part thereof in which a principal feature or characteristic is the nudity or partial nudity of any person; to include a place or part thereof where, in pursuance of a trade, calling, business or occupation, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclinations.

Advertising Sign - An advertising sign, billboard, or poster panel which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such advertising sign is located or to which it is affixed, but does not include those business signs which direct attention to the business on the premises to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

Agriculture - The planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards along with the raising and/or feeding of less than five hundred (500) animal units of livestock and/or poultry in an animal feeding operation as defined by this ordinance.

An animal feeding operation as defined by this ordinance is not considered an agricultural use. The processing and/or storage of raw agricultural products, including facilities such as grain elevators and ethanol plants, shall not be considered an agricultural use if such use constitutes the main or principal use on a lot or parcel.

Agriculture Product Processing Facility - A business activity customarily designed to process raw agricultural products into value added products. Agricultural processing facilities include, but are not limited to; feed mills, ethanol plants, soy bean processing facilities, cheese plants, milk processors, packing plants and rendering facilities.

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.

Alley - A way which affords only a secondary means of access to abutting property.

Amendment - A change in the wording or substance of this ordinance or a change in the boundaries or classifications upon the Official Zoning Map.

Animal Feeding Operation - A facility where more than five hundred (500) animal units are stabled, confined, fed, or maintained in either an open or housed lots for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more facilities under common ownership are a single animal operation if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure. A one time operational flexibility factor of ten (10) percent shall be allowed for existing operations without requiring an additional conditional use permit

Animal Units - A unit of measure for livestock equated as follows; one animal unit is equivalent to:

Cow, feeder, or slaughter beef animal, excluding calves under 300 pounds	1
Horse	0.5
Mature dairy cattle, excluding dairy calves under 300 pounds	0.7
Farrow-to-finish sows	0.27
Swine in a production unit	2.13
Nursery swine less than 55 pounds	10
Finisher swine over 55 pounds	2.5
Sheep or lambs	10
Laying hens or broilers	30
Ducks and/or geese	5
Turkeys	55

Animal Unit Conversion Table - A conversion table designed to integrate the definition of an animal feeding operation with the animal unit definition.

<u>Animal Species</u>	<u>500 Animal Units</u>
Feeder or Slaughter Beef Animal	500
Horses	250
Mature Dairy Cattle	350
Farrow to Finish Sows	135
Swine in a Production Unit	1,065
Nursery Swine Less than 55 Pounds	5,000
Finisher Swine Over 55 Pounds	1,250
Sheep	5,000
Laying Hens or Broilers	15,000
Ducks and/or Geese	2,500
Turkeys	27,500

Animal Waste Facility - A structure designed and constructed to store and/or process animal waste. Animal waste facilities include but are not limited to holding basins, lagoons, pits and slurry stores.

Apartment - A portion of a multiple dwelling used as a separate housing unit and having cooking facilities and a private bath.

Applicant - For purposes of this Ordinance a person shall be deemed to be an applicant if they are the owner of the proposed facility; an officer or director of the owner thereof; or an owner of any interest, direct or indirect, in any company, except a publicly traded company, which is the owner of the proposed development.

Aquaculture - Land devoted to the hatching, raising and breeding of fish or other aquatic plants or animals for sale or personal use.

Arcade - A place of business where an individual, association, partnership or corporation maintains four or more amusement devices for public use.

Auction Barn - Any premises used predominantly as a livestock auction facility and may include the auction of agriculturally related items on an incidental or accessory basis only. The term may also include a building or structure or lands used for the storage of goods and materials which are to be sold on the premises by public auction and for the sale of the said goods and materials by public auction and on an occasional basis.

Automobile-Machinery Service Station - Building and premises where motor fuel, oil, grease, batteries, tires, and vehicle accessories may be supplied and dispensed at retail, and where, in addition, customary repair services may be rendered.

Automobile Wrecking Yard - Any premises on which two or more self-propelled vehicles not in running order or operating condition are stored in the open. See also Junkyard and Salvage Yard.

Bar - A building or part thereof where, in consideration of payment therefore, liquor, beer, or wine or any combination thereof are served for consumption on the premises, with or without food.

Basement - A portion of a building with the floor located below the mean grade level. For the purpose of this ordinance, any such basement with more than four (4) feet above grade level shall be counted as a story. No dwelling unit shall be situated in a basement having less than four (4) feet above grade level.

Bed and Breakfast - A dwelling occupied by a family and used incidentally to provide accommodation and meals to guests for remuneration, but shall not include a boarding house, residential care facility, hotel, motel, or other similar uses.

Billboard - See Sign, Off-Site.

Board of Adjustment - The Davison County Commission shall serve as the Board of Adjustment.

Buildable Area - The portions of a lot remaining after required yards have been provided.

Building - The word "building" includes the word structure and is a structure that is entirely separate from any other structure by space or by walls in which there is no communicating doors or windows or similar openings. A principal building including covered porches and paved patios, is a building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

Building Line, Front - A line parallel to the street, or right-of-way intersecting the foremost point of the building, excluding uncovered steps.

Building Setback Lines - A line parallel or approximately parallel to the lot lines at a specified distance there from, marking the minimum distance from the lot line that the building may be erected.

Building Site - A lot or parcel, or portion thereof, whether a lot of record or described by metes and bounds, used or intended to be used as the location of a building for housing one or two families.

Building, Alterations of - Any change or rearrangement of the supporting members (such as bearing walls, beams, columns, or girders) of a building, an addition to a building, or movement of a building from one location to another. See Structural Alterations.

Building, Height of - The vertical distance measured from the average grade of the building level of the highest and lowest elevations of the site covered by the building to the top of the roof or parapet of the highest story.

Building, Principal - A building in which is conducted the main use of the lot on which said building is located.

Bus Depot - A building or premises where commercial motor vehicles pick up and discharge fare-paying, passengers. Accessory uses may include ticket offices, luggage checking facilities and similar uses.

Business Sign - A sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises on which such sign is

located or to which it is affixed. See also on-site and off-site signs.

Camper - See Travel Trailer.

Campground - Any premises where two (2) or more camping units are parked or placed for camping purposes, or any premises used or set apart for supplying to the public camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures, uses or intended for use or intended wholly, or in part, for the accommodation of transient campers.

Camping Unit - Any vehicle, tent, trailer or portable shelter used for camping purposes.

Car Wash - An establishment having facilities for washing motor vehicles by production line methods which may include a conveyor system or similar mechanical devices. This definition may also include a self-service operation.

Casino - A room or rooms in which legal gaming is conducted.

Cellar - A portion of a building between two floor levels which is partly or wholly underground and which has more than one-half (½) of its height, from finished floor to finished ceiling or to the underside of the floor joints of the story next above, as the case may be, below the average finished grade level adjacent the exterior walls of the building.

Cemetery - Land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried. "Cemetery" may include a structure for the purpose of the cremation of human remains and may include facilities for storing ashes of human remains that have been cremated or the interment of the dead in sealed crypts or compartments.

Church - A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

Clinic - A building or part of a building used solely for the purpose of consultation, diagnosis and treatment of patients by one or more legally qualified physicians, dentists, optometrists, podiatrists, chiropractors, or drugless practitioners, together with their qualified assistants, and without limiting the generality of the foregoing, the building may include administrative offices, waiting rooms, treatment rooms, laboratories, pharmacies and dispensaries directly associate with the clinic, but shall not include accommodation for in-patient care or operating rooms for major surgery.

Club - A building owned, leased, or hired by a non-profit association of persons the use of which is generally restricted to due-paying members and their guests. Such club may periodically be rented, or leased, to non-members for gathering such as weddings, anniversaries, and dances, but no portion of the building shall continuously be used for business purposes.

Company - For purposes of this ordinance the term, "company" includes, but is not limited to, any corporation, partnership, limited liability company, limited liability partnership, limited partnership, business trust and any other business entity.

Comprehensive Plan - Any legally adopted part or element of the Davison County Comprehensive Plan.

Conditional Use - A conditional use is a use that would not be appropriate, generally or without restriction, throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as conditional uses, if specific provision for such conditional use is made in this Ordinance.

Congregate Housing - Housing units that provide a semi-independent living environment, which offers residential accommodations, central dining facilities (where at least one (1) meal a day is provided seven (7) days a week), related facilities, and supporting staff and services to persons of at least sixty-two (62) years of age or with disabilities.

Construction Services - A yard, structure, or combination thereof of any general contractor or builder where equipment and materials are stored or where a contractor performs shop or assembly work but does not include any other yard or establishment otherwise defined or classified herein.

Contiguous - Next to, abutting, or touching and having a boundary, or portion thereof, which is adjoining.

Contractor - The person who contracts with an individual or developer to construct a building on a parcel of land prepared by a developer.

Convenience Store - A retail store in which articles for sale are restricted to gasoline sales and a limited range of food items such as milk, bread, soft drinks, ice cream, canned and bottled goods, snacks and candy. Retail sales may also include the limited sale of magazines, books, house wares, toiletries, bait, alcoholic beverages and tobacco.

Court - Any open space, unobstructed from ground to sky, other than a yard, that is on the same lot with and bounded on two or more sides by the walls of a building.

Covenant - An agreement, convention, or promise of two or more parties, by deed in writing, signed and delivered, by which either of the parties pledges himself to the other that something is either done, or shall be done, or shall not be done. The term is currently used primarily with respect to promises in conveyance or other instruments relating to real estate.

Cul-de-sac - A local right-of-way with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic turnaround.

Day Care - The providing of care and supervision of children or adults as a supplement to regular parental or home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

Day Care Center - Any type of group day care programs including nurseries for children of working parents, nursery schools for children under minimum age for education in public schools, parent cooperative nursery schools, playgroups for pre-school children, programs covering after-school care for school children provided such establishment is licensed by the State and conducted in accordance with State requirements.

Day Care, Family - The provision of regular care and supervision of no more than twelve (12) children including the provider's own children who are under the age of six (6) years for part of a

twenty-four (24) hour period as a supplement to regular parental care.

Day Care, Group Family Home - The provision of regular care and supervision of thirteen (13) to twenty (20) children either in the provider's home or in a facility outside the provider's home for part of a twenty-four (24) hour period as a supplement to regular parental care.

Deck - A structure abutting a dwelling with no roof or walls except for visual partitions and railings that is constructed on piers or a foundation above-grade for use as an outdoor living area.

Developer - The owner of the property being platted or replatted or the person designated by the owner as being responsible for the development of the property. The terms "subdivider" and "developer" are synonymous and used interchangeably, and shall include any person, partnership, firm, association, corporation and/or any officer, agent, employee and trustee thereof who does or participates in the doing of any act toward the subdivision of land within the intent, scope and purview of this Ordinance. The developer shall also be defined as the builder or contractor if they are responsible for the construction of buildings and/or structures or permanent improvements.

Domesticated Animals - Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind. For the purpose of this ordinance the definition shall include, but is not limited to, animals commonly raised on farms and ranches, such as cattle, horses, hogs, sheep, mules, and fowl.

Dormitory - A building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

Drive-in Restaurant or Refreshment Stand - Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Due Diligence - Such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case.

Dwelling - A building or portion of a building designed for residential purposes, including one and two family dwellings but not including hotels, motels or lodging houses.

Dwelling Unit - A room or suite of rooms designed for and occupied by one family and having not more than one kitchen facility.

Dwelling, Efficiency Unit - A dwelling unit having only one room exclusive of bathroom, kitchen, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. An efficiency unit shall be permitted in a multi-family dwelling.

Dwelling, Multiple Family - A residential building designed for, or occupied by, two (2) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single Family - A detached residential dwelling unit other than a manufactured home designed for or occupied by one (1) family only.

Dwelling, Two Family - A building containing two dwelling units designed exclusively for occupancy by two families living independently of each other.

Easement - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property. For the purposes of this Ordinance the term shall primarily be used to describe utility access.

Employee(s) - In regard to off right-of-way parking requirements, all who work in the enterprise, including owners.

Exhibition Areas - A building, group of buildings, or place where art: objects, articles, or livestock or agricultural projects are placed on display for the public.

Extraterritorial Zoning Jurisdiction - The area illustrated within the Official Zoning Map of Davison County not exceeding one (1) mile in width immediately adjoining the City of Mitchell.

Facility - A building, piece of land or any combination thereof owned and operated by the same owner and dedicated to a specific use or uses. The term shall include those operations where indoor and outdoor activities may be conducted in concert and are integral or compliment the operation as a whole. An example may be an automobile dealership with office spaces, a small indoor display area, separate maintenance facility, and an outdoor display area.

Fairground - An agricultural fairground where farm produce is on display for judging and for sale, and livestock shows, horseracing and other sports events are held and on occasion for auctions, flea markets and concession stands.

Family - Any number of individuals living together as a single housekeeping unit, in which not more than four (4) individuals are unrelated by blood, marriage, or adoption. This definition shall not include foster families as regulated by the State.

Farm, Ranch, Orchard - An area of not less than twenty five (25) acres of unplatted land which is used for growing usual farm products, vegetables, fruits, trees, and grain, and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, hogs and sheep, and including accessory uses for raising, treating, and storing products raised on the premises; but excluding an Animal Feeding Operation.

The processing and storage of raw agricultural products, such as grain elevators and ethanol plants, shall not be considered a farm, ranch or orchard if such constitutes the main or principal use on the lot or parcel.

Farm Building - All buildings and structures needed in agricultural operation, including dwellings for owners, operators, farm laborers employed on the farm, and other family members.

Farm Drainage Systems - The term shall include all waterways, ditches, flood control, watershed, and erosion control structures and devices provided each individual system or structure comply with the applicable local, state, and federal regulations.

Farm Occupation - A business activity customarily carried out on a farm by a member of the

occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal farm operations, without the employment of more than the equivalent of two (2) full time employees not residing in the home, which does not cause the generation of additional traffic in the area. Farm occupations include, but are not limited to, seed sales and custom combining support facilities.

Farm Unit - All buildings and structures needed in an agricultural operation, including dwellings for owners, operators, and other family members.

Farm, Hobby - An activity carried out in rural residential areas, which includes the planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards.

The raising and feeding of livestock and poultry shall be considered as part of a hobby farm if the area, in which the livestock or poultry is kept, is one (1) acre or more in area for every one (1) animal unit, and if such livestock does not exceed ten (10) animal units.

Farmstead - The area surrounding and adjacent to the house and main buildings, including, the driveway and the land lying between the farmstead and the road. For the purposes of this ordinance a farmstead shall include a residential structure fit for human habitation and the customary outbuildings such as barns, sheds, grain bins, etc. If a shelterbelt is present it also shall be included in the plat.

Fence - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Financial Institutions - The premises of a bank, trust, finance, mortgage, or investment company.

Fireworks, Sales - A building, structure, or place where fireworks are sold, pursuant to all applicable state statutes.

Fishery - As defined by South Dakota Administrative Rules, Sections 74:51:02 and 74:51:03 (January 27, 1999) and Davison County as described in Section 74:51:02:20. Lake Mitchell (Sections 74:51:02:01 and 74:51:02:02) is beneficial for fish and wildlife propagation, recreation, stock watering, immersion recreation and limited contact recreation. Section 74:51:02:20 identifies Lake Mitchell as a domestic drinking water supply and warm water permanent fish life propagation waters. Section 74:51:03:01 assigns all streams in South Dakota the beneficial uses of irrigation, fish and wildlife propagation, recreation and stock watering. Within Davison County the James River is defined as warmwater semi permanent fish life propagation waters and limited contact recreation waters. Enemy, North Fork of Enemy, and Morris (Dry Run) Creeks are defined as warmwater marginal fish life propagation waters and limited contact recreation waters. Firesteel Creek from the James to West Fork Firesteel Creek includes domestic water supply warm water permanent fish life propagation waters, and limited contact recreation waters.

Flammable or Combustible Liquids, or Hazardous Material - Flammable material is any material that will readily ignite from common sources of heat, or that will ignite at a temperature of 600°F or less. Flammable liquid is any liquid having a flash point below 100°F and having vapor pressure not exceeding forty (40) pounds per square inch (absolute) at 100°F. Combustible liquid is any liquid having a flash point at or above 100°F. Hazardous material includes any flammable solids, corrosive liquids, radioactive materials, oxidizing materials, highly toxic materials, poisonous gases, reactive materials, unstable materials, hyperbolic materials, pyrophoric

materials, and any substance or mixture of substances which is an irritant, a strong sensitizer or which generates pressure through exposure to heat, decomposition or other means.

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of wetlands, lakes, streams, tributaries, or other water bodies; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) - The official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without an accumulative increase in the water surface. The floodway shall be defined and designated by the most recent Flood Hazard Boundary Map as defined herein.

Food Product Processing Facility - A commercial establishment in which food or food-related products are processed, packaged, or otherwise prepared for human consumption but not consumed on the premises.

Footprint - The land area covered or occupied by a building and a facility as defined herein. The term shall also include any land area dedicated to a use such as outdoor storage or any area utilized for storage, display, or livestock confinement as part of or in support of the building or use.

Game Farm - An area of five (5) acres or more, which is used for producing hatchery, raised game and non-domestic animals for sale to private shooting preserves.

Game Lodge - A building or group of detached, or semi-detached, or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and fishermen, who are lodged, with or without meals, and in which there are more than two (2) sleeping rooms.

Gaming Device or Gaming Equipment - Any mechanical contrivance or machine used in connection with gaming or any game.

Gaming or Gambling - The dealing, operating, carrying on, conducting, maintaining, or exposing for pay of any game.

Gaming or Gambling Establishment - Any premises wherein or whereon gaming is done.

Garage - An accessory building or portion of a building including a carport which is designed or used for the sheltering of private motor vehicles and the storage of household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.

Garage, Public - A building or portion thereof used for the housing or care of motor vehicles for the general public or where such vehicles are equipped or repaired for remuneration or kept for hire or sale. This may include premises commonly known as "gasoline stations" or "service stations".

Gasoline Station - Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel, and oil or other lubrication substances; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning such vehicles.

Golf Course - A public or private area operated for the purpose of playing golf, and includes a par 3 golf course, club house and recreational facilities, driving ranges, and miniature golf courses, and similar uses.

Grain Elevator - Grain storage facilities, which are the principal and primary use of the lot. Said facilities are generally equipped with devices for housing and discharging significant quantities of grain. This definition does not include normal farm product storage and warehousing facilities such as grain bins and where such storage is an accessory use to the parcel.

Grandfather - For the purposes of this ordinance the term “grandfather” shall be defined as a lay term used to describe structures, land uses, facilities, operations or similar activities in existence prior to adoption of the zoning ordinance. The term is generally applied to uses not allowed or further regulated within the new ordinance. The act or condition of grandfathered is more fully addressed in the non-conforming Article herein.

Greenhouse, Commercial - A building for the growing of flowers, plants, shrubs, trees, and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.

Group Home - See Residential Care Facility.

Home Occupation - A business activity customarily carried on in the home by a member of the occupant’s family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal household operations, without the employment of more than the equivalent of two (2) full time employees not residing in the home, which does not cause the generation of traffic in excess of that experienced on an average right-of-way of similar design, noise, electrical interference, fumes, odors, etc.

Horticulture - The science or art of cultivating fruits, vegetables, flowers, and plants.

Hospital - An institution devoted primarily to the operation of facilities of the diagnosis, treatment, and cure of disease, illness, injury, or other abnormal physical conditions with provisions for keeping patients overnight.

Hotel - An establishment of transient guests having sleeping rooms without individual cooking facilities for more than six (6) persons for compensation and may or may not provide meals.

Interchange - A grade-separated intersection with one (1) or more direct connections for vehicular travel between the intersecting right-of-ways.

Irrigation Systems - This term shall include all canals, ditches, piping, center pivot, and other methods utilized to irrigate cropland. This term does not include systems designed to land apply waste or water from animal feeding operations as defined herein. All irrigation systems shall comply with local, state, and federal regulations.

Junkyard - A place where non-recyclable waste, having no economic values, or waste, which is recyclable, but has no chance of being recycled is deposited.

Kennel - Any place where more than twelve (12) dogs, cats, or other domesticated animals of breeding age are housed, groomed, bred, boarded, trained, harbored, kept, or sold for commercial purposes.

Lagoon - Any pond, basin, or other impoundment made by excavation or earthen fill for storage or treatment of human sewage or animal waste.

Landing Strip - A strip of ground used or capable of being used for the landing and take-off of aircraft.

Loading Area - A completely off right-of-way, space, or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public right-of-way.

Loading Space, Off Right-of-Way - Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off right-of-way loading space is not to be used as off right-of-way parking space in computation of required off right-of-way parking space.

Locker - A meat processing plant and any other facility where meat, poultry or eggs are cooked, cured, smoked, or otherwise processed or packed, provided that all activities are carried out indoors. This term shall not include a delicatessen, stockyard, slaughterhouse, tannery, a poultry killing establishment, an animal food factory, or an animal by-products plant.

Lot - For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public right-of-way, or on an approved private right-of-way, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record, a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot - Land occupied or to be occupied by a building and its accessory building(s) having its principal frontage upon a public street or officially approved place.

Lot Coverage - The percent of the area of a lot occupied by buildings, or structures, including accessory building or structures.

Lot Depth - The average horizontal distance between the front and rear lot lines.

Lot Frontage - The portion of the lot nearest the right-of-way; for the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to right-of-ways shall be considered frontage, and yards shall be provided as indicated under "Yards" in this ordinance.

Lot Frontage, Pie Shaped - A lot usually abutting a cul-de-sac. For the purpose of determining frontage, said distance shall be measured perpendicularly to the said lot lines at a point thirty (30) feet from the front line.

Lot Line - The legally defined limits of any lot.

Lot, Corner - A lot situated at the intersection of two (2) right-of-ways, the interior angle of such intersection not exceeding one hundred thirty five (135) degrees.

Lot, Double Frontage - A lot having frontage on two (2) non-intersecting right-of-ways, as distinguished from a corner lot.

Lot Line, Exterior - The side lot line, which abuts the right-of-way on a corner lot.

Lot Line, Rear - The lot line or point of intersection of the side lot lines farthest from and opposite the front lot line.

Lot Line, Side - A lot line other than a front or rear lot line.

Lot of Record - A lot which is part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded. For the purposes of this Ordinance, a legally transacted parcel prior to adoption may be considered as a lot of record.

Lot Width - The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth or the same distance measured at the front building line.

Lot, Corner - A corner lot is defined as a lot located at the intersection of two (2) or more right-of-ways. A lot abutting on a curved right-of-way(s) shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Lot, Interior - An interior lot is defined as a lot other than a corner lot with only one frontage on a right-of-way.

Lot, Through - A through lot is defined as a lot other than a corner lot with frontage on more than one right-of-way. Through lots abutting two right-of-ways may be referred to as double frontage lot.

Lot, Reversed Frontage - A reversed frontage lot is defined as a lot on which the frontage is at right angles or approximately right angles, interior angle less than one hundred thirty-five (135) degrees, to the general pattern in the area. A reversed frontage lot may also be a corner or a through lot.

Major Road Plan - The Transportation Plan in the Davison County Comprehensive Plan.

Major Recreational Equipment - Major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Manufactured Home - A moveable or portable dwelling which is eight (8) feet or more in width and thirty-two (32) feet or more in length, constructed on a chassis, and which is designed to be towed, designed for year-round occupancy, primarily to be used without a permanent foundation,

but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units, separately transportable, but designed to be joined together into one integral unit. Manufactured homes are built according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Manufactured homes are not mobile homes. The following shall not be included in this definition:

1. Travel trailers, pickup coaches, motor homes, camping trailers, or other recreational vehicles.
2. Manufactured modular housing which is designed to be set on a permanent foundation, and which uses standard sheathing, roofing, siding, and electrical, plumbing, and heating systems.

Manufactured Home Park - A parcel of land under single ownership, which has been planned and improved for the placement of, manufactured homes for non-transient use.

Manufacturing - The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article, thing or service.

Massage Establishment - Any premises or part thereof where massages are given, offered or solicited in pursuance of a trade or calling, business or occupation provided that the service is rendered by a person duly trained, licensed and registered under the appropriate statute.

Mobile Home - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

Modular Home - A structure or building module that is manufactured at a location other than the site upon which it is installed and used as a residence; transportable in one or more sections on a temporary chassis or other conveyance device; and to be used as a permanent dwelling when installed and placed upon a permanent foundation system. This term includes the plumbing, heating, air conditioning, and electrical systems contained within the structure.

Motel - A group of attached or detached buildings on the same lot containing sleeping quarters for rental to transients.

Museum - A building or buildings used, or to be used, for the preservation of a collection of paintings and/or other works of art, and/or of objects of natural history, and/or of mechanical, scientific and/or philosophical inventions, instruments, models and/or designs and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories and/or other offices and premises used or to be used in connection therewith.

Navigable Waters - A body of water presently being used or is suitable for use for transportation and commerce, or if it has been so used or was suitable for such use in the past, or if it could be made suitable for such use in the future by reasonable improvements.

Nonconforming Lot - A lot of record existing on the date of passage of this ordinance which does not have the minimum width or contain the minimum area for the zone in which it is located.

Nonconforming Structure - A lawful structure which exists on the date of passage of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yard setbacks, or other characteristics of the structure.

Nonconforming Use - A land use or building or structure or portion thereof lawfully existing at the effective date of this ordinance or at the time of any amendment thereto, which does not conform to the regulations of the zone in which it is located.

Noxious - When used with reference to any use or activity in respect of any land, building or structure or a use or activity which, from its nature or from the manner of carrying on same, creates or is liable to create, by reason or destructive gas or fumes, dust, objectionable odor, noise or vibration or unsightly storage of goods, wares, merchandise, salvage, machinery parts, junk, waste or other material, a condition which may become hazardous or injurious as regards to health or safety or which prejudices the character of the surrounding are or interferes with or may interfere with the normal enjoyment of any use of activity in respect of any land, building or structure.

Nuisance - Any condition existing that is or may become injurious or dangerous to health or that prevents or hinders or may prevent or hinder in any manner the suppression of a disease.

Nursery - A facility confining a specific number of small and/or young swine averaging ten (10) to fifty-five (55) pounds in size.

Nursing Home, Rest Home, Convalescent Home - A place which undertakes through its ownership or management to provide maintenance, personal, or nursing care for three or more persons who by reason of illness, physical deformity, or old age are unable to care for themselves.

Obstruction - Any structure or vegetation that blocks the complete vision of people.

Office - A building or part thereof, designed, intended or used for the practice of a profession, the carrying on of a business, the conduct of public administration, or, where not conducted on the site thereof, the administration of an industry, but shall not include a retail commercial use, any industrial use, clinic, financial institution or place of amusement or place of assembly.

Open Sales Area - Any open land or area used or occupied for the purpose of displaying for sale new or secondhand merchandise, including but not limited to, passenger cars or trucks, farm machinery, construction machinery, motor scooters or motorcycles, boats, trailers, aircraft, and monuments. No repair work is done except for incidental repair of times to be displayed and sold on the premises.

Outdoor Storage Area - Any open land or area used for the purpose of storage of any product or part of a product before, during, or after manufacturing, servicing, or repairing and not displayed for retail sale. This does not include open sales areas.

Owner - The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided.

Ownership Line - A line defining ownership of property under one owner of record.

Parcel - A legally defined piece of property including a platted lot, legally described portion, or similarly described piece of property primarily used as an identifier within taxation.

Park - An area consisting largely of open space, which may include a recreational area, playground, or similar use but shall not include a mobile home park, a campground or trailer park.

Parking Space - An off right-of-way space available for parking of a motor vehicle and which is held to be an area for dimension of which are ten (10) feet by twenty (20) feet or which covers two hundred (200) square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto. Off right-of-way parking shall be on or adjacent to the property on which the principal use is located.

Parking Space, Off Right-of-Way - For the purposes of this ordinance, an off right-of-way parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a right-of-way and maneuvering room. Required off right-of-way parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any right-of-way, and so that any automobile may be parked and un-parked without moving another.

For purposes of rough computation, an off right-of-way parking space and necessary access and maneuvering may be estimated at three hundred (300) square feet, but off right-of-way parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the County.

Pawnshop - An establishment where money is loaned on the security of personal property pledged in the keeping of the pawnbroker.

Performance Standards - Criterion established for the purposes of:

1. Assigning proposed land uses to proper districts; and
2. Controlling noise, odor, glare, smoke, toxic matter, aesthetics, vibration, fire/explosive hazards generated by, or inherent in, uses of land or buildings.

Permitted Use - A use by right, which is specifically authorized in a particular zoning district.

Person - Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

Places of Assembly - Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.

Planning Commission - The Planning Commission of Davison County. The term Planning Commission shall be synonymous with Planning ~~and Zoning~~ Commission and Commission, but shall not include Board of Adjustment or Zoning Board.

Plaza - A public square or similar open area..

Portable Processing Plant - Any equipment for the crushing, screening or washing of sand and gravel aggregate materials, but not including a concrete batching plant or an asphalt plant, which equipment is capable of being readily drawn or readily propelled by a motor vehicle and which equipment is not considered permanently affixed to the site.

Principal Use - The main use of land or structures as distinguished from a secondary or accessory use.

Private Recreation Area - Any open space or recreational area, other than a public park, owned and operated or maintained in whole or in part for profit by a private individual(s), club or fraternal organization for members only, and may include therein one or more of the following activities: swimming, boat facilities, picnic area, tennis courts, outdoor skating rinks, athletic fields, walking, riding and cross-country skiing, snowmobiling, but does not include the racing of animals, motor vehicles, motorcycles or snowmobiles.

Private Shooting Preserves - An acreage of at least one hundred and sixty (160) acres and not exceeding one thousand two hundred and eighty (1,280) acres either privately owned or leased on which hatchery raised game and/or larger game is released for the purpose of hunting, for a fee, over an extended season.

Property Line - The division between two parcels of land, or between a parcel of land and right-of-way.

Public - Promotion of a public cause or service, including utilities having a franchise from Davison County or other governmental entity, but excluding other for-profit organizations.

Public Building - Any building which is owned, leased, primarily used, and/or primarily occupied by a school district or municipal, county, state, or federal government, or any subdivision or agency of the school district, municipal, county, state, or federal government.

Publicly Traded Company - For purposes of this Ordinance a “publicly traded company” means a company, the shares or other interests in which are regularly traded on the New York Stock Exchange, the American Stock Exchange, NASDAQ or similar recognized security market.

Quarry - A place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial, or manufacturing purposes, but does not include a wayside quarry or open pit metal mine.

Ranch Building - See Farm Building.

Ranch Occupation - See Farm Occupation.

Ranch Unit - See Farm Unit.

Recreational Equipment - The term recreational equipment shall include boats and boat trailers, jet skis, snowmobiles, travel trailers, pick-up campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Recycling Center - A building and/or area in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Remote Fuel Depots - A structure, usually unmanned, that is used for the sale of gasoline, diesel, or other motor vehicle fuel.

Rent-All Shop - A building or part of a building where residential and commercial equipment is kept for rental to the general public and includes such things as lawn and garden tools, floor cleaning equipment, masonry tools, painting and decorating equipment, moving tools, plumbing tools and power tools.

Repair Shop – maintenance, mechanical, restoration, welding, body, paint or other repair.

Repair Shop, Auto Body - A general industrial establishment for the repair of damage to a motor vehicle caused by collision, accident, corrosion or age, and, without limiting the generality of the foregoing, includes the reconstruction of motor vehicles, the painting or repainting of motor vehicles and the rebuilding or conversion of automotive engines or engine parts, but does not include a motor vehicle repair shop, an impounding yard, an automobile service station or a gas station.

Repair Shop, Motor Vehicle - A service commercial or general industrial establishment for the repair or replacement of parts in a motor vehicle and without limiting the generality of the foregoing, shocks, transmissions, gears, brakes, clutch assemblies, steering assemblies, radiators, heating or cooling systems, ignition systems, mechanical or electrical parts or systems, the installation of undercoating, engine tuning, lubrication and engine conversion or replacement, but does not include an auto body repair shop, an impounding yard, an automobile service station or a gas station.

Residential Care Facility - A family home, group care facility, or similar facility for twenty-four (24) hour non-medical care of persons in need of personal services, supervision or assistance for sustaining the activities of daily living or for the protection of the individual.

Restaurant - A business establishment consisting of a kitchen and dining room, whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.

Restaurant, Drive-In - A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to eat either off the premises or within automobiles parked on the premises.

Restaurant, In-House - A private business establishment consisting of a kitchen, with or without a dining room, whose primary purpose is to prepare and serve food to be eaten by employees of the principal employer. For the purposes of this ordinance, the term “cafeteria” shall be synonymous with “Restaurant, In-House.”

Rest Home - See Nursing Homes.

Retail Sales - A building where goods, wares, merchandise, substances, articles, or items are offered or kept for sale at retail, including storage of limited quantities of such goods, wares, merchandise, substances, articles, or items sufficient only to service such store.

Retail Store - A building where goods, wares, merchandise, substances, articles or items are offered or kept for sale at retail, including storage of limited quantities of such goods, wares, merchandise, substances, articles or items sufficient only to service such store.

Retaining Wall - A structure constructed to hold back or support an earthen bank.

Riding Stable - Any place that has more than fifteen (15) stalls or horse spaces to board, train, or provide recreational equine activities.

Right-of-Way - An area of land that is legally described in a registered deed for the provision of public access within which there is usually a road or street. The term right-of-way shall include any defined access route or point including but not limited to public and private accesses, road easements, streets, roads, and drives other than a private drive serving a single owner.

Right-of-Way Line - A dividing line between a lot, tract, or parcel of land and the public right-of-way.

Roadside Stand - A structure having a ground area of not more than three hundred (300) square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises, bait, and other approved products.

Rodeo Grounds - A building or place where rodeo events such as roping and riding are done for practice or competition.

Row of Trees - Ten (10) or more trees planted in a line, separated by a distance of forty (40) feet or less.

Running Gear - The parts which allow a manufactured home to be mobile including the tires, wheels, axles, running lights, and hitch. This definition shall include all mobility items exclusive of the parts of the chassis that make up the structural integrity of the manufactured home.

Salvage Yard - The use of more than seven thousand five hundred fifty (7,500) square feet of open storage on any lot, portion of lot, or tract of land for the sale, storage, keeping, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

Satellite Dish/Receiver - A device incorporating a reflective surface that is solid, open mesh, or bar configured and is the shape of a shallow dish or cone designed and used for the reception of television signals related back to earth from a terrestrially and/or orbital based communications satellite.

School, Boarding - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools, accredited by the State of South Dakota and provides room and board for its students; but excluding private trade or commercial schools. "Day Care Centers" as herein defined, shall not be considered schools as applicable to this definition.

School, Denominational or Private - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools and accredited by the State of South Dakota; but excluding private trade or commercial schools. "Day Care Centers" as herein defined, shall not be considered schools as applicable to this definition.

School, Public - A school under the sponsorship of a public agency providing elementary or secondary curriculum, and accredited by the State of South Dakota; but excluding private trade or commercial schools.

School, Trade or Commercial - An establishment other than an accredited or licensed public, private or denominational school, offering training or instruction in art, occupation or trade.

Screening - A continuous fence, wall, compact evergreen hedge or combination thereof, supplemented with landscape planting, which would effectively screen the property which it encloses, and is broken only by access drives and walks.

Secondhand Shop - The use of land, or building or structure or part thereof where used goods, wares, merchandise, substances, or articles are offered or kept for sale but shall not include a pawnshop.

Security Dwelling Unit - A building or portion thereof designed for occupancy by a security employee.

Self-Storage Warehouse - A building containing separate, individual self-storage units divided from the floor to the ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment.

Semi-Portable Agricultural Structures - Anything that requires placement on the ground for agriculture related purposes. Semi-portable agricultural structures include, but are not limited to, feed bunks, calving, lambing, or farrowing sheds, and temporary grain storage facilities.

Services - Establishments, primarily engaged in providing services for individuals, business and government establishments and other organizations, including hotels and other lodging places, establishments providing personal business, repair, and amusement services, health, legal, engineering, and other professional services, educational institutions, membership organizations, and other miscellaneous services.

Service Establishment - Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations, including hotels and other lodging places, establishments providing personal business, repair, and amusement services, health, legal, engineering, and other professional services, educational institutions, membership organizations and other miscellaneous services.

Setback - The minimum horizontal distance from a lot line, to a wall of the building, exclusive of permitted projections. The setback shall be measured at right angles to such lot lines.

Shelterbelt - Five or more rows of trees and/or shrubs that reduce erosion and protects against the effects of wind and storms.

Shelterbelt Restoration - The removal and replacement of two or more rows of trees or of trees totaling one-half acre or more, whichever is greater, in an existing shelterbelt.

Shooting Range - An area or structure specially designed for the safe discharge and use of firearms and/or archery.

Sight Triangle - The triangular space formed by the right-of-way lines of a corner lot and a line drawn from a point in one right-of-way line to a point in the other right-of-way line, each such point being thirty (30) feet from the point of intersection of the right-of-way lines (measured along the right-of-ways lines). Where the two (2) right-of-way lines do not intersect at a point, the point of intersection of the right-of-way lines shall be deemed to be the intersection of the projection of the right-of-way lines or the intersection of the tangents to the right-of-way lines. In the case of arterial highways intersecting with other arterial highways or railways, the distances establishing the sight triangle shall be increased to fifty (50) feet.

Sign - Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one (1) square foot in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification or premises not having commercial connotations;
2. Flags and insignias of any government, except when displayed in connection with commercial promotion;
3. Legal notices, identification, informational, or directional signs erected or required by governmental bodies;
4. Integral decorative or architectural feature of buildings, except letters, trademarks, moving parts, or moving lights; and
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Sign, Banner - A temporary sign, which has a maximum area of twelve (12) square feet, composed of lightweight material either enclosed or not in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere (i.e., pennants, twirling signs, balloon, or other gas-filled figures, ribbons, or other similar moving devices) and intended to be displayed for a limited period of time.

Sign, Bulletin Board - An exterior sign, which has a maximum area of thirty-five (35) square feet, used by public, charitable, and religious institutions for the purpose of informing the public about activities of their organization.

Sign, Directional Off-Site - An exterior sign that is generally informational, that has a purpose secondary to the use of the primary use on a property that is not adjacent to the property on which the directional off-site sign exists. Said sign shall include only those signs placed by a political subdivision and shall include those signs standardized by the South Dakota Department of Transportation.

Sign, Directional On-Site - An exterior sign that is generally informational, that has a purpose secondary to the use of the property on which it is located, such as “no parking,” “entrance,” and “loading only.” Said sign shall conform to standards adopted or approved by the regulating public agency.

Sign, Easement and Utility - An exterior sign, a maximum area of five (5) square feet, used to identify the location of easements, property lines, utilities, hazards, or providing restrictions of public access.

Sign, Exterior On-site - An exterior sign relating in subject to the premises upon which it is located, or to products, accommodations, services, or activities on the premises. Exterior on-site signs do not include signs erected by outdoor advertising industry in the conduct of the outdoor advertising business, such as billboards, which are off-site signs.

Sign, Flag - Any fabric or bunting containing distinctive colors, patterns, or symbols, which has a maximum area of twenty (20) square feet and is used as a symbol of government, political subdivision, or other entity.

Sign, Ground and Monument - An exterior sign permanently attached to the ground to identify churches, schools, institutional, and public uses. Said sign may also identify a specific neighborhood by displaying the name of the tract. Ground and monument signs:

1. Are generally constructed of concrete or other masonry material;
2. Shall not exceed twenty (20) feet in height above the mean right-of-way centerline or grade;
3. Shall meet a minimum of one-half (½) of the yard requirements for the district in which it is located; and
4. Shall not exceed one hundred (100) square feet on one (1) side or two hundred (200) square feet on all sides of any one (1) premise.

Sign, Mounted Wall - A sign, which has a maximum area of one hundred (100) square feet, that is attached to or erected against a wall of a building and shall project no more than twelve (12) inches from the wall of the building. Said sign is intended to be read from directly in front of the face of the building.

Sign, Name and Address Plate - A sign, which has a maximum area of two (2) square feet, that is affixed to the side of a building informing the public as to the residents, occupation, and/or address of the building.

Sign, Off-Site - A sign other than an on-site sign. Off-site signs are conventionally know as billboards regardless of size.

Sign, Portable - Any sign, which has a maximum area of twenty (20) square feet, not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu and sandwich board signs. Signs attached to or painted on vehicles parked and visible from the public right-of-way shall not be included in this definition and shall be prohibited unless said vehicle is used in normal day-to-day operations of the business. Said sign is intended to be displayed for a limited period of time.

Sign, Projecting - Any sign, which has a maximum area of one hundred (100) square feet, that is affixed to a building or wall in such a manner that its face is perpendicular to the face of the building and the sign extends more than twelve (12) inches beyond the surface of such building or wall.

Sign, Real Estate - An exterior sign for the purpose of advertising the sale, rental, lease of real property. Said sign is located on the premises for sale, rental, or lease and shall be of a temporary nature and shall have a maximum area of four (4) square feet except in the Commercial, Highway Commercial, or Industrial Districts where the maximum area shall be thirty-two (32) square feet.

Sign, Roof - Any sign, which has maximum area of three hundred (300) square feet that is erected upon, against, or directly above a roof or on top of the parapet of a building.

Street - A right-of-way established by a recorded plat to provide the primary means of access to abutting property. The term shall also include the term "road" or other similar means of conveyance or access.

Street Line - The right-of-way line of a street.

Street, Arterial - A public street or highway intended to be used primarily for fast or heavy through traffic.

Structure - Anything constructed or erected which requires location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings and manufactured homes. This definition does not include semi-portable agricultural structures.

Structural Alterations - Any change in the supporting members of a structure such as bearing walls, columns, beams or girders, foundations and poles. See Building, Alterations of.

Swimming Pool - A water filled enclosure, permanently constructed or portable, having a depth of more than twenty four inches below the level of the surrounding land, or an above ground pool, having a depth of more than thirty inches, designed used and maintained for swimming and bathing.

Swine Production Unit - An operation confining a specific number of female breeding age swine for the purpose of farrowing. The operation shall farrow no more than an average of one-third (1/3) of the total herd at any one time and the total herd shall not farrow more than an average of two and one-half (2 ½) times within a twelve month period. All farrowed swine shall be relocated to an off-site nursery facility, as defined by this ordinance, at approximately ten (10) pounds or said swine shall be calculated as part of the total animal units.

Tank Farm - A facility having two or more storage containers for the transfer of inorganic liquids or gases and from which wholesale sales of fuel to the public is or may be conducted.

Temporary Construction Facilities - Parcels of land or structures where construction or mining support facilities are constructed or placed at or near a job site to provide materials and support mechanisms for construction or mining projects. The term shall include but is not limited to portable offices, signage, trailers, stationary and mobile equipment, and scales. Common uses include portable concrete, processing, or asphalt plants, job site trailers, and areas for equipment parking, material storage or stockpiling. The term temporary shall be flexible yet is generally tied to a related construction project with defined start-up and completion times.

Thrift Shop - A shop operated by a charitable organization, which sells, donated used merchandise only. All such merchandise shall be displayed and/or stored in an enclosed building.

Tower - A structure intended for transmitting or receiving television, radio, telephone communications or other electronic or electromagnetic signals, such structure being in excess of 100' in height or the base of which is located a distance less than the height of the tower from the property line.

Trailer Park – This definition shall include the following existing trailer courts or parks:

1. S ½ Lot 3 NE ¼ Section 25 T 103 R 61 W; and
2. E 1575.5' of S 2258.28' NE ¼ Section 3 T 102 R 60 W Ex. H-2

Travel Trailer - A moveable vehicle with wheels designed or used as living and sleeping quarters or for recreation or business purposes, and such vehicles that have not had the wheels removed; to include campers, recreation vehicles, and trailer coaches.

Truck or Equipment Terminal - A building, structure or place where six (6) or more commercially licensed trucks are rented, leased, kept for hire, stored, or parked for compensation, or from which trucks or transports, stored or parked on the property, are dispatched for hire as common carriers, and which may include warehouse space.

Use - Use shall mean the purpose for which a lot or a building or structure, or any portion thereof, is designed, arranged, intended, occupies, or maintained, and “used” shall have a corresponding meaning.

Utility Facilities - Any above-ground structures or facilities, other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities, owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals.

Variance - A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining district or because of conditions created by the landowner.

Veterinary Clinic - A building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis. No outside runs, pens, or facilities shall be permitted.

Veterinary Service - Shall be defined as a veterinary clinic except that outside pens and runs are allowed.

Video Rental Shop - The use of land, building or structure for the purpose of renting video cassette recorders and/or video disc players and/or the rental of video tapes and/or discs.

Vision Clearance - An unoccupied triangular space at the intersection of right-of-ways with other right-of-ways or at the intersection of right-of-ways with railroads. See Traffic Visibility Triangle.

Warehouse - A building or part of a building used for the storage and distribution of goods, wares, merchandise, substances, or articles and may include facilities for a wholesale or retail commercial outlet, but shall not include facilities for a truck or transport terminal or yard.

Waters of the State - All waters within the jurisdiction of the state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

Wholesale - The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade of business is the consumer or end user of the commodity.

Wind Energy System – Commercial – A single, or multiple, structure(s) or place(s), such as a wind turbine, designed and constructed to generate power from wind for distribution to off-site users.

Wind Energy System – Non-Commercial – A single structure or place, such as a wind turbine, designed and constructed to generate power from wind and primarily intended to generate power for on-site use.

Windbreak - Any non-opaque manmade structure constructed of any material and erected adjacent to an animal feeding, calving, or other such lot of which its principal use is that of protecting livestock from the effects of the wind.

Yard - An open space at grade, other than a court or plaza, between a structure and the adjacent lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward.

Yard, Front - An open, unoccupied space on a lot facing a right-of-way and extending across the front of the lot between the side lot lines; measured from the road right-of-way to the structure.

Yard, Rear - An open, unoccupied space extending across the rear of a lot from one side lot line to the other side lot line.

Yard, Side - An open, unoccupied space on the same lot with a building situated between the building and sideline of the lot and extending through from the front yard to the required rear yard. Any lot line not the rear line or a front line shall be deemed a sideline.

Zone - An area within which, in accordance with the provisions of this Ordinance, certain uses of lands, buildings, and structures are permitted and certain others are prohibited, where yards and other open spaces are required, where lot areas, building height limits, and other requirements are established, all of the foregoing being identical for the zone and district in which they apply.

Zoning Administrator - An official of the County appointed by the Chairman and confirmed by the County Commission, charged with the responsibility of administrating this ordinance.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 1

JURISDICTION

Section 101 General

This Ordinance shall be known and shall be cited and referred to as “The Zoning Ordinance of Davison County, South Dakota,” to the same effect as if the full title were stated.

Section 103 Jurisdiction

As established on the map entitled “The Official Zoning Map of Davison County, South Dakota”, the provisions of this Ordinance shall apply within the unincorporated areas of Davison County, South Dakota, excluding Ethan, Mt. Vernon, Mitchell, and an area of approximately one (1) mile outside of the Mitchell City limits described as follows:

Mitchell Township 103-60;

Sections 3, 4, 5, 6, 8, 9, 10, W ½ 11, 14, 15, 16, 17, E ½ 19, 20, 21, 22, 23, W ½ 24, NW ¼ 25, 26, 27, 28, 29, E1/2 30, 32, 33, 34, and NE ¼ & the W ½ of 35;
and

Perry Township 104-60;

Sections 27, 28, 29, E ½ 30, 31, 32, 33 and 34.

Section 105 Provisions of this Ordinance Declared to the Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a greater width or size of yards, courts or other spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required, in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance require a greater width or size of yards, courts, or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 2

APPLICATION OF DISTRICT REGULATIONS

Section 201 General

The regulations, set forth by this Ordinance within each district, shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

Section 203 Zoning Affects Every Building and Use

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

Section 205 Performance Standards

No building or other structure shall hereafter be erected or altered, without obtaining a permit to:

1. Accommodate or house a greater number of families;
2. Occupy a greater area of the lot; and
3. Have narrower or smaller rear yards, front yards, side yards, or other open spaces.

Section 207 Yard and Lot Reduction Prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Section 209 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit uses similar to those identified in each district, the Planning Commission and Board of Adjustment, upon their own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 3

ESTABLISHMENT OF DISTRICTS

Section 301 Districts Created

For the purpose of this Ordinance, there are hereby created seven (7) types of districts by which the jurisdictional area defined in Section 103 shall be divided.

- AG - Agricultural
- AR - Agricultural - Residential
- RE - Rural Estates
- RR - Rural Residential
- PTR - Platted Town Site Residential District
- PUD - Planned Unit Development
- RC - Rural Commercial

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 4

OFFICIAL ZONING MAP AND BOUNDARY INTERPRETATION

Section 401 General

The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the County Commissioners, attested by the Auditor, and bearing the seal of the County, under the following words: “This is to certify that this is the Official Zoning Map referred to in Section 401 of Ordinance No. 13-98 of Davison County, South Dakota,” together with the date of the adoption of this Ordinance.

Section 403 Zoning Map Changes

If, in accordance with the provisions of this Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the County Commissioners, with an entry on the Official Zoning Map as follows: “on [date], by official action of the Davison County Commission, the following [change(s)] were made in the Official Zoning Map: [brief description of nature of change],” which entry shall be signed by the Chairman of the Commission and attested by the Auditor. No amendment to this Ordinance which involves matters portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this Ordinance.

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 1903.

Regardless of the existence of purported copies of the Official Zoning Map which may, from time to time, be made or published, the Official Zoning Map which shall be located in the office of the Zoning Administrator shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the County.

Section 405 Zoning Map Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Davison County Commission may, by resolution, adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chairman of the County Commission, attested by the Auditor, and bearing the seal of the County, under the following words:

“This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted [date of adoption of map being replaced] as part of Ordinance No. 13-98 of Davison County, South Dakota.”

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 407 Rules for Interpretation of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the Planning Commission shall interpret the district boundaries.

ARTICLE 5

AGRICULTURAL DISTRICTS (AG)

Section 501 Intent

The intent of Agricultural Districts (AG) is to protect agricultural lands and lands consisting of natural growth from incompatible land uses in order to preserve land best suited to agricultural uses and land in which the natural environment should be continued and to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.

Section 503 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Agricultural Districts (AG):

1. Agriculture;
2. Bed and breakfasts;
3. Day cares, family;
4. Dwellings, additional farm;
5. Dwellings, single-family;
6. Farms;
7. Farm buildings;
8. Historic sites;
9. Kennels;
10. Manufactured homes;
11. Modular homes;
12. Orchards;
13. Parks;
14. Ranches;
15. Utility facilities;
16. Veterinary services; and
17. Wind energy system – non-commercial. (With towers up to 75' (ft))

Section 505 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in the Agricultural Districts (AG):

1. Accessory agricultural structures;
2. Accessory buildings;
3. Accessory uses, not specifically regulated by ordinance and structures customarily incidental to permitted uses and structures when established within the space limits of this district;
4. Farm drainage and irrigation systems, flood control, watershed structures and erosion control devices meeting all county, state, and soil conservation district regulations;
5. Home and Farm occupations;
6. On-site signs;
7. Roadside stands for sales of farm products, fish bait, and other approved products;
8. Shelterbelts; and
9. Stock dams.

Section 507 Conditional Uses

After the provisions of this Ordinance relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in Agricultural Districts (AG):

1. Agricultural product processing facilities;
2. Airports;
3. Animal feeding operations;
4. Aquaculture;
5. Auction yards and barns;
6. Auto sales or vehicles, including trailers;
7. Campgrounds;
8. Cemeteries;
9. Churches;
10. Commercial trucking terminals;

11. Day care centers;
12. Day cares, group family home;
13. Exhibition areas;
14. Extraction of sand, gravel, or minerals provided such uses meet requirements for conducting surface mining activities of SDCL 45-6B;
15. Fairgrounds;
16. Fireworks stands;
17. Game farms;
18. Game lodges;
19. Golf courses;
20. Grain elevators;
21. Hobby farms;
22. Motor vehicle tracks or play areas;
23. Municipal or multi-residential sewage treatment sites pursuant to Section 1211;
24. Off-site signs;
25. Open sales;
26. Private recreation areas;
27. Private shooting preserves;
28. Repair shops;
29. Riding stables;
30. Salvage yard-recycling center;
31. Sanitary landfills or restricted use sites, permitted by the Department of Environment and Natural Resources (DENR);
32. Schools, public;
33. Schools, private or denominational;
34. Self-storage units;
35. Shooting range;

- 36. Swimming pools;
- 37. Towers;
- 38. Wildlife and game production areas;
- 39. Wind energy system commercial; and
- 40. Wind energy system non-commercial. (With towers over 75'(ft))

Section 509 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 511 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 509 shall be prohibited.

Section 513 Minimum Lot Requirements

The minimum lot area per single-family dwelling unit, modular, or manufactured home shall be twenty-five (25) acres.

The minimum lot area of twenty-five (25) acres may be waived by variance upon compliance with one of the following criteria:

- 1. The proposed building site is a farmstead as defined herein; then the minimum lot size shall be three (3) acres. The applicant shall secure a variance prior to issuance of a building permit.
- 2. An additional dwelling, occupied by other members of the family farm unit is to be placed within the existing farmstead, provided the building site is not platted or described for transaction.
- 3. A financing agency requiring a smaller lot size for the dwelling shall enable the applicant consideration of a variance provided written proof of such requirement is presented to the Zoning Administrator upon request and the applicant verifies ownership of a minimum of twenty-five (25) acres adjacent to or abutting the proposed plat.
- 4. If the proposed building site will be gifted by the owner to a relative within the 3rd degree of kinship subject to the following limitations: (1) the minimum lot size shall be 3 acres, (2) the applicant shall secure a variance prior to issuance of the building permit, (3) if the proposed building site shall be less than 10 acres or

cannot be described without the use of linear measurements, the proposed building site shall be surveyed, platted, and the plat recorded with the Register of Deeds prior to issuance of a building permit.

Section 515 Minimum Setback Requirements for Structures

There shall be a setback from all public right-of-ways of not less than a depth of seventy-five (75) feet. There shall be a setback from all other property lines of not less than a depth of fifty (50) feet. Setbacks shall be measured in the same manner as yards.

Section 517 Animal Feeding Operation Performance Standards (1000 Animal Units or more)
Amended November 15, 2005

1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources.
2. Prior to construction, such facilities shall obtain a storm water permit for construction activities from the South Dakota Department of Environment and Natural Resources. The storm water pollution prevention plan required by the permit must be developed and implemented upon the start of construction.
3. Animal Feeding Operation confinement and waste facilities shall comply with the following facility setback requirements:

a. Public wells	2,640 feet
b. Private wells	250 feet
c. Private wells (producers)	150 feet
d. Lakes, rivers, and streams classified as a drinking water supply	1,320 feet
e. Lakes, rivers, and streams classified as fisheries	500 feet
f. All public road right of ways	300 feet
g. 100 year flood plain	Prohibited
h. All property lines delineating a change in ownership	300 feet
4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval and/or certification.
5. Animal feeding operation confinement and waste facilities shall be located no closer than one (1) mile from any incorporated municipality.

6. Animal feeding operation confinement and waste facilities shall be located no closer than one-half ½ mile from any church, commercially zoned area, or residential dwelling, sited outside the area described in Article 5 Section 517 (5) above. One or more dwelling units are allowed on the facility site. Residential dwellings associated with the animal feeding operation do not have to meet setback requirements.
7. The owner and/or operator of a proposed animal feeding operation or the owner and/or developer of proposed residential property may request a variance decreasing the separation distances required by Article 5 Section 517 (5) (6). Prior to approval of a variance in an agriculture district the owner(s) of all property within ½ mile of the proposed animal feeding operation will be informed of the application by certified mail at least 10 days prior to any hearings.
8. Animal waste shall be transported in leak proof containers and all hauling equipment shall comply with Davison County load limits.
9. Animal waste generated outside of and transported to Davison County for the purpose of land application shall comply with manure application setbacks as prescribed in this section.
10. Animal feeding operations shall prepare a facility management plan to dispose of dead animals, manure, and wastewater in such a manner as to control odors or flies. The Planning Commission and Board of Adjustment will review the need for control measures on a site-specific basis.
11. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is incorporated or injected:
 - a. Public wells 1,320 feet
 - b. Private wells 660 feet
 - c. Private wells (producers) 150 feet
 - d. Lakes, rivers, and streams classified as a drinking water supply 1,320 feet
 - e. Lakes, rivers and streams classified as fisheries 660 feet
 - f. All public road right-of-ways 10 feet
 - g. Incorporated communities 660 feet
 - h. A residence other than the operators 100 feet
 - i. All property lines delineating a change in ownership 10 feet

12. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is irrigated or surface applied:

- | | |
|---|------------|
| a. Public wells | 1,320 feet |
| b. Private wells | 660 feet |
| c. Private wells (producers) | 150 feet |
| d. Lakes, rivers and streams classified as a drinking water supply | 2,640 feet |
| e. Lakes, rivers and streams classified as fisheries | 660 feet |
| f. All public road right-of-ways (surface) | 100 feet |
| g. All public road right-of-ways (irrigated) | 660 feet |
| h. Incorporated communities (irrigated) | 2,640 feet |
| i. A residence other than the operators (surface) | 330 feet |
| j. A residence other than the operators (irrigated) | 660 feet |
| k. All property lines delineating a change in ownership (surface) | 100 feet |
| l. All property lines delineating a change in ownership (irrigated) | 200 feet |

Section 518 Animal Feeding Operation Performance Standards (500 to 999 Animal Units)
Amended November 15, 2005

1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources.
2. Prior to construction, such facilities shall obtain a storm water permit for construction activities from the South Dakota Department of Environment and Natural Resources. The storm water pollution prevention plan required by the permit must be developed and implemented upon the start of construction.
3. Animal Feeding Operation confinement and waste facilities shall comply with the following facility setback requirements:
 - a. Public wells 2,640 feet

- | | |
|---|------------|
| b. Private wells | 250 feet |
| c. Private wells (producers) | 150 feet |
| d. Lakes, rivers, and streams classified as a drinking water supply | 1,320 feet |
| e. Lakes, rivers, and streams classified as fisheries | 500 feet |
| f. All public road right of ways | 300 feet |
| g. 100 year flood plain | Prohibited |
| h. All property lines delineating a change in ownership | 300 feet |
4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval and/or certification.
 5. Animal feeding operation confinement and waste facilities shall be located no closer than one (1) mile from any incorporated municipality.
 6. Animal feeding operation confinement and waste facilities shall be located no closer than one-quarter (¼) mile from any church, commercially zoned area, or residential dwelling, sited outside the area described in Article 5 Section 518 (5) above. One or more dwelling units are allowed on the facility site. Residential dwellings associated with the animal feeding operation do not have to meet setback requirements.
 7. The owner and/or operator of a proposed animal feeding operation or the owner and/or developer of proposed residential property may request a variance decreasing the separation distances required by Article 5 Section 518 (5) (6). Prior to approval of a variance in an agriculture district the owner(s) of all property within ½ mile of the proposed animal feeding operation will be informed of the application by certified mail at least 10 days prior to any hearings.
 8. Animal waste shall be transported in leak proof containers and all hauling equipment shall comply with Davison County load limits.
 9. Animal waste generated outside of and transported to Davison County for the purpose of land application shall comply with manure application setbacks as prescribed in this section.
 10. Animal feeding operations shall prepare a facility management plan to dispose of dead animals, manure, and wastewater in such a manner as to control odors or flies. The Planning Commission and Board of Adjustment will review the need for control measures on a site-specific basis.

11. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is incorporated or injected:

- | | |
|---|------------|
| a. Public wells | 1,320 feet |
| b. Private wells | 660 feet |
| c. Private wells (producers) | 150 feet |
| d. Lakes, rivers, and streams classified as a drinking water supply | 1,320 feet |
| e. Lakes, rivers and streams classified as fisheries | 660 feet |
| f. All public road right-of-ways | 10 feet |
| g. Incorporated communities | 660 feet |
| h. A residence other than the operators | 100 feet |
| i. All property lines delineating a change in ownership | 10 feet |

12. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is irrigated or surface applied:

- | | |
|--|------------|
| a. Public wells | 1,320 feet |
| b. Private wells | 660 feet |
| c. Private wells (producers) | 150 feet |
| d. Lakes, rivers and streams classified as a drinking water supply | 2,640 feet |
| e. Lakes, rivers and streams classified as fisheries | 660 feet |
| f. All public road right-of-ways (surface) | 100 feet |
| g. All public road right-of-ways (irrigated) | 660 feet |
| h. Incorporated communities (irrigated) | 2,640 feet |
| i. A residence other than the operators (surface) | 330 feet |

- j. A residence other than the operators (irrigated) 660 feet
- k. All property lines delineating a change in ownership (surface) 100 feet
- l. All property lines delineating a change in ownership (irrigated) 200 feet

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 6

AGRICULTURAL - RESIDENTIAL DISTRICT (AR)

Section 601 Intent

The intent of Agricultural - Residential Districts (AR) is to protect agricultural lands and lands consisting of natural growth from incompatible land uses while providing for single family residential uses in a pleasant and stable environment; yet to encourage in-fill development of rural areas which currently support rural residential developments and to limit increased residential development to areas where they are best suited for reasons of practicality and service delivery.

Section 603 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Agricultural - Residential Districts (AR):

1. Additional farm dwellings;
2. Agriculture;
3. Bed and breakfasts;
4. Day cares, family;
5. Dwellings, single-family;
6. Farms;
7. Farm buildings;
8. Farms, hobby;
9. Historic sites;
10. Horticulture;
11. Modular homes;
12. Orchards;
13. Parks;
14. Ranches;
15. Shelterbelts;
16. Stock dams;

17. Utility facilities; and

18. Veterinary clinics.

Section 605 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in the Agricultural - Residential Districts (AR):

1. Accessory buildings;
2. Accessory uses, not specifically regulated by ordinance and customarily incidental to permitted uses and structures when established within the space limits of this district;
3. Farm drainage and irrigation systems, flood control and watershed structures and erosion control devices meeting all county, state, and soil conservation district regulations;
4. Home and Farm occupations;
5. On-site signs; and
6. Roadside stands for sales of farm products, fish bait, and other approved products.

Section 607 Conditional Uses

After the provisions of this Ordinance relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in Agricultural - Residential Districts (AR):

1. Accessory agricultural structures;
2. Agricultural product processing facilities;
3. Animal feeding operations;
4. Aquaculture;
5. Auction yards and barns;
6. Auto sales or vehicles, including trailers;
7. Campgrounds;
8. Cemeteries;
9. Churches;
10. Commercial trucking terminals;

11. Convenience stores;
12. Day care centers;
13. Day cares, group family home;
14. Exhibition areas;
15. Extraction of sand, gravel, or minerals provided such uses meet requirements for conducting surface mining activities of SDCL 45-6B;
16. Fairgrounds;
17. Fireworks stands;
18. Game farms;
19. Game lodges;
20. Governmental services;
21. Grain elevators;
22. Golf courses;
23. Kennels;
24. Manufactured homes;
25. Municipal or multi-residential sewage treatment sites pursuant to Section 1211;
26. Motor vehicle tracks or play areas;
27. Off-site signs;
28. Open sales areas;
29. Private recreation areas;
30. Private shooting preserves;
31. Repair shops;
32. Riding stables;
33. Salvage yard-recycling center;
34. Sanitary landfills or restricted use sites, permitted by the Department of Environment and Natural Resources (DENR);
35. Self-storage units;

36. Shooting range;
37. Swimming pools;
38. Veterinary services;
39. Wildlife and game production areas; and
40. Tower.
41. Wind Energy System- Non-Commercial

Section 609 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 611 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 609 shall be prohibited.

Section 613 Minimum Setback for Structures

1. The minimum lot width shall be one hundred and fifty (150) feet.
2. All yards must meet the following criteria, which shall apply to all buildings and structures, including decks, patios, and car ports;
 - a. A front yard of not less than a depth of seventy-five (75) feet,
 - b. A rear yard of not less than a depth of ten (10) feet, and
 - c. Each side yard shall not be less than a width of ten (10) feet.

Section 615 Rural Development Requirements

No single lots of less than twenty-five (25) acres for a non-farm use shall be approved. All proposed non-farm rural housing developments shall comply with Section 617 Rural Development Performance Standards.

Section 616 Minimum Lot Requirements

The minimum lot area per single-family dwelling unit, modular, or manufactured home shall be twenty-five (25) acres.

The minimum lot area of twenty-five (25) acres may be waived by variance upon compliance with one of the following criteria:

1. The proposed building site is a farmstead as defined herein; then the minimum

- lot size shall be three (3) acres. The applicant shall secure a variance prior to issuance of a building permit.
2. An additional dwelling, occupied by other members of the family unit is to be placed within the existing farmstead, provided the building site is not platted or described for transaction.
 3. A financing agency requiring a smaller lot size for the dwelling shall enable the applicant consideration of a variance provided written proof of such requirement is presented to the Zoning Administrator upon request and the applicant verifies ownership of a minimum of twenty-five (25) acres adjacent to or abutting the proposed plat.
 4. If the proposed building site will be gifted by the owner to a relative within the 3RD degree of kinship subject to the following limitations: (1) the minimum lot size shall be 1 acre, (2) the Applicant shall secure a variance prior to issuance of the building permit, (3) if the proposed building site shall be less than 10 acres or can not be described without the use of linear measurements, the proposed building site shall be surveyed, platted, and the plat recorded with the Register of Deeds prior to issuance of a building permit.

Section 617 Rural Development Performance Standards

1. All lots shall be part of master planned and platted development or subdivision. In lieu of requiring the entire development to be platted and recorded a master plan illustrating the density, infrastructure, and current and future development of all property owned or controlled by the applicant which adjoins or abuts the development shall be submitted for approval by the Planning Commission and Board of Adjustment or County Commission. The applicant shall also provide a road maintenance agreement for all private interior roads that are dedicated for public use. The master plan shall provide a 150'(ft) buffer for all land within the development abutting land that is used for agriculture.
2. The applicant shall provide a final copy of all covenants and easements to be recorded upon the property prior to development shall be submitted for approval by the Planning Commission and Board of Adjustment or County Commission.
3. Initially, no less than four (4) of the proposed lots within the development or subdivision shall be platted and recorded pursuant to SDCL 11-3.
4. The minimum lot area shall be one (1) acre per single family dwelling unit, modular, or manufactured home.
5. The minimum lot width shall be one hundred and fifty (150) feet.
6. All yards must meet the following criteria, which shall apply to all buildings and structures, including decks, patios, and car ports;
 - a. A front yard of not less than a depth of seventy-five (75) feet,
 - b. A rear yard of not less than a depth of twenty-five (25) feet, and

- c. Each side yard shall not be less than a width of twenty-five (25) feet.
- 7. The County Planning and County Commissions shall approve ingress and egress to the development. In those situations where access shall be onto a Township road the applicant shall obtain a written document granting said access from the Township Board prior to submitting the plat to the Planning Commission or County Commission for review and approval.
- 8. Planned developments or subdivisions shall not be located within the floodway as defined herein.
- 9. All lots within a planned development or subdivision shall be served by a Department of Environment and Natural Resources approved water system.
- 10. A site plan and topographic maps shall be submitted with the building permit application, said plan and maps shall include, at a minimum:
 - a. proposed site layout;
 - b. storm water drainage management, including applicable permits;
 - c. roads and streets, including ingress and egress; and
 - d. water and sewer service.
- 11. Septic Systems shall comply with all applicable South Dakota Department of Environment and Natural Resources regulations. Applicants shall be prepared to document acceptable soil percolation and waste treatment, certified by a South Dakota licensed and registered professional engineer by submitting this information and any additional information requested by the Planning Commission or Board of Adjustment.
- 12. The developer, contractor, or owner of all platted lands shall execute a perpetual agricultural farm use covenant running with the land prior to recording a plat or securing a building permit.

Section 619 Animal Feeding Operation Performance Standards

- 1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources.
- 2. Prior to construction, such facilities shall obtain a storm water permit for construction activities from the South Dakota Department of Environment and Natural Resources. The storm water pollution prevention plan required by the permit must be developed and implemented upon the start of construction.
- 3. Animal Feeding Operation confinement and waste facilities shall comply with the following facility setback requirements:

- | | |
|---|------------|
| a. Public wells | 2,640 feet |
| b. Private wells | 250 feet |
| c. Private wells (producers) | 150 feet |
| d. Lakes, rivers, and streams classified as a drinking water supply | 1,320 feet |
| e. Lakes, rivers, and streams classified as fisheries | 500 feet |
| f. All public road right of ways | 300 feet |
| g. 100 year flood plain | prohibited |
| h. All property lines delineating a change in ownership | 300 feet |
4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval and/or certification.
 5. Animal feeding operation confinement and waste facilities shall be located no closer than one (1) mile from any incorporated municipality.
 6. Animal feeding operation confinement and waste facilities shall be located no closer than one-half (1/2) mile from any church, commercially zoned area, or residential dwelling, sited outside the area described in Section 619 (5) above. One (1) dwelling unit is allowed on the facility site.
 7. The owner and/or operator of a proposed animal feeding operation or the owner and/or developer of proposed residential property may request a variance decreasing the separation distances required by Section 619 (5) (6). Prior to approval of a variance in an agriculture district the owner(s) of all property affected by the variance must execute an agriculture easement, the easement must be recorded with the County Register of Deeds.
 8. Animal waste shall be transported in leak proof containers and all hauling equipment shall comply with Davison County load limits.
 9. Animal waste generated outside of and transported to Davison County for the purpose of land application shall comply with manure application setbacks as prescribed in this Section.
 10. Animal feeding operations shall prepare a facility management plan to dispose of dead animals, manure, and wastewater in such a manner as to control odors or flies. The Planning Commission and Board of Adjustment will review the need for control measures on a site-specific basis.

11. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is incorporated or injected:

a. Public wells	1,320 feet
b. Private wells	660 feet
c. Private wells (producers)	150 feet
d. Lakes, rivers, and streams classified as a drinking water supply	1,320 feet
e. Lakes, rivers and streams classified as fisheries	660 feet
f. All public road right-of-ways	10 feet
g. Incorporated communities	660 feet
h. A residence other than the operators	100 feet
i. All property lines delineating a change in ownership	10 feet

12. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is irrigated or surface applied:

a. Public wells	1,320 feet
b. Private wells	660 feet
c. Private wells (producers)	150 feet
d. Lakes, rivers and streams classified as a drinking water supply	2,640 feet
e. Lakes, rivers and streams classified as fisheries	660 feet
f. All public road right-of-ways (surface)	100 feet
g. All public road right-of-ways (irrigated)	660 feet
h. Incorporated communities (surface)	1,320 feet
i. Incorporated communities (irrigated)	2,640 feet
j. A residence other than the operators (surface)	330 feet
k. A residence other than the operators (irrigated)	660 feet
l. All property lines delineating a change in ownership (surface)	100 feet
m. All property lines delineating a change in ownership (irrigated)	200 feet

ARTICLE 7

RURAL ESTATE DISTRICT (RE)

Section 701 Intent

The intent of Rural Estate Districts (RE) is to provide for residential uses of varying types and other compatible uses in a pleasant and stable environment.

Section 703 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Rural Estate Districts (RE):

1. Day care, family;
2. Dwellings, single-family;
3. Horticulture;
4. Modular homes;
5. Parks; and
6. Utility facilities.

Section 705 Permitted Accessory Uses and Structures

1. Accessory buildings;
2. Accessory uses, not specifically regulated by ordinance and customarily incidental to permitted uses and structures when established within the space limits of this district; and
3. Home and Farm occupations.

Section 707 Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in Rural Estate Districts (RE):

1. Accessory agricultural structures;
2. Campgrounds;
3. Cemeteries;
4. Churches,
5. Clinics;

6. Convalescent, nursing, and rest homes;
7. Convenience stores;
8. Day care, group family home;
9. Fairgrounds;
10. Golf courses;
11. Governmental services;
12. Hobby farms;
13. Manufactured homes;
14. Riding stable;
15. Rodeo grounds;
16. Salvage yard-recycling center; and
17. Self-storage units.

Section 709 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 711 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 709 shall be prohibited.

Section 713 Rural Development Performance Standards

1. All lots shall be part of master planned and platted development or subdivision. In lieu of requiring the entire development to be platted and recorded a master plan illustrating the density, infrastructure, and current and future development of all property owned or controlled by the applicant which adjoins or abuts the development shall be submitted for approval by the Planning Commission and Board of Adjustment or County Commission.
2. The applicant shall provide a final copy of all covenants and easements to be recorded upon the property prior to development shall be submitted for approval by the Planning Commission and Board of Adjustment or County Commission.

3. Initially, no less than four (4) of the proposed lots within the development or subdivision shall be platted and recorded pursuant to SDCL 11-3.
4. The minimum lot area shall be three (3) acres per single family dwelling unit, modular, or manufactured home.
5. The minimum lot width shall be three hundred (300) feet.
6. All yards must meet the following criteria, which shall apply to all buildings and structures, including decks, patios, and car ports;
 - a. A front yard of not less than a depth of seventy-five (75) feet,
 - b. A rear yard of not less than a depth of twenty-five (25) feet, and
 - c. Each side yard shall not be less than a width of twenty-five (25) feet.
7. The County Planning and County Commissions shall approve ingress and egress to the development. In those situations where access shall be onto a Township road the applicant shall obtain a written document granting said access from the Township Board prior to submitting the plat to the Planning Commission or County Commission for review and approval.
8. Planned developments or subdivisions shall not be located within the floodway as defined herein.
9. All lots within a planned development or subdivision shall be served by a Department of Environment and Natural Resources approved water system.
10. A site plan and topographic maps shall be submitted with the building permit application, said plan and maps shall include, at a minimum:
 - a. proposed site layout
 - b. storm water drainage management, including applicable permits;
 - c. roads and streets, including ingress and egress; and
 - d. water and sewer service.
11. Septic systems shall comply with all applicable South Dakota Department of Environment and Natural Resources regulations. Applicants shall be prepared to document acceptable soil percolation and waste treatment, certified by a South Dakota licensed and registered professional engineer by submitting this information and any additional information requested by the Planning Commission or Board of Adjustment.
12. The developer, contractor, or owner of all platted lands shall execute a perpetual agricultural farm use covenant running with the land prior to recording a plat or securing a building permit.

THIS PAGE RESERVED FOR FUTURE USE.

ARTICLE 8

RURAL RESIDENTIAL DISTRICT (RR)

Section 801 Intent

The intent of Rural Residential Districts (RR) is to provide for residential uses of varying types and other compatible uses in a pleasant and stable environment.

Section 803 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Rural Residential Districts (RR):

1. Day care, family;
2. Dwellings, single-family;
3. Horticulture;
4. Modular homes;
5. Utility facilities; and
6. Parks.

Section 805 Permitted Accessory Uses and Structures

1. Accessory buildings;
2. Accessory uses, not specifically regulated by ordinance and customarily incidental to permitted uses and structures when established within the space limits of this district; and
3. Home occupations.

Section 807 Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, Board of Adjustment may permit as conditional uses in Rural Residential Districts (RR):

1. Accessory agricultural structures;
2. Cemeteries;
3. Clinics;
4. Convalescent, nursing, and rest homes;
5. Convenience stores;

6. Day care, group family home;
7. Golf courses;
8. Governmental services;
9. Manufactured homes
10. Riding stable;
11. Salvage yard-recycling center; and
12. Self-storage units.

Section 809 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 811 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 809 shall be prohibited.

Section 813 Rural Development Performance Standards

1. All lots shall be part of master planned and platted development or subdivision. In lieu of requiring the entire development to be platted and recorded a master plan illustrating the density, infrastructure, and current and future development of all property owned or controlled by the applicant which adjoins or abuts the development shall be submitted for approval by the Planning Commission and Board of Adjustment or County Commission.
2. The applicant shall provide a final copy of all covenants and easements to be recorded upon the property prior to development shall be submitted for approval by the Planning Commission and Board of Adjustment or County Commission.
3. Initially, no less than four (4) of the proposed lots within the development or subdivision shall be platted and recorded pursuant to SDCL 11-3.
4. The minimum lot area shall be one (1) acre per single family dwelling unit, modular, or manufactured home.
5. The minimum lot width shall be one hundred and fifty (150) feet.
6. All yards must meet the following criteria, which shall apply to all buildings and structures, including decks, patios, and car ports;

- a. A front yard of not less than a depth of seventy-five (75) feet,
 - b. A rear yard of not less than a depth of twenty-five (25) feet, and
 - c. Each side yard shall not be less than a width of twenty-five (25) feet.
7. The County Planning and County Commissions shall approve ingress and egress to the development. In those situations where access shall be onto a Township road the applicant shall obtain a written document granting said access from the Township Board prior to submitting the plat to the Planning Commission or County Commission for review and approval.
8. Planned developments or subdivisions shall not be located within the floodway as defined herein.
9. All lots within a planned development or subdivision shall be served by a Department of Environment and Natural Resources approved water system.
10. A site plan and topographic maps shall be submitted with the building permit application, said plan and maps shall include, at a minimum:
 - a. proposed site layout;
 - b. storm water drainage management, including applicable permits;
 - c. roads and streets, including ingress and egress; and
 - d. water and sewer service.
11. Septic systems shall comply with all applicable South Dakota Department of Environment and Natural Resources regulations. Applicants shall be prepared to document acceptable soil percolation and waste treatment, certified by a South Dakota licensed and registered professional engineer by submitting this information and any additional information requested by the Planning Commission or Board of Adjustment.
12. The developer, contractor, or owner of all platted lands shall execute a perpetual agricultural farm use covenant running with the land prior to recording a plat or securing a building permit.

THIS PAGE RESERVED FOR FUTURE USE.

ARTICLE 9

PLATTED TOWN SITE RESIDENTIAL DISTRICT (PTR)

Section 901 Intent

The intent of a Platted Town Site District (PTR) is to provide for residential uses of a currently platted town site, Loomis, and other compatible uses in a pleasant and stable environment.

Section 903 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Platted Town Site District (PTR):

1. Dwellings, single-family;
2. Dwellings, two-family;
3. Horticulture;
4. Manufactured homes;
5. Modular homes; and
6. Utility facilities.

Section 905 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Platted Town Site District (PTR):

1. Accessory buildings;
2. Accessory uses, not specifically regulated by ordinance and customarily incidental to permitted uses and structures when established within the space limits of this district; and
3. Home and Farm occupations.

Section 907 Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, Board of Adjustment may permit as conditional uses in Platted Town Site District (PTR):

1. Convenience stores;
2. Dwellings, multi-family;

3. Riding stable;
4. Salvage yard-recycling center; and
5. Self-storage units.

Section 909 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 911 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 909 shall be prohibited.

Section 913 Minimum Lot Requirements

1. The minimum area shall be seven thousand one hundred (7,100) square feet;
2. The minimum lot width shall be twenty-five (25) feet; and
3. The minimum lot depth shall be one hundred forty-two (142) feet.

Section 915 Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of twenty-five (25) feet;
2. There shall be a rear yard of not less than a depth of twenty-five (25) feet; and
3. Each side yard shall not be less than six (6) feet.

ARTICLE 10

PLANNED UNIT DEVELOPMENT (PUD)

Section 1001 Intent

The provisions of this article are to be applied in instances where tracts of land of considerable size are developed, redeveloped or renewed as integrated and harmonious units, and where the overall design of such units is so outstanding as to warrant modification of the standards contained elsewhere in this Ordinance.

Section 1003 Eligibility Requirements

A planned development, to be eligible under this Article, must be:

1. In accordance with the comprehensive plans of the county, including all plans for redevelopment and renewal;
2. Composed of such uses, and in such proportions, as are most appropriate and necessary for the integrated functioning of the planned development and for the County;
3. So designed in its space allocation, orientation, texture, materials, landscaping and other features as to produce an environment of stable and desirable character, complementing the design and values of the surrounding neighborhood, and showing such unusual merit as to reflect credit upon the developer and upon the County; and
4. A minimum of five (5) acres in land area.

Section 1005 Application Procedure

1. An applicant for consideration under the terms of this district, who must be owner, lessee, or the holder of a written purchase option of the tract of land under consideration, shall submit to the County Planning Commission a plan for the proposed planned development. The plan shall indicate:
 - a. the location and extent of the proposed planned development unit, including its relationship to surrounding properties;
 - b. the exact nature and extent of improvements to be developed or erected upon the tract, including contoured site plans, building plans and elevations, and plans for landscaping and paved areas, transportation patterns, and public utilities such as water and sewer services; and
 - c. such other information as may be required by the County Planning Commission to determine if the proposed planned development unit is consistent with the intent of the district.

2. The County Planning Commission shall, within sixty (60) days of receiving the plan for the proposed development unit, consider such plan at a minimum of one public hearing pursuant to Section 1401 A(2)(3)(4). Upon consideration, the County Planning Commission shall inform the applicant in writing of its approval or denial of the plan. In the event of denial, the Commission shall inform the applicant of the reason(s) for denial, including any recommended modifications in the plan, which would cause the Commission to reconsider.
3. Upon approval of the plan by the County Planning Commission, it shall forward its written recommendations to the Board of County Commissioners along with a copy of the approved plan, that the tract be designated a Planned Development District (PD) by amendment of the Official Zoning Map.
4. Upon receiving the County Planning Commissioner's written recommendation, the Board of County Commissioners shall consider the proposed development and possible amendment of the Official Zoning Map. In accordance with Article 17.
5. Following the amendment of the Official Zoning Map by the Board of County Commissioners, the County Zoning Administrator may, upon proper application, issue a building permit for construction of the planned development unit in accordance with the approved plan.

Section 1007 Subsequent Performance

Following issuance of a building permit for the planned development unit by the Zoning Administrator, the applicant shall begin construction within a period of six (6) months. Failure to do so shall invalidate the building permit. Construction shall follow precisely the plan approved by the County Planning Commission to which modifications may be granted only by the County Planning Commission upon the filing of an amended plan. Failure to follow the approved plan on the part of the applicant or his/her agent shall be considered a violation of this Ordinance punishable as herein prescribed.

Section 1009 Performance Standards

The developer, contractor, or owner of all property platted or developed shall execute a perpetual agricultural farm use covenant running with the land.

ARTICLE 11

RURAL COMMERCIAL DISTRICT (RC)

Section 1101 Intent

The intent of the Rural Commercial District (RC) is to provide commercial areas for those establishments which can function most satisfactorily in an area directly related to a major vehicular circulation route due to the nature of the merchandise handled and the display space required, particularly items requiring expansive display area such as motor vehicles, trailers, and farm implements; the method of transport required of the purchaser for the merchandise handled, particularly goods customarily traded in bulk such as lumber or feed requiring access for the customer to the sales area; primary dependence upon vehicular, as opposed to pedestrian, access such as drive-in facilities and all types of automotive and farm implement services; or the clientele toward which the establishments are primarily oriented.

Section 1103 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Rural Commercial Districts (RC):

1. Agriculture;
2. Arcades;
3. Commercial trucking terminal;
4. Construction services;
5. Exhibition areas;
6. Funeral homes;
7. Historic and monument sites;
8. Motels;
9. Parks;
10. Repair shops, auto body;
11. Repair shops, motor vehicle and equipment;
12. Retail sales;
13. Self storage warehouses;
14. Swimming pools;

15. Utility facilities;
16. Veterinary services and clinics;
17. Warehousing facilities; and
18. Wholesale sales.

Section 1105 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in Rural Commercial District (RC):

1. Accessory buildings;
2. Accessory uses, not specifically regulated by ordinance and customarily incidental to permitted uses and structures when established within the space limits of this district; and
3. On-site signs.

Section 1107 Conditional Uses

After the provisions of this resolution relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in the Rural Commercial District (RC):

1. Campgrounds;
2. Grain elevators;
3. Junkyards;
4. Manufacturing;
5. Manufacturing, distribution, sale, or storage of flammable or combustible liquids, or hazardous material;
6. Off-site signs;
7. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district;
8. Riding stable;
9. Salvage yard-recycling center;
10. Self-storage units; and
11. Truck stops.

Section 1109 Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

Section 1111 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 1109 shall be prohibited.

Section 1113 Minimum Lot Requirements

The minimum lot area shall be one acre. The minimum lot width shall be one hundred and fifty (150) feet.

Section 1115 Minimum Yard Requirements

There shall be a front yard of not less than a depth of seventy-five (75) feet. There shall be a rear yard of not less than a depth of fifty (50) feet. Each side yard shall be not less than twenty-five (25) feet.

Section 1117 Performance Standards

The developer, contractor, or owner of all property platted or developed shall execute a perpetual agricultural use covenant running with the land.

THIS PAGE RESERVED FOR FUTURE USE.

ARTICLE 12

SUPPLEMENTARY DISTRICT REGULATIONS

Section 1201 Accessory Buildings

No accessory building shall be erected in any required yard area and no separate accessory building shall be erected within five (5) feet of any other building.

Section 1203 Erection of More than One Principal Structure on a Lot

In any district, more than one structure, housing a permitted or permissible principal use, may be erected on a single lot, provided, that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

Section 1205 Parking and Storage of Certain Vehicles

Motorized vehicles or trailers of any kind or type without current license plates and inoperable shall not be parked or stored on any residential zoned property other than in completely enclosed buildings.

Section 1207 Shelterbelts

Shelterbelts shall be planted no closer than seventy-five (75) feet from the road or street right of way.

Section 1209 Floodway Reservation

No residential structures designed for human habitation including manufactured and modular homes shall be placed, sited, or constructed within a floodway as defined herein. Residential dwellings including manufactured and modular homes currently located within a floodway as defined herein shall not be allowed to expand without review pursuant to Sections 1507.

Section 1211 Sewage Disposal or Treatment Sites

All individual sewage treatment sites shall be prohibited when located less than three hundred and fifty (350) feet of a lake, river, or stream classified as a public drinking water supply. Sites located between three hundred and fifty (350) feet to six hundred sixty (660) feet shall be required to obtain a conditional use as described herein. Sites located greater than six hundred sixty (660) feet shall be exempt from the conditional use process and shall be eligible for construction as prescribed by this Ordinance.

Septic systems installed within Davison County must comply with all applicable South Dakota Department of Environment and Natural Resources and State Plumbing Code regulations. Systems installed by someone other than the owner shall be completed by a person licensed to do such work within the State of South Dakota.

Individual or similar septic systems proposed where the concentration of development shall merit such review as determined by the Zoning Administrator, shall submit soil suitability and

percolation tests prior to issuance of a building permit.

Section 1212 Agricultural Use Covenant Required

All building permits for residential dwellings, the transference of a residential dwelling within agriculturally zoned lands, or requests for rezoning of agricultural land shall be accompanied by an Agricultural Use Covenant as defined herein. Said Covenant must be approved by the County Zoning Administrator and recorded in accordance with South Dakota Codified Law prior to issuance of the building permit or commencement of the rezoning process.

Section 1213 Building Permits for Un-platted Lands

Building permits shall not be issued for use on any tract, parcel, or lot described by linear measurements such as, “the south 100 feet of the east 200 feet of the north 1,000 feet” or similar linear descriptive language.

Subject to the regulations contained herein relating to minimum lot size and variances from such requirements, building permits may be issued for tracts resulting from the subdividing of land into full, half, and quarter sections so long as such subdivision is for property of ten (10) or more acres. Such full, half, and quarter section subdivision descriptions shall not include language describing a parcel by linear measurements such as, “the south 100 feet of the east 200 feet of the north 1,000 feet” or similar linear descriptive language.

Under no circumstances shall a building permit be issued for use on any tract of land consisting of less than ten (10) acres unless (1) such tract has been platted in accordance with the laws of the State of South Dakota and the regulations contained herein and (2) an appropriate variance from minimum lot size requirements has been granted by the Board of Adjustment.

Section 1215 Naming of Additions and Subdivisions

Every addition or subdivision within Davison County and subject to this Zoning Ordinance shall be uniquely named. Such name shall not duplicate, be the same in spelling, or alike in pronunciation, with or to any existing addition or subdivision in Davison County. Such addition and subdivision names are subject to the approval of the Davison County Register of Deeds whose decision shall be final. Plats which do not comply with this section and the general provisions of SDCL 11-3-7 shall not be entitled to recording.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 13

ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

Section 1301 Davison County Zoning Administrator

An administrative official who shall be known as the Zoning Administrator and who shall be designated by the Davison County Commission shall administer and enforce this Ordinance. They may be provided with the assistance of such other persons as the County Commission may direct.

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, then the Planning Commission and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Planning Commission, and that recourse from the decisions of the Board of Adjustment shall be as provided in Section 1507(A).

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by the Ordinance to insure compliance with or to prevent violation to its provisions.

Section 1303 Davison County Planning Commission

The Davison County Commission shall appoint a Planning Commission, as provided in SDCL 11-2-2. The Planning Commission shall adopt rules necessary for the conduct of its affairs and keeping with the provisions of this Ordinance. The Planning Commission shall keep a record of all proceedings. Meetings shall be regularly scheduled and held at the call of the Chairman, at such other times as the Planning Commission may determine. The Chairman, or in his/her absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the Secretary of the Planning Commission. The Planning Commission may adopt from time to time, additional regulations as it may deem necessary to carry appropriate provisions of this Ordinance into effect.

Section 1305 Davison County Board of Adjustment

The Davison County Commission shall serve as the Board of Adjustment. The Board of Adjustment is hereby designated to hear all zoning appeals. The Auditor shall act as secretary to the Board of Adjustment when acting in zoning appeal cases, but shall take no part in the deliberations. Meetings of the Board of Adjustment acting in zoning appeal cases shall be held at

the call of the Chairperson and at such other times as the Board shall determine. Such Chairperson, or in his/her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

All meetings of the Board of Adjustment shall be open to the public. The Board, acting in zoning appeal cases, shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record. The Board of Adjustment, acting in zoning appeals, shall adopt from time to time, subject to the approval of the County Commission, such rules and regulations as it may deem necessary to carry the appropriate provisions of this Ordinance into effect.

Section 1307 Building Permits Required

No building or other structure shall be erected, moved, added to, or use changed without a permit issued by the Zoning Administrator. No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Ordinance unless they received a written order from the Board of Adjustment in the form of an administrative review, conditional use, variance, or change in zone as provided by this Ordinance.

Section 1309 Application for Building Permit

All applications for building permits shall be accompanied by a site plan including but not limited to the following items; drawn to scale, including a north arrow, showing the property lines, actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. Refer to document entitled Site Plan Requirements for a detailed example of site plan requirements.

The application shall include such other information as may be lawfully required by the Zoning Administrator, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, rental units, or animal units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance.

One copy of the plans shall be returned to the applicant by the Zoning Administrator after he/she shall have marked such copy either as approved or disapproved and attested to same by their signature on such copy. If a building permit is refused, the Zoning Administrator shall state the reasons for such refusal in writing. The original and one copy of the plans, similarly marked, shall be retained by the Zoning Administrator. The issuance of a building permit, shall, in no case, be construed as waiving any provisions of this Ordinance.

Section 1311 Expiration of Building Permit

If the work described in any building permit has not begun within one hundred eighty (180) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator and written notice thereof shall be given to the persons affected. If the work described in any building permit has not been substantially completed within two (2) years of the date of issuance thereof, said permit shall expire and be canceled by the Zoning Administrator

and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless, and until, a new building permit has been obtained.

Section 1313 Construction and Use to be as Provided in Application, Plans, Permits, and Application for Zoning Compliance

Building permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 1903 of this Ordinance.

Section 1315 Schedule of Fees, Charges, and Expenses

The Davison County Commission shall establish a schedule of fees, charges, and expenses and a collection procedure for variances, conditional uses, amendments, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Davison County Commission. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 1317 Building Permit in a Conspicuous Place

All building permits issued by the Zoning Administrator must be placed in a conspicuous location on the building site for the duration of the construction of work described.

Section 1319 Right of Entry

Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Zoning Administrator or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises an ordinance violation, the Zoning Administrator or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Zoning Administrator by this ordinance, provided that if such building or premises be occupied, they shall first present proper credentials and request entry; and if such building or premises be unoccupied, they shall first make an reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Zoning Administrator or an authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Zoning Administrator or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Zoning Administrator or an authorized representative for the purpose of inspection and examination pursuant to this ordinance.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 14

PLANNING COMMISSION

Section 1401 Davison County Planning Commission

The Davison County Commission may appoint a Planning Commission, as provided in SDCL 11-2-2. The Planning Commission shall adopt rules necessary for the conduct of its affairs and keeping with the provisions of this Ordinance. The Planning Commission shall keep a record of all proceedings. Meetings shall be regularly scheduled and held at the call of the Chairman, at such other times as the Planning Commission may determine. The Chairman, or in his/her absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the Secretary of the Planning Commission. The Planning Commission shall adopt from time to time, additional regulations as it may deem necessary to carry appropriate provisions of this Ordinance into effect.

Section 1403 Powers and Duties

The Planning Commission shall have the following powers and duties:

A. CONDITIONAL USES

The Planning Commission shall have the power to hear and make recommendations, in accordance with the provisions of this Ordinance, requests for conditional uses or for decisions upon other special questions upon which the Planning Commission is authorized by this Ordinance to pass; to decide such questions as are involved in determining whether conditional uses should be recommended for approval; and to recommend for approval conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to recommend denial on conditional uses when not in harmony with the purpose and intent of this Ordinance. A conditional use shall not be heard by the Commission unless and until:

1. A written application for a conditional use is submitted, indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested.
2. Notice of public hearing shall be given at least ten (10) days in advance by publication in a legal newspaper of the County.
3. The Zoning Administrator or their designee shall notify by mail all owners of abutting property for which action is sought; notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date.

4. A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than seventeen (17) inches in height and eleven (11) inches in width with a white background and black letters not less than one and one-half (1.5) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the road and shall be so posted at least seven (7) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearings.
5. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
6. The Planning Commission shall make a finding that it is empowered under the section of this Ordinance described in the application to recommend approval, approval with conditions, or denial of the conditional use, and that the recommendation will not adversely affect the public interest.
7. Before a recommendation on any conditional use is issued, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable;
 - a. ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe,
 - b. off-street parking and loading areas where required; with particular attention to the items in (a) above and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district,
 - c. refuse and service areas, with particular reference to the items in (a) and (b) above,
 - d. utilities, with reference to locations, availability, and compatibility,
 - e. screening and buffering with reference to type, dimensions, and character,
 - f. signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district,
 - g. required yards and other open spaces, and
 - h. general compatibility with adjacent properties and other property in the district.

B. VARIANCES

The Planning Commission shall have the power to hear requests for variances from this Ordinance in instances where strict enforcement would cause unnecessary hardship, and to recommend approval on such variances only when the following provisions apply:

1. No such variance shall be recommended for approval by the Planning Commission unless it finds that the strict application of the Ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.
2. No variance shall be recommended for approval unless the Planning Commission finds that the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this Ordinance.
3. A variance from the terms of this Ordinance shall not be acted upon by the Planning Commission unless and until a written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that recommending approval of the requested variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structure, or buildings in the same district.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the recommendation for approval.
5. Notice of public hearing shall be given as provided in Section 1403 (A)(2), (A)(3), and (A)(4) above; the public hearing shall be held. Any party may appear in person, or by agent or attorney; the Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendation of approval of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Commission shall further make a finding that the recommendation for approval of the variance will be in harmony with the general purpose and

intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 1903 of this Ordinance.

Under no circumstances shall the Planning Commission recommend approval of a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

C. AMENDMENT OR CHANGE IN ZONE

The Planning Commission shall have the power to hear and make recommendations, in accordance with provisions of this Ordinance, on requests for change in zoning. A request for change in zoning will not be decided until:

1. The individual petitioner provides a completed change in zone request. The request for change in zone must clearly state that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the area; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the change in zoning will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structure, or buildings in the area.
2. Notice of public hearing shall be given as provided in Section 1403 (A)(2), (A)(3), and (A)(4) above.
3. The public hearing shall be held. Any party may appear in person or by agent or attorney; the Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a change in zone; the Commission shall further make a finding that the reasons set forth in the application justify the recommendation for approval of the change in zone, and the change in zone will make possible the reasonable use of the land, building, or structure; the Commission shall further make a finding that the recommendation for approval of the change in zone will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
4. No petition for change in zone shall be recommended for approval unless the Planning Commission finds that the condition, situation or the intended use of the property concerned is not of so general or recurring a nature as to make reasonably practicable the change in zone.
5. Nonconforming use of neighboring lands, structures, or buildings in the same district, and permitted or nonconforming use of lands, structures or buildings in other districts shall be considered as reasons for the recommendation of approval of a change in zone.

In recommending approval of any petition for change in zone, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the change in zone is granted, shall be deemed a violation of this Ordinance and punishable under Section 1903 of this Ordinance.

D. APPEALS

Any persons, jointly or severally aggrieved by a decision of the Zoning Administrator, or any taxpayer, or any officer, department, board, or bureau of the county, may appeal to the Planning Commission. The concurring vote of fifty-one (51) percent of the membership present at the meeting of the Planning Commission shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

Section 1405 Duties of Zoning Administrator, Planning Commission, Board of Adjustment, and Courts on Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, then the Planning Commission and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Planning Commission, and that recourse from the decisions of the Board of Adjustment shall be as provided in Section 1507 (A) (3).

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 15

BOARD OF ADJUSTMENT

Section 1501 Members, Terms, Meetings, and Rules

The Davison County Commission shall serve as the Board of Adjustment. The Board of Adjustment is hereby designated to hear all zoning appeals. The Auditor shall act as secretary to the Board of Adjustment when acting in zoning appeal cases, but shall take no part in the deliberations. Meetings of the Board of Adjustment acting in zoning appeal cases shall be held at the call of the Chairperson and at such other times as the Board shall determine. Such Chairperson, or in his/her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.

All meetings of the Board of Adjustment shall be open to the public. The Board, acting in zoning appeal cases, shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Administrator and shall be a public record. The Board of Adjustment, acting in zoning appeals, shall adopt from time to time, subject to the approval of the County Commission, such rules and regulations as it may deem necessary to carry the appropriate provisions of this Ordinance into effect.

Section 1503 Appeals to Board of Adjustment, Record of Appeals, Hearing, and Stays

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the county affected by any decision of the Zoning Administrator. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board of Adjustment by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer for whom the appeal is taken and on due cause shown.

Section 1505 Board of Adjustment Hearings and Notice

Each session of the Board of Adjustment at which a hearing is held shall be a public meeting with notice of hearing to be published at least ten (10) days prior to the date of the hearing in a legal newspaper of the County.

Section 1507 Powers and Duties

The Board of Adjustment shall have the following powers and duties:

A. APPEALS

1. The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official, Planning Commission, or other agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map.
2. The Board of Adjustment has the powers of a Zoning Administrator on Appeals and Reversing Decision of the Zoning Administrator or Planning Commission.

In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of two-thirds (2/3) of the full membership of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

3. Any persons, jointly or severally aggrieved by a decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the municipality, may appeal to the court of record, in a manner provided by the laws of the State of South Dakota.

B. CONDITIONAL USES

The Board of Adjustment shall have the power to hear and decide, in accordance with the provisions of this Ordinance, requests for conditional uses or for decisions upon other special questions upon which the Board of Adjustment is authorized by this Ordinance to pass; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance. A conditional use shall not be granted by the Board unless and until:

1. A written application for a conditional use is submitted, indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested;
2. The Planning Commission has reviewed the application pursuant to Section 1403(A) of this ordinance;

3. Notice of public hearing shall be given at least ten (10) days in advance by publication in a legal newspaper of the County;
4. The Zoning Administrator or their designee shall notify by mail all owners of abutting property for which action is sought; notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date;
5. A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than seventeen (17) inches in height and eleven (11) inches in width with a white background and black letters not less than one and one-half (1.5) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the road and shall be so posted at least seven (7) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearings;
6. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
7. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest;
8. Before any conditional use is issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable;
 - a. ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe,
 - b. off-street parking and loading areas where required; with particular attention to the items in (a) above and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district,
 - c. refuse and service areas, with particular reference to the items in (a) and (b) above,
 - d. utilities, with reference to locations, availability, and compatibility,
 - e. screening and buffering with reference to type, dimensions, and character,

- f. signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district,
- g. required yards and other open spaces, and
- h. general compatibility with adjacent properties and other property in the district.

C. VARIANCES

The Board of Adjustment shall have the power to hear requests for variances from this Ordinance in instances where strict enforcement would cause unnecessary hardship, and to grant such variances only when the following provisions apply:

1. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the Ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.
2. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this Ordinance.
3. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; that literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structure, or buildings in the same district.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
5. Notice of public hearing shall be given as in Section 1507 (B)(3), (B)(4), and (B)(5) above; the public hearing shall be held. Any party may appear in

person for by agent or by attorney; the Board of Adjustment shall make findings that the requirements of this Section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 1903 of this Ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Section 1509 Duties of Zoning Administrator, Planning Commission, Board of Adjustment, and Courts on Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, then the Planning Commission and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Planning Commission, and that recourse from the decisions of the Board of Adjustment shall be as provided in Section 1507 (A)(3).

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 16

COUNTY COMMISSION

Section 1601 Powers and Duties

The County Commission shall have the power to hear requests for rezoning and amendment of the Zoning Ordinance.

Section 1603 Amendments or Changes in Zone

The County Commission shall have the power to hear and decide, in accordance with provisions of this ordinance, petitions for amendment or change in zoning. A petition for change in zoning will not be decided until:

1. The individual petitioner provides a completed amendment or change in zone request. Said request must clearly state:
 - a. Special conditions and circumstances exist which require the land to be rezoned;
 - b. The special conditions and circumstances do not result from the actions of the applicant; and
 - c. The granting of the amendment or change in zoning will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the area..
2. The Planning Commission has reviewed the application pursuant to Section 1403(C) of this Ordinance.
3. Notice of public hearing shall be given, as in Section 1701 (1-3).
4. The public hearing shall be held. Any party may appear in person or by agent or attorney.
5. The County Commission shall make findings that the requirements of this Section have been met by the applicant for an amendment or change in zone to include:
 - a. The reasons set forth in the application justify the granting of the amendment or change in zone;
 - b. The amendment or change in zone will make possible the reasonable use of the land, building, or structure;
 - c. The granting of the amendment or change in zone will be in harmony with the general purpose and intent of this ordinance; and

- d. Approval of the request will not be injurious to the neighborhood, or otherwise detrimental to the public welfare as presented and testified to by the applicant.
6. No petition for amendment or change in zone shall be authorized unless the County Commission finds that the condition, situation or the intended use of the property concerned is unique, required, or necessary as to make reasonably practicable the amendment or change in zone.
7. Before any amendment or petition for rezoning is approved, the County Commission shall make written findings certifying compliance with:
 - a. The comprehensive plan;
 - b. Specific rules governing land uses;
 - c. Zoning district regulations; and
 - d. Satisfactory provision and arrangement has been made concerning the following, where applicable:
 1. Certification of compliance with all ordinances and regulations regarding licensing and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations;
 2. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 3. Off right-of-way parking and loading areas where required; with particular attention to the items in (D(1)) above and the economic, noise, glare or odor effects of the amendment or rezone on adjoining properties and properties generally in the district;
 4. Refuse and service areas, with particular reference to the items in (1) and (2) above;
 5. Utilities, with reference to locations, availability, and compatibility;
 6. Screening and buffering with reference to type, dimensions, and character;
 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;

8. Required yards and other open spaces; and
 9. General compatibility with adjacent properties and other property in the district.
7. In granting any petition for amendment or change in zone, the County Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the amendment or change in zone is granted, shall be deemed a violation of this ordinance and punishable under Section 1903 of this ordinance.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 17

AMENDMENTS

Section 1701 Regulations

The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed, provided that such modification or repeal in each instance be proposed in an Ordinance presented to the governing body for adoption in the same manner and upon the same notice as required for the adoption of the original Ordinance.

Prior to consideration of amending, supplementing, changing, modifying or repealing this Ordinance by the governing body, notice of public hearings shall be provided as follows:

1. If the proposed changes affect a particular piece of property a notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than seventeen (17) inches in height and eleven (11) inches in width with a white background and black letters not less than one and one-half (1.5) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the road and shall be so posted at least seven (7) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearings.
2. At least ten (10) days before the date of the Planning Commission hearing, the County shall have published in a legal newspaper a notice of the time, place, and subject matter of such hearing.
3. The Zoning Administrator or their designee in the event of a re-zone shall notify by mail all owners of abutting property for which action is sought; notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date.
4. The Planning Commission shall hold the Public Hearing, review the proposed amendment(s), and make recommendations to the County Commission.
5. At least ten (10) days before the date of the County Commission hearing, the County shall have published in a legal newspaper a notice of the time, place, and subject matter of such hearing.
6. The Zoning Administrator or their designee in the event of a re-zone shall notify by mail all owners of abutting property for which action is sought; notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date.
7. The County Commission shall hold the Public Hearing, review the proposed amendment(s) and by resolution or Ordinance deny or pass the recommendations.

8. If the changes are adopted the Planning Commission shall prepare a summary of the changes.
9. Once the summary is prepared the States Attorney shall review the changes and forward the changes to the County Auditor for publishing.
10. A notice of the fact of adoption (summary) must be published once in the in a legal newspaper(s) of the County. The changes will take effect twenty (20) days after publication.

ARTICLE 18

NONCONFORMANCE

Section 1801 General

Within the districts established by this Ordinance or amendments that may later be adopted, there exists (a) lots, (b) structures, (c) uses of land and structures, and (d) characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment; it is the intent to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this revised Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 1803 Nonconforming Lots of Record

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, not withstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lots fail to meet requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

Variance of other yard requirements shall be obtained only through action of the Planning Commission and Board of Adjustment.

Section 1805 Nonconforming Uses of Land (or Land with Minor Structures Only)

Where at the time of passage of this revised Ordinance lawful use of land exists, which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no

individual structure with a replacement cost exceeding one thousand (1,000) dollars, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If any such nonconforming use of land ceases, for any reason, for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and
4. No additional structure, not conforming to the requirement of this Ordinance, shall be erected in connection with such nonconforming use of land.

Section 1807 Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance, that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity, but any structure, or portion thereof, may be altered to decrease its nonconformity;
2. Should such nonconforming structure, or nonconforming portion of structure, be destroyed by any means, to an extent of more than seventy-five (75) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance; and
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 1809 Nonconforming Uses of Structures or of Structures and Premises in Combination

If the nonconforming use involving individual structures with a replacement cost of one thousand (1,000) dollars or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the nonconforming use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed,

reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

2. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building;
3. If no structural alterations are made, any nonconforming use of a structure or structure and premises may, as a special exception, be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance;
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of more than one (1) year (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
6. Where nonconforming use status applies to a structure and premises in combination, removal, or destruction of the structure shall eliminate the nonconforming status of the land.

Section 1811 Uses Under Conditional Use Provisions are Conforming Uses

Any use that is permitted as a special exception in a district, under the terms of this Ordinance, shall be deemed a conforming use in such district without further action. A nonconforming use can never be allowed in a defined district without a change in the district definition or boundaries.

Permitted Principal Uses	Conditional Uses	Nonconforming
Allowed within defined district.	Allowed within defined district AFTER Board grants permission.	Never allowed within defined district without change in district definitions or boundaries.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 19

VIOLATIONS, COMPLAINTS, PENALTIES, AND REMEDIES

Section 1901 Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint with the Board of Adjustment and investigate and take action thereon as provided by this Ordinance.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall notify, in writing by certified mail with return receipt, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The party responsible for the violation shall respond within seven (7) working days from receipt of the letter; otherwise, they will be considered in violation and punishable under Section 1903.

Section 1903 Penalties for Violations

The owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist, or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be subject to any or all of the following:

1. A fine not to exceed the current maximum penalty for conviction of a class 2 Misdemeanor from time to time in effect under South Dakota Code;
2. Imprisonment for a period not to exceed thirty (30) days for each violation; or
3. By both fine and imprisonment; and
4. An action for civil injunctive relief, pursuant to SDCL 21-8.

In addition, all costs and expenses involved in the case shall be paid by the defendant; each day such violation continues shall be a separate offense.

Any architect, engineer, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, appropriate authorities of the county may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

THIS PAGE RESERVED FOR FUTURE USE

ARTICLE 20

LEGAL STATUS PROVISIONS

Section 2001 Separability

Should any article, section, or provisions of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 2003 Purpose of Sub-Titles

The sub-titles appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

Section 2005 Repeal of Conflicting Ordinances

All ordinances or parts of resolutions in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

Section 2007 Effective Date

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

THIS PAGE RESERVED FOR FUTURE USE