

DEFINITIONS

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.

Terms

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows: **(Amended June 21, 2022)**

Abandoned Sign/Billboard - a sign or sign structure that is blank, obliterated or displays obsolete advertising material for a period in excess of twelve continuous months. The twelve-month period for determining if a sign is abandoned commences upon notification of violation to the offender.

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. It shall be unlawful for any person, firm, or corporation in the following Yankton County Zoning Districts: Low Density Rural Residential (R1), Moderate Density Rural Residential (R2), High Density Rural Residential (R3), Manufactured Home Park (MHP), Lakeside Commercial (LC), Rural Transitional (RT), Planned Unit Development (PUD) to use any van body, truck body, semi-trailer, rail car, "shipping crate", and/or any vehicle no longer used for its manufactured purpose as a storage shed, storage building, warehouse, or as living quarters. It shall be unlawful to use manufactured homes for any use other than residential living quarters in all Yankton County Zoning Districts. However, this shall not prevent the lawful parking of vehicles properly licensed, insured, and in regular use for their intended purpose to include 'RVs' and camping trailers. **(Amended May 19, 2020)**

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. It shall be unlawful for any person, firm, or corporation in the following Yankton County Zoning Districts: Low Density Rural Residential (R1), Moderate Density Rural Residential (R2), High Density Rural Residential (R3), Manufactured Home Park (MHP), Lakeside Commercial (LC), Rural Transitional (RT), Planned Unit Development (PUD) to use any van body, truck body, semi-trailer, rail car, "shipping

crate”, and/or any vehicle no longer used for its manufactured purpose as a storage shed, storage building, warehouse, or as living quarters. It shall be unlawful to use manufactured homes for any use other than residential living quarters in all Yankton County Zoning Districts. However, this shall not prevent the lawful parking of vehicles properly licensed, insured, and in regular use for their intended purpose to include ‘RVs’ and camping trailers.

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.

Administrative Review - A process brought forth by the Zoning Administrator to clarify a provision of the Zoning Ordinance. A review may include policy interpretation or procedural questions but shall not include the appeals process as detailed herein.

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 feeding of livestock and/or poultry shall be considered an agricultural use. Grain elevators or Agricultural Product Processing Facilities shall not be considered an agricultural use if such use constitutes the main or principal use on a lot or parcel.

Agribusiness – A business which directly supports the agricultural industry, such as suppliers of feed, seed, chemicals, fertilizer, farm equipment, and equipment parts, farm equipment repair services, veterinary services, drain tile installers, and commercial grain elevators. **(Amended August 19, 2021)**

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, soybean processing facilities, cheese plants, milk processors, packing plants and rendering facilities.

Agrivoltaics – The use of land for both agriculture (crop production, livestock grazing and pollinator habitat) and solar photovoltaic energy generation. This is located underneath solar panels and/or between rows of solar panels. **(Amended December 19, 2023)**

Aggrieved Person - A person aggrieved is any person directly interested in the outcome of and aggrieved by a decision or action or failure to act regarding a zoning decision thus: **(Amended August 19, 2021)**

1. Establishes that the person suffered an injury, an invasion of a legally protected interest that is both concrete and particularized, and actual or imminent, not conjectural or hypothetical;
2. Shows that a causal connection exists between the person's injury and the conduct of which the person complains. The causal connection is satisfied if the injury is fairly traceable to the challenged action, and not the result of the independent action of any third party not before the court; (3) Shows it is likely, and not merely speculative, that the injury will be redressed by a favorable decision, and; (4) Shows that the injury is unique or different from those injuries suffered by the public in general.

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.

Amusement Park - A facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment and restaurants and souvenir sales.

Animal Feeding Operation: An animal feeding operation is a lot or facility where 200 or greater animal units, excluding aquaculture, are confined, stabled, fed, or maintained in either an open or housed lot 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. **(Amended August 19, 2021)**

For the purposes of these regulations, Animal Feeding Operations are divided into the following classes:

Class	Animal Units
Class A	500 - 10,000
Class B	200 – 499

Animal Feeding Operation or CAFO, New - An animal feeding operation or CAFO, (see definitions), constructed after the effective date of this ordinance or any subsequent amendment of applicable Articles or Sections. Operations in existence upon adoption or prior to future amendments may be considered a new operation if the facility is expanded to facilitate an

increase of more than three hundred (300) animal units. Any new construction relating to an expansion must comply with the applicable performance standards. The Planning Commission and Board of Adjustment shall have the authority to decrease or waive any standard deemed contradictory to the intent of the zoning ordinance upon review and in accordance with the conditional use and variance process described herein. **(Amended May 19, 2020)**

Animal Units - A unit of measure for livestock equated as follows; one head is equivalent to animal units: **(Amended August 19, 2021)**

Cow, feeder, or slaughter beef animal, including cow/calf pairs	1.0 A.U.
Horse	2.0 A.U.
Mature dairy cattle, excluding dairy calves under 300 pounds	1.4 A.U.
Farrow-to-finish sows	3.7 A.U.
Swine in a production unit	0.47 A.U.
Nursery swine less than 55 pounds	0.1 A.U.
Finisher swine over 55 pounds	0.4 A.U.
Sheep or lambs, goats	0.1 A.U.
Laying hens or broilers	0.033 A.U.
Ducks and/or geese	0.2 A.U.
Turkeys	0.018 A.U.

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.

Auction Yard - Any premises used predominantly as an auction pavilion or any area dedicated to consignment auctions or similar activities. A yard may include structures, open, and fenced display areas.

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.

Back-To-Back Sign: An off-site or on-site sign consisting of two sign facings oriented in the opposite direction with not more than one face per side.

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 Yankton County Commission shall serve as the Board of Adjustment.

Bona fide practitioner-patient relationship means: **(Amended November 4, 2021)**

- a. A practitioner and patient have a treatment or consulting relationship, during course of which the practitioner has completed an assessment of the patient's medical history and current medical condition, including an appropriate in-person physical examination;
- b. The practitioner has consulted with the patient with respect to the patient's debilitating medical condition; and
- c. The practitioner is available to or offers to provide follow-up care and treatment to the patient, including patient examinations;

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 Permit - A type of authorization that must be granted by a government or other regulatory body before the construction of a new or expansion of existing building can legally occur. **(Amended August 19, 2021)**

Building Setback Lines - A line parallel or approximately parallel to the lot lines at a specified distance therefrom, 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.

Cannabis (or Marijuana): all parts of any plant of the genus cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds. The term does not include fiber produced from the mature stalks of the plant, or oil or cake made from the seeds of the plant, or the resin when extracted from any part of the plant or cannabidiol in a drug product approved by the United States Food and Drug Administration. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis. **(Amended October 21, 2021)**

Cannabis, Allowable amount : **(Amended November 4, 2021)**

- a. Three ounces of cannabis or less;
- b. A quantity of cannabis products with an equivalent cannabis weight as established by rules promulgated by the department under § 34-20G-72;
- d. If the cardholder has a registry identification card allowing cultivation, three cannabis plants minimum or as prescribed by physician; and
- e. If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated;

Cannabis Cultivation Facility: a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment. **(Amended October 21, 2021)**

Cannabis Dispensary: a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials.

(Amended October 21, 2021)

Cannabis Establishment: a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary. **(Amended October 21, 2021)**

Cannabis Establishment, Non-licensed: an entity which would otherwise meet the definition of a cannabis establishment but which is not legally licensed. **(Amended October 21, 2021)**

Cannabis product- any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products, ointments, oils and tinctures. **(Amended November 4, 2021)**

Cannabis Product Manufacturing Facility: a legally licensed entity that acquires, possesses,

manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary. **(Amended October 21, 2021)**

Cannabis Testing Facility: a legally licensed entity legally authorized to analyze the safety and potency of cannabis. **(Amended October 21, 2021)**

Cardholder - a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card **(Amended November 4, 2021)**

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 (1/2) of its height, from finished floor to finished ceiling or to the underside of the floor joists 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.

Common Wall – A wall common to but dividing contiguous buildings; such a wall contains no openings and extends from its footing below the finished ground grade to the height of the exterior surface of the roof **(Amended October 18, 2022)**

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 Yankton County Comprehensive Plan.

Commissioners - the Yankton County Board of County Commissioners (**Amended November 4, 2021**)

Concentrated Animal Feeding Operation (CAFO): An animal feeding operation that is previously defined meets one or more of the following criteria: (**Amended August 19, 2021**)

1. Contains at least 500 animal units
2. Utilizes a Liquid Manure System (see definitions)
3. Utilizes environmentally controlled housing where the animals are contained in a thermostatically controlled environment
4. Discharges pollutants into waters of the state through man-made ditch, flushing system, or other similar man-made device
5. Discharges pollutants directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in operation

Concentrated Animal Feeding Operation (CAFO) Existing: Concentrated animal feeding operations in existence prior to the effective date of this ordinance or any subsequent amendment of applicable Articles or Sections. (**Amended August 19, 2021**)

Concentrating Solar thermal Device – CST technologies use mirrors to reflect and concentrate sunlight onto a receiver. The energy from the concentrated sunlight heats a high temperature fluid in the receiver. (**Amended December 19, 2023**)

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.

Cultivation facility - an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment. **(Amended November 4, 2021)**

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.

Debilitating medical condition – **(Amended November 4, 2021)**

a. chronic or debilitating disease or medical condition or its treatment that produces

one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or

- b. Any other medical condition or its treatment added by the department, as provided for in SDCL 34-20G-26;

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.

Department - the Department of Health (**Amended November 4, 2021**)

Designated caregiver - a person who: (**Amended November 4, 2021**)

- a. Is at least twenty-one (21) years of age;
- b. Has agreed to assist with a qualifying patient's medical use of cannabis;
- c. Has not been convicted of a disqualifying felony offense; and
- d. Assists no more than five (5) qualifying patients with the medical use of cannabis, unless the designated caregivers' qualifying patients each reside in or are admitted to a health care facility or residential care facility where the designated caregiver is employed

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.

Directional Sign - A sign erected for the convenience of the public, such as directing traffic movement, parking or identifying restrooms, public telephones, walkways and other similar features or facilities and bearing no advertising in the message.

Disqualifying felony offense - a violent crime that was classified as a felony in the jurisdiction where the person was convicted. (**Amended November 4, 2021**)

Domesticated Large 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, and mules.

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.

Double Faced Sign - An off-site or on-site sign with two adjacent faces oriented in the same direction and not more than 10-feet apart at the nearest point between the two faces.

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 relevant 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, three (3) 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.

Edible cannabis products - any product that: **(Amended November 4, 2021)**

- a. Contains or is infused with cannabis or an extract thereof;
- b. Is intended for human consumption by oral ingestion; and
- c. Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;

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

Enclosed, locked facility - any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation. **(Amended November 4, 2021)**

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 Yankton County as described per Article 1 Section 103 Jurisdiction. **(Amended December 19, 2023)**

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 five (5) individuals are unrelated by blood, marriage or adoption. This definition shall not include foster families as regulated by the State.

Farm Building - All buildings and structures needed in agricultural operation. **(Amended July 20, 2021)**

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 two (2) persons 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.

Farm, Ranch, Orchard - An area 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 the necessary 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. **(Amended August 19, 2021)**

Farmstead - A place with empirical evidence of a previous farmstead including at a minimum foundations, structures, or a tree belt. For the purposes of this ordinance the Zoning Administrator or Planning Commission shall determine the eligibility of a farmstead as a building site as described within Section 516. **(Amended August 19, 2021)**

Feeder Line - shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

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 74:51:02:02 and 74:51:02:03 (January 17, 1999). Yankton County as described in Section 74:51:02:68.

- Lakes Marindahl and Yankton (Section 74:51:02:03(4)) are warm water permanent fish life propagation waters;
- State or Beaver Lake and Westside Kid's Pond (Section 74:51:02:03(6)) are warm water marginal fish life propagation waters.
- The Missouri River (Section 74:51:03:05(1,4,7,8,11)) is a domestic water supply, warm water permanent fish life propagation waters, immersion recreation waters, limited contact recreation waters, and commerce and industry waters.
- James River (Section 74:51:03:20(5,8)) is a warm water semi permanent fish life propagation waters and limited contact recreation waters;

- Beaver Creek, Mud Creek (Section 74:51:03:20(6, 8)), Clay Creek, and Turkey Creek (Section 74:51:03:25(6, 8)) are warm water marginal 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.

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 nonconforming 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.

High voltage transmission line - means a conductor of electric energy and associated facilities.

Highway - Every way or place of whatever nature open to the public, as a matter of right, for purposed of vehicular travel, is a highway. The term “highway” shall also include private access easements and roadways.

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 two (2) persons 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.

Horticulture Sales - The on-site retail sale of farm produce, floral, fauna, or similar items. The majority of the produce sold shall be seasonal in nature and grown on-site. An exception may be a cooperative venture between numerous producers.

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 twenty (20) 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.

Large Wind Energy Conversion System (LWECS) - shall mean an electrical generating facility producing 50 kW or more and comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

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 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.

Main Building – A building in which is conducted the primary or predominant use of the lot on which it is located. **(Added June 21, 2022)**

Major Road Plan - The Transportation Plan in the Yankton 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.

Manufacturing Light - 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. Light manufacturing shall have no more than ten employees.

Manure System Definitions: (Amended August 19, 2021)

1. Solid Manure System – Any style of manure not conforming to the definition of “Liquid Manure”. Example systems include floor-raised poultry, deep-bedded housing systems, and dry lots. Vast majority (>90%) of excreted manure will be maintained in form that can be handled with a front-end loader and stacked without seepage under normal operating conditions. Example systems include floor-raised poultry, deep-bedded housing systems, and drylots
2. Liquid Manure System – Vast majority (>90%) of excreted manure will be stored in a form that – with or without agitation/mixing – can be handled with a common centrifugal pump under normal operating conditions. Example systems include slatted floor facilities and facilities where manure can be transferred via gravity.

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.

Medical use - includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptom associated with the patient’s debilitating medical condition. The term does not include: **(Amended November 4, 2021)**

- a. The cultivation of cannabis by a nonresident cardholder;

- b. The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the card holder's registry identification card; or
- c. The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility

Meteorological Tower - shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Small or Large Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the South Dakota Department of Transportation, or other applications to monitor weather conditions.

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.

Motor Vehicle Track or Play Area - An area of land utilized for the racing or recreational riding of motor vehicles with or without a defined area or track. The term may include a racetrack with spectators and an established racing affiliation or a day use area utilized by a club, group, or independent individuals. A motor vehicle may include cars, trucks, motorcycles, all-terrain vehicles or similar items. **(Amended May 19, 2020)**

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.

Non-Participating – A property that is not a participating property.

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.

Nonresident cardholder - a person who: **(Amended November 4, 2021)**

- a. Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;
- b. Is not a resident of this state or who has been a resident of this state for fewer than forty-five (45) days;
- c. Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and.
- d. Has submitted any documentation required by the department and has received confirmation of registration

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 area 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, Swine - A facility confining a specific number of small and/or young swine averaging ten (10) to fifty five (55) pounds in size. **(Amended August 19, 2021)**

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.

Off-Site Sign - A sign/billboard that advertises goods or services not available at the location of the billboard or advertising sign.

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.

On-Site Sign - A sign identifying an establishment's activities, products or services conducted or available on the property upon which it is located and signs advertising the sale or lease of the property upon which they are located.

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.

Outdoor Storage Area - Any open land or area used for the purpose of storage of any product or part of a product either 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.

Participating – A property that is a host property to a project or a property that is subject of an agreement that provides for the payment of monetary compensation to the landowner regardless of whether any part of the project is constructed on the property and specifies in writing any waiver of a requirement or right under this ordinance and the landowner’s acceptance of payment establishes the landowner’s property as a participating property.

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.

Permitted Special Use - A use allowed in a zoning district subject to the applicable restrictions of that zoning district and additionally subject to certain restrictions for that specific use.

(Amended August 19, 2021)

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.

Place of worship - a structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs, or architectural or other features. **(Amended November 4, 2021)**

Plat - a map, or representation on paper, of a piece of land subdivided into lots, parcels, tracts or blocks, including roads, commons, and public grounds, if any, all drawn to scale and complete with all irrevocable offers of dedication.

Planning Commission - The Planning Commission of Yankton 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.

Planning Official: The Planning (Zoning) Administrator and his/her designee charged with the administration and enforcement of the Yankton County Zoning Ordinance.

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.

Practitioner - a physician who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence. **(Amended November 4, 2021)**

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 the right-of-way.

Public - Promotion of a public cause or service, including utilities having a franchise from Yankton 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.

Qualifying patient - a person who has been diagnosed by a practitioner as having a debilitation medical condition. **(Amended November 4, 2021)**

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 in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Registry identification card - a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to SDCL 34-20G-29 to SDCL 34-20G-42 inclusive. **(Amended November 4, 2021)**

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, 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; ROW - 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.

Rotor Diameter - shall mean the diameter of the circle described by the moving rotor blades.

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 hundred fifty (750) 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.

Shared Wall Structure – A structure that contains two (2) or more units that share common walls (known as party walls). Shared wall structures include: dwellings two family, dwellings multiple families, residential and commercial buildings. **(Amended October 18, 2022)**

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.

Side Wall - The measurement from the highest point of the finished floor at grade to the height of the highest point of wall framing.

Sight Triangle - See “Traffic Visibility Triangle”.

Signs/Billboards - Any sign defined in this ordinance which displays or conveys any identification, description, illustration, or device illuminated or non-illuminated, which directs attention to a product, service, business activity, institution, business or solicitation, including any permanently installed or situated merchandise, or any emblem, painting, banner, pennant or

placard designed to advertise, identify or convey information, with the exception of window displays.

Sign Structure - The sign face and support members that are permanently affixed to the ground or attached to a structure.

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, which has a maximum area of five (5) square feet, used to identify the location of easements, property lines, utilities, hazards, or otherwise providing notice of restrictions on 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 Facing - That portion of a sign structure upon which advertising is affixed or painted and visible in one direction at one time.

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.

Small Wind Energy Conversion System - shall mean a wind energy conversion system consisting of a Horizontal-Axis Wind Turbine (HAWT), a Vertical-Axis Wind Turbine (VAWT), which may include a tower, and associated control or conversion electronics, which has a rated capacity of less than 50 kWh and which is primarily intended to reduce on-site consumption of utility power.

Solar Energy - Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector. **(Amended December 19, 2023)**

Solar Energy Conversion System – Solar energy conversion systems are any combination of solar panels on a parcel of property **(Amended December 19, 2023)**

Start of construction – includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or are not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. **(Amended August 19, 2021)**

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.

Substations - shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 KV for interconnection with high voltage transmission lines.

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.

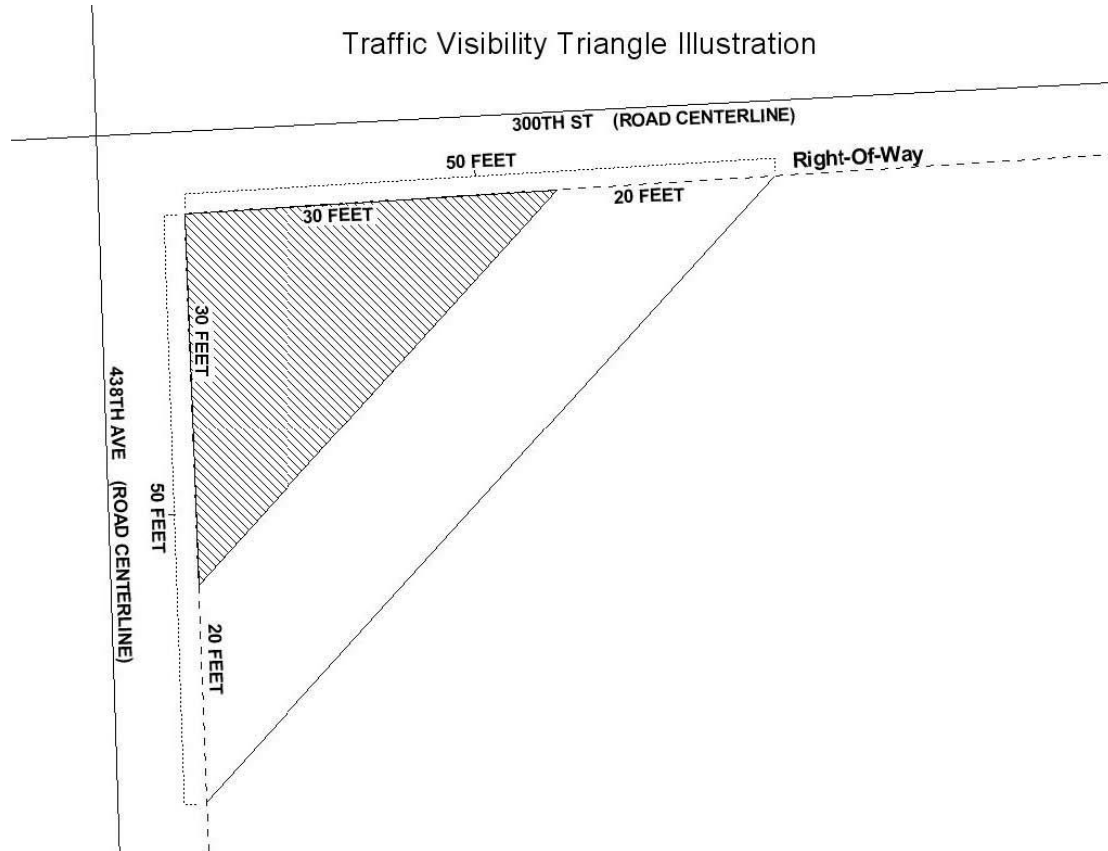
Temporary Signs - Signs and sign structures that are temporary in nature used in conjunction with a specific event, that are placed or erected in such a manner to be easily removed from the property and are not permanently affixed. All political signs shall be considered temporary signs. Temporary signs shall not exceed 32 square feet in size.

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 situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for governmental dispatch communications.

Traffic Visibility Triangle - The triangular space formed by the right-of-way lines of a corner lot and driveways with 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.



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

1. Country Acres, legally described as LT C exc LTS H2 & all LT D lane's S/D;
2. Country Liven', legally described as Lot A NE4 SW4 10-93-55;
3. Country View, legally described as LT A & S2 LT B & W30' N2 NE4 NE4 16-93- 55;
4. Sunrise, legally described as Parcel C LT 2 NE4 less LTS H1 & H2 16-93-55;
5. Hansen's Court, legally described as LT D N2 NE4 NE4 less Lot H1 16-93-55;
6. Lakeside Court, legally described as Lakeside SE4 SE4 (10.66 A) 16-93-56;
7. Crosley Court, legally described as Lot 4 truck/trailer S/D 15-93-55;

8. Blue Shak Rentals, legally described as Vera Van Epps Add'n exc Lot H1 & H2 SW4 NW4 (2.47 a) 3-93-55;
9. Marquardt's Trail Acres, legally described as Lots 2-4 trail acres Lot G of Gov LT 1 1- 93-55;
10. Lakeview, legally described as LTS F1 & F2 Fitzgerald Park & E6' W150' orig. Fitzgerald Park 17-93-56;
11. Black Walnut, legally described as N2 N2 NE4 exc Parcels 17-93-56;
12. Shreve's, legally described as Parcel A LT 5 NW4 SE4 3-93-55;
13. Eastwinds, legally described as Blk 1 Edna's Add'n & Par A W2 SW4 SE4 10-93-55;
14. Country Manor Estates, legally described as LT 2, ex W170' & NW4 NW4 exc E417.4' & S417.4' W482.2' S220' N578.7' & Parcel C exc W170' NW4 NW4 16-93-55; and
15. Larson's Landing, legally described as E2 LT 2 Shore Acres 27-93-56.

Transmission Line - shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

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. Including 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 - shall mean any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipality utility.

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, a private citizen, 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. **(Amended August 19, 2021)**

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.

WECS Total Height - shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Small or Large Wind Energy Conversion System.

WECS Tower - shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment of the Small or Large Wind Energy Conversion System.

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—A structure or place, such as a wind turbine, designed and constructed to generate power for distribution to off-site users. This definition shall not include private facilities with a single tower or turbine less than seventy five (75) feet in height and not designed for distribution of power to off-site users.~~

Wind Turbines - shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

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.

Written certification - a document dated and signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptom associated with the debilitating medical condition. This document shall affirm that it is made in the course of a bona fide practitioner-patient relationship and shall specify the qualifying patient's debilitating medical condition. **(Amended November 4, 2021)**

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.

Zero Lot-Line – A common lot line on which a wall of a structure may be constructed. **(Amended October 18, 2022)**

Zero Lot-Line Structure – A multi-family dwelling located on a single lot line that is (a) constructed as one (1) unit, (b) but is intended to be sold as separate sites and (c) otherwise meets all requirements of the zone in which it is located. **(Amended October 18, 2022)**

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 administering this ordinance.

ARTICLE 26

WIND ENERGY CONVERSION SYSTEMS (WECS)

Section 2601—Definitions

~~For the purposed of this ordinance, certain terms and words are hereby defined.~~

~~Aggregate Project shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregate project.~~

~~Commercial WECS shall mean a wind energy conversion system of equal to or greater than 100kWh in total nameplate generating capacity.~~

~~Construction means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.~~

~~Fall Zone shall mean the area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.~~

~~Feeder Line shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.~~

~~High voltage transmission line means a conductor of electric energy and associated facilities.~~

~~Large electric power facilities mean high voltage transmission lines.~~

~~Meteorological Tower shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the South Dakota Department of Transportation, or other applications to monitor weather conditions.~~

~~Person shall mean an individual, partnership, joint venture, private, or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.~~

~~Route means the location of a high voltage transmission line between two end-points. The route may have a variable width of up to 1.25 miles.~~

~~Rotor Diameter shall mean the diameter of the circle described by the moving rotor blades.~~

~~Rotor Radius shall mean one half (1/2) the diameter of the moving rotor blade.~~

~~Substations shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 KV for interconnection with high voltage transmission lines.——~~

~~WECS Total Height shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.~~

~~WECS Tower shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.~~

~~Transmission Line shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV), and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.~~

~~Utility shall mean any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipally utility.~~

~~Small Wind Energy Conversion System shall mean a wind energy conversion system consisting of a Horizontal Axis Wind Turbine (HAWT), a Vertical Axis Wind Turbine (VAWT), which may include a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kWh and, which is primarily intended to reduce on-site consumption of utility power.~~

~~Large Wind Energy Conversion System (WECS) shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.~~

~~Wind Turbines shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.~~

~~Small Wind Energy Conversion Systems (WECS)~~

~~Section 2602—Intent~~

~~It is the intent of this Section to promote the safe, effective, and efficient use of small wind energy conversion systems installed to reduce the on-site consumption of utility-supplied electricity.~~

~~Section 2603—Requirements~~

~~Small wind energy conversion systems shall be considered as a Conditional Use Permit with an exemption provided in 1. i. in this ordinance.~~

~~1.—Requirements as set forth below shall be met:~~

- ~~a. The maximum height of a rooftop-mounted WECS, including the turbine blades, is ten (10) feet in height above the roof line of the structure.~~
- ~~b. High-Density Rural Residential District (R3) shall allow rooftop-mounted WECS only.~~
- ~~c. Moderate-Density Rural Residential District (R2) shall allow rooftop-mounted WECS only.~~
- ~~d. Low-Density Rural Residential District (R1), meeting (or exceeding) district requirement of five (5) acre lots, shall have total WECS height limit of thirty (30) feet.~~
- ~~e. Rural Transitional District (RT) shall allow rooftop-mounted WECS only.~~
- ~~f. Planned Unit Development (PUD), meeting (or exceeding) requirement of five (5) acre lots, shall have total WECS height limit of thirty (30) feet.~~
- ~~g. Lakeside Commercial Districts (LC) shall allow rooftop-mounted WECS only.~~
- ~~h. Commercial District meeting (or exceeding) district requirements of one (1) acre shall have total WECS height limit of thirty (30) feet with exception provided in Section 2605.~~
- ~~i. The Agriculture District (AG) may qualify for an administrative building permit meeting (or exceeding) district requirement of twenty (20) acre lots and shall have total WECS height limit less than eighty (80) feet. All other WECS in Agriculture District are provided in Section 2605.~~

~~2.—Setbacks~~

- ~~a. No part of the wind system structure may be sited closer to structures, property lines and/or right(s) of way than 1.1 times the height of the wind turbine measured from the ground surface to the tip of the blade when in a fully-vertical position.~~

~~3.—Access~~

- ~~a. Tower climbing apparatus located no closer than eight (8) feet from the ground~~
- ~~b. A locking anti-climb device installed on the tower~~
- ~~c. Enclosure of the tower by a fence at least six (6) feet high with locking portals, when climbing apparatus is less than eight (8) feet from the ground.~~

~~4.—Noise~~

- ~~a. Small wind energy systems shall not exceed 55 dBA, measured at the closest point on the closest property line from the base of the system.~~
- ~~b. The noise level may be exceeded during short term events such as utility outages and/or severe windstorms.~~

~~5.—Approved Wind Turbines~~

- ~~a. Small wind turbines, horizontal axis wind turbine (HAWT) or a vertical axis wind turbine (VAWT), must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.~~

~~6.—Compliance with Building and Zoning Codes~~

- ~~a. Applications for small wind energy conversion systems shall be accompanied by standard drawings of the wind turbine structure, including the tower base, footings and required setbacks.~~
- ~~b. An engineering analysis of the tower showing compliance with all electrical codes of the State of South Dakota certified by a professional engineer licensed and certified in South Dakota shall also be submitted.~~
- ~~c. The manufacturer frequently supplies this analysis.~~

~~7.—Compliance with FAA Regulations~~

- ~~a. Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.~~

~~8.—Compliance with National Electrical Code~~

- ~~a. Permit applications for small wind energy conversion systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.~~
- ~~b. The manufacturer frequently supplies this analysis.~~

~~9.—Utility Notification~~

- ~~a. No small wind energy conversion system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator,~~
- ~~b. Off-grid systems shall be exempt from this requirement.~~

~~10. Warning information~~

- ~~a. Information related to the maximum power output, nominal voltage and maximum current and emergency shut down procedures for the WECS shall be posted near the base of the tower in a visible location.~~

~~11. Site Reclamation~~

- ~~a. When a small WECS has been condemned or has fallen into obvious disrepair, or has become a violation of some other local, state, or federal law and/or is no longer able to operate or upon earlier termination of operation of the small WECS, the permittee shall have the obligation, at the permittee's sole expense, to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment within 120 days upon notification from the County.~~
- ~~b. If deemed appropriate, the County may stipulate through the conditional use that the small WECS shall be removed at the owner's expense, upon the rezoning of the subject property to a zoning classification in which wind energy systems are not allowed as either a permitted use or a conditional use.~~

~~12. Federal and State Requirements~~

- ~~a. All WECS shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WECS.~~

Large or Commercial Wind Energy Conversion Systems (WECS)

Section 2604 — Intent

~~It is the intent of this Section to promote the safe, effective, and efficient use of commercial/utility grade wind energy systems within Yankton County.~~

Section 2605 — Requirements

~~Large or Commercial wind energy conversion systems shall be permitted as a Conditional Use Permit in the Agricultural District (AG) and in the Commercial District (C) only. Certain requirements as set forth below shall be met:~~

~~1. Applicability~~

~~The requirements of these regulations shall apply to all WECS facilities, including private facilities, with a single tower height of greater than eighty (80) feet, rated capacity of more than 100 kWh and used primarily for off-site consumption of power.~~

~~2.—Federal and State Requirements~~

~~All WECS shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WECS.~~

~~3.—Mitigation Measures~~

- ~~a.—Site Clearance. The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation, and maintenance of the WECS.~~
- ~~b.—Topsoil Protection. The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.~~
- ~~c.—Compaction. The permittees shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.~~
- ~~d.—Livestock Protection. The permittees shall take precautions to protect livestock during all phases of the project's life.~~
- ~~e.—Fences. The permittees shall promptly replace or repair all fences and gates removed or damaged during all phases of the project's life unless otherwise negotiated with the affected landowner.~~
- ~~f.—Roads: Public Roads. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used for the WECS project and shall notify the state, county or township governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practical, existing roadways shall be used for all activities associated with the WECS. Where practical, all weather roads shall be used to deliver concrete, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites. The permittees shall, prior to the use of approved haul roads, make satisfactory written agreements with the appropriate state, county or township governmental body having jurisdiction over approved haul roads for construction of the WECS for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and WECS components. The permittees shall provide the County Zoning Administrator with such written agreements.~~

~~Turbine Access Roads. Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with material that meets or exceeds South Dakota D.O.T. specifications for aggregate base course. When access roads are constructed across streams and drainage ways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed.~~

~~Private Roads.~~ The permittees shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

~~Control of Dust.~~ The permittees shall utilize all reasonable measures and practices of construction to control dust.

4. ~~Soil Erosion and Sediment Control Plan~~

~~The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the County Zoning Administrator. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive re-vegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material, and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material. A storm water runoff permit, if required, shall be obtained from the South Dakota D.E.N.R.~~

5. ~~Setbacks~~

- a. ~~Wind turbines shall meet the following minimum spacing requirements.~~
 - i. ~~Distance from existing off-site residences, business and public buildings shall be one thousand three hundred and twenty feet (1,320) feet. Distance from on-site or lessor's residence shall be one thousand (1,000) feet.~~
 - ii. ~~Distance from right of way (ROW) of public roads shall be 500 feet or one point one (1.1) times the height of the wind turbines depending upon which is greater, measured from the ground surface to the tip of the blade when in a fully vertical position.~~
 - iii. ~~Distance from any property line shall be 500 feet or one point one (1.1) times the height of the wind turbines depending upon which is greater, measured from the ground surface to the tip of the blade when in a fully vertical position unless wind easement has been obtained from adjoining property owner.~~

6. ~~Electromagnetic Interference~~

~~The permittees shall not operate the WECS so as to cause microwave, television, radio, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event such interference is caused by the WECS or its operation, the permittees shall take the measures necessary to correct the problem.~~

~~7. Lighting~~

~~Towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.~~

~~8. Access~~

- ~~a. Tower climbing apparatus shall be located no closer than twelve (12) feet from the ground unless locking anti-climb device is installed on the tower.~~

~~9. Turbine Spacing~~

~~The turbines shall be spaced no closer than three (3) rotor diameters (RD) measurement of blades tip to tip. If required during final micro-siting of the turbines to account for topographic conditions, up to 10 percent of the towers may be sited closer than the above spacing but the permittees shall minimize the need to site the turbines closer.~~

~~10. Footprint Minimization~~

~~The permittees shall design and construct the WECS to minimize the amount of land that is impacted by the WECS. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers, and monitoring systems shall to the greatest extent feasible be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected landowner.~~

~~11. Electrical Cables~~

~~The permittees shall place electrical lines, known as collectors and communication cables underground when located on private property. Collectors and cables shall also be placed within or immediately adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner. This paragraph does not apply to feeder lines.~~

~~12. Feeder Lines~~

~~The permittees shall place overhead electric lines, known as feeders, on public rights-of-way if a public right-of-way exists. Changes in routes may be made as long as feeders remain on public rights-of-way and approval has been obtained from the governmental unit responsible for the affected right-of-ways. If no public right-of-way exists, the permittees may place feeders on private property. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner. The permittees shall submit the site plan and engineering drawings for the feeder lines before commencing construction.~~

~~13. Decommissioning/Restoration/Abandonment/Removal Bond~~

~~a.—Decommissioning Plan~~

~~Within 120 days of completion of construction, the permittees shall submit to the County Zoning Administrator a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out these restoration requirements when they go into effect. The permittees shall ensure that it carries out its obligation to provide for the resources necessary to fulfill these requirements. The County Zoning Administrator may at any time request the permittees to file a report with the County Zoning Administrator describing how the permittees are fulfilling this obligation.~~

~~b.—Site Restoration~~

~~Upon expiration of this permit, or upon earlier termination of operation of the WECS, the permittees shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings, and ancillary equipment to a depth of four feet. To the extent possible, the permittees shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be recorded with the County Zoning Administrator which shall show the locations of all such foundations. All such agreements between the permittees and the affected landowner shall be submitted to the County Zoning Administrator prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen (18) months after expiration.~~

~~c.—Abandoned Turbines~~

~~The permittees shall advise the County Zoning Administrator of any turbines that are abandoned prior to termination of operation of the WECS. The County Zoning Administrator may require the permittees to decommission any abandoned turbine.~~

~~d.—Performance Security~~

~~The Applicant and the owner of record of any proposed large or commercial Wind Energy Conversion System property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least two (2) percent of the cost of the aggregate project for a WECS and with such sureties as are deemed sufficient by the County~~

~~to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Conditional Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site pursuant to 9(a) (above.)~~

~~14. Height from Ground Surface~~

~~The minimum height of blade tips, measured from ground surface when a blade is in fully vertical position, shall be twenty five (25) feet.~~

~~15. Towers~~

- ~~a. Color and Finish. The finish of the exterior surface shall be non-reflective and non-gloss.~~
- ~~b. All towers shall be singular tubular design.~~

~~16. Noise~~

~~Noise level shall not exceed 60 dB, including constructive interference effects, measured at the closest point on the closest property line from the base of the system.~~

~~17. Permit Expiration~~

~~All permits shall become void if no substantial construction has been completed within three (3) years of issuance.~~

~~18. Required Information for Permit~~

- ~~a. Boundaries of the site proposed for WECS and associated facilities on United States Geological Survey Map or other map as appropriate.~~
- ~~b. Map of easements for WECS.~~
- ~~c. Map of occupied residential structures, businesses, and public buildings within a 2-mile radius.~~
- ~~d. Map of sites for WECS, access roads and utility lines.~~
- ~~e. Location of other WECS in general area.~~
- ~~f. Project schedule.~~
- ~~g. Mitigation measures.~~

~~19. Technical Issues and Expert Review~~

~~WECS and equipment facilities may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Zoning Administrator, Planning Commission, Board of Adjustment, and/or the County Commission may require the applicant to pay reasonable costs for a third party technical study of a proposed facility. Selection of expert(s) to review will be at the sole discretion of the County.~~

Section 2601 Purpose

Purpose - It is the purpose of this Article to outline the requirements Yankton County has for wind energy conversion systems (WECS).

Small Wind Energy Conversion Systems (SWECS)

Section 2603 Intent

It is the intent of this Section to promote the safe, effective, and efficient use of small wind energy conversion systems (SWECS) installed to reduce the on-site consumption of utility supplied electricity.

Section 2605 Performance Standards

SWECS shall be considered as a Conditional Use Permit with an exemption provided in the Agricultural District, noted in A(i) below. The following provisions shall apply to all SWECS less than fifty (50) kilowatts alternating current (AC).

Design Requirements.

- A. Height and zoning restrictions as set forth below shall be met:
 - a. The maximum height of a rooftop mounted SWECS, including the turbine blades, is ten (10) feet in height above the roof line of the structure.
 - b. **High Density** Rural Residential District (R3) shall allow rooftop mounted SWECS only.
 - c. **Moderate Density** Rural Residential District (R2) shall allow rooftop mounted SWECS only.
 - d. **Low Density** Rural Residential District (R1), meeting (or exceeding) district requirement of five (5) acre lots, shall have total SWECS height limit of forty (40) feet.
 - e. **Rural Transitional** District (RT) shall allow rooftop mounted SWECS only.
 - f. **Planned Unit Development** (PUD), meeting (or exceeding) requirement of five (5) acre lots, shall have total SWECS height limit of forty (40) feet.
 - g. **Lakeside Commercial** Districts (LC) shall allow rooftop mounted SWECS only.
 - h. **Commercial** District meeting (or exceeding) district requirements of one (1) acre shall have total SWECS height limit of forty (40) feet with exception provided in Section 2605.
 - i. The **Agricultural** District (AG) qualifies for an administrative building permit. The total SWECS height limit is thirty-five (35) feet for lots up to five (5) acres. Lots greater than five (5) acres receive an additional six and one-half (6.5) feet for each additional acre over five (5) acres not to exceed a total SWECS height limit of one hundred thirty-five (135) feet.
- B. Setbacks

No part of the wind system structure may be sited closer to property lines and/or right(s)-of-way than 1.1 times the height of the wind turbine measured from the ground surface to the tip of the blade when in a fully vertical position.

C. Access

Enclosure of the tower by a fence at least six (6) feet high with locking portals, when climbing apparatus is less than eight (8) feet from the ground.

D. Noise

- a. Noise level shall not exceed forty-five (45) dBA, including constructive interference effects, measured at the closest point on the closest non-participating property line from the base of the system. The noise level shall not exceed 35 dBA at the nearest non-participating residence.
- b. The noise level may be exceeded during short-term events such as utility outages and/or severe windstorms.

E. Compliance with Building and Zoning Codes

Applications for small wind energy conversion systems shall be accompanied by standard manufacturers' drawings of the wind turbine structure, including the tower base, footings and required setbacks.

F. Compliance with Federal Aviation Administration (FAA) Regulations

Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

G. Compliance with National Electrical Code

All small wind energy systems shall comply with requirements per the current adopted edition of the National Electric Code (NEC).

H. Utility Notification

- a. No small wind energy conversion system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.
- b. Off-grid systems shall be exempt from this requirement.

I. Warning Information

Information related to the maximum power output, nominal voltage and maximum current and emergency shut-down procedures for the SWECS shall be posted near the base of the tower in a visible location.

J. Site Reclamation

- a. When a SWECS has been condemned or has fallen into obvious disrepair or has become a violation of some other local, state, or federal law and/or is no longer able to operate, the permittee shall have the obligation, at the permittee's sole expense, to dismantle and remove from the site all towers within 120 days upon notification from the County.
- b. If deemed appropriate, the County may stipulate through the conditional use that the small SWECS shall be removed at the owner's expense, upon the rezoning of the subject property to a zoning classification in which wind energy systems are not allowed as either a permitted use or a conditional use.

Conditional Use Permit Application Requirements for SWECS.

The following information shall be submitted for the consideration of a SWECS Conditional Use Permit:

- A. The applicants', owners', managers', management company's or similar entities' name, address and telephone number.

B. A legal description of the site(s) and proposed 911 address(es) for the location(s).

C. Site diagram(s) depicting:

- a. boundary of entire area included in permit, showing project acreage and property lines
- b. location of existing area structures and their distances from the project to illustrate all Facility Setback Requirements are met
- c. schematic location of wind towers, collector and feeder lines, electrical transmission lines and electrical interconnection points with the utility grid
- d. proposed property and ROW setbacks of all structures from the exterior boundaries
- e. fencing, lighting and signage locations
- f. location and purpose of any existing underground pipelines and utility easements

D. Federal Aviation Administration requirements, if applicable

E. Utility notification confirmation

Such other information deemed relevant and necessary by the Zoning Administrator.

Large Wind Energy Conversion Systems (LWECS)

Section 2613 Intent

It is the intent of this Section to promote the safe, effective, and efficient use of commercial/utility grade wind energy systems within Yankton County.

Section 2615 Performance Standards

Large wind energy conversion systems (LWECS) with a rated capacity of 50 kW or more and tied to the public electrical grid for off-site consumption of power shall be permitted as a Conditional Use Permit in the Agricultural District (AG) and in the Commercial District (C) only. Certain requirements as set forth below shall be met.

Design Requirements.

A. Federal and State Requirements

All LWECS shall meet or exceed standards and regulations of the Federal Aviation Administration, South Dakota State Statutes and any other agency of federal or state government with the authority to regulate LWECS.

B. Mitigation Measures

- a. **Site Clearance.** The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation, and maintenance of the LWECS.
- b. **Soil erosion/sedimentation.** The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the County Zoning Administrator. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive re-vegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project

activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material, and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material. A storm water runoff permit, if required, shall be obtained from the South Dakota D.A.N.R. All construction roadwork and site development work must meet national pollutant discharge elimination system (NPDES) permit requirements.

- c. **Compaction.** The permittees shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.
- d. **Livestock Protection.** The permittees shall take precautions to protect livestock during all phases of the project's life.
- e. **Fences.** The permittees shall promptly replace or repair all fences and gates removed or damaged during all phases of the project's life unless otherwise negotiated with the affected landowner.
- f. **Drain Tile.** The permittees shall obtain maps of all known drain tile installations and, with the approval of the landowner, the permittees shall utilize construction methods that minimize the impacts to existing tile systems. The permittees are responsible for any damage.

C. Lighting

Towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment. The preferred manner of lighting is by means of an Aircraft Detection Lighting System (ADLS). Subject to FAA approval, applicants will install an ADLS within one (1) year of approval by FAA for the specified project. In the event FAA does not approve an ADLS system, the applicant will comply with all lighting and markings otherwise required by FAA.

D. Access

Tower climbing apparatus shall be located no closer than twelve (12) feet from the ground unless locking anti-climb device is installed on the tower.

E. Tower Height Limit

Total tower height shall not exceed six hundred (600) feet.

F. Turbine Spacing

The turbines shall be spaced no closer than three (3)-rotor diameters (RD) measurement of blades tip to tip. If required during final micro siting of the turbines to account for topographic conditions, up to 10 percent of the towers may be sited closer than the above spacing but the permittees shall minimize the need to site the turbines closer.

G. Footprint Minimization

The permittees shall design and construct the LWECS to minimize the amount of land that is impacted by the LWECS. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers, and monitoring systems shall to the greatest extent feasible be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected

landowner.

H. Electrical Cables

The permittees shall place electrical lines, known as collectors and communication cables underground when located on private property. Collectors and cables shall also be placed within or immediately adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner. The depth must be approved by the landowner and location recorded on the filed easement. This paragraph does not apply to feeder lines.

I. Feeder Lines

The permittees shall place overhead electric lines, known as feeders, on public rights-of-way if a public right-of-way exists. Changes in routes may be made as long as feeders remain on public rights-of-way and approval has been obtained from the governmental unit responsible for the affected right-of-ways. If no public right-of-way exists, the permittees may place feeders on private property. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner. The depth must be approved by the landowner and location recorded on the filed easement. The permittees shall submit the site plan and engineering drawings for the feeder lines before commencing construction. Electric lines installed with LWES should not be subject to Eminent Domain.

J. Height from Ground Surface

The minimum height of blade tips, measured from ground surface when a blade is in fully vertical position, shall be thirty (30) feet.

K. Color and Finish

The finish of the exterior surface shall be non-reflective and non-gloss.

L. Noise

Noise level shall not exceed 45 dB, including constructive interference effects, measured at the closest point on the closest non-participating property line from the base of the system. The noise level shall not exceed 35 dB at the nearest non-participating residence.

Facility Setback Requirements.

LWECS shall be located no closer than the following regulations prescribe. The applicant(s) of a LWECS may request the required setback to any category listed in the table below be lessened. This request shall only be approved after the applicant obtains signed waivers from all property owners within the setback distance. Any authorized person, business or governmental entity that is within the setback distance may waive the setback distance. The written waiver(s) shall be permanently attached to the approved conditional use permit and shall be filed as a permanent encumbrance against the legally described parcel(s) for which the waiver is granted.

<i>LWECS Facility Setback Chart</i>		<i>Feet</i>
Residence, active church, business, schools and game production areas	Participating	1.5 times total height
	Non-participating	2 miles
Municipalities		2 miles
Lakes, Rivers and streams		1 mile
Right-of-way line (ROW)		1.5 times total height
Property line	Participating	1.5 times total height
	Non-participating	2 miles
Pipelines and Utility infrastructure		1.5 times total height

Agreements and Studies.

A. Electromagnetic Interference

The permittees shall not operate the LWECS so as to cause microwave, television, radio, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event such interference is caused by the LWECS or its operation, the permittees shall take the measures necessary to correct the problem.

B. Flicker Analysis

A Flicker Analysis shall include the duration and location of flicker potential for all schools, churches, businesses and dwellings within a two (2) mile radius of each turbine within a project. The applicant shall provide a site map identifying the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall account for topography but not for obstacles such as accessory structures and trees. Flicker at any receptor shall not exceed thirty (30) hours per year within the analysis area. A Shadow Flicker Control System shall be installed upon all turbines which will cause a shadow effect upon an occupied residential dwelling. Exception: The Board of Adjustment may allow for a greater amount of flicker than identified above if the participating or non-participating landowners agree to said amount of flicker. If approved, such agreement shall be permanently attached to the approved conditional use permit and shall be filed as a permanent encumbrance against the legally described parcel(s) for which the waiver is granted.

C. Endangered Species, Wetlands and Migration Analysis

Applicant must submit an inventory of any existing endangered wildlife, flora and fauna species and biologically sensitive areas and meet all South Dakota Department of Agricultural and Natural Resources (SD DANR) and South Dakota Game, Fish and Parks (SD GF&P) requirements. Applicant must examine landscape levels of key wildlife habitats, migration corridors, staging/concentration areas and breeding/brood-rearing areas to help develop general siting strategies. Applicant must situate turbines so they do not interfere with wildlife movement corridors and staging areas.

D. Road Maintenance Agreements

- a. *Public Roads.* Prior to commencement of construction and for any future LWECS repairs, the permittees shall identify all state, county or township “haul roads” that will be used for the LWECS project and shall notify the state, county or township governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practical, existing roadways shall be used for all activities associated with the LWECS. Where practical, all-weather roads shall be used to deliver concrete, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites. The turn radius for vehicles must be a consideration. The permittees shall, prior to the use of approved haul roads, make satisfactory written agreements with the appropriate state, county or township governmental body having jurisdiction over approved haul roads for construction of the LWECS for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and LWECS components. These written agreements shall include all subcontractors. The permittees shall provide the County Zoning Administrator with such written agreements.
- b. *Turbine Access Roads.* Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with material that meets or exceeds South Dakota D.O.T. specifications for aggregate base course. When access roads are constructed across streams and drainage-ways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed. The permittee(s) shall conduct hydrology studies and obtain all applicable permits including a Yankton County Drainage Board if required.
- c. *Private Roads.* The permittees shall obtain a written agreement for use of private roads following the guidelines for Public Roads above. The permittees shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.
- d. *Control of Dust.* The permittees shall utilize all reasonable measures and practices of construction to control dust including the use of dust palliatives.

E. Power Purchase Agreement

If the applicant has an executed power purchase agreement at the time of application, the applicant shall provide with the application either such agreement, or at the applicant’s discretion, an affidavit of non-confidential information regarding such agreement.

F. Technical Issues and Expert Review

LWECS and equipment facilities may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Zoning Administrator, Planning Commission, Board of Adjustment, and/or the County Commission may require the applicant to pay reasonable costs for a third party technical study of a proposed facility. Selection of expert(s) to review will be at the sole discretion of the County.

G. Noise Study Post Construction

Requires wind farm developers to provide a post-construction certification that the project complies with the applicable codes, industry standards and ordinance requirements. A licensed, certified noise consultant shall conduct the study.

Decommissioning

A. *Plan*: All applicants for a conditional use permit shall provide, with their site plan submission, a decommissioning plan.

- a. The plan shall specify the procedure by which the applicant or its successor will remove all structures (including equipment, fencing, roads and foundations) and restore the area to its pre-construction condition. Any agreement for removal to a lesser depth shall be filed as a permanent encumbrance against the legally described parcel(s) for which the waiver is granted.
- b. Disposal of structure and/or foundations shall meet the provisions and regulations of the South Dakota Department of Agriculture and Natural Resources (SD DANR) or the United States Environmental Protection Agency.
- c. The plan will set forth a timeline for completing decommissioning once it is commenced.

B. *Cost Estimate*:

- a. The decommissioning plan shall include a decommissioning cost estimate prepared by a licensed professional engineer. The cost estimate will include a proposed timeline, not to exceed two (2) years, for completing the decommissioning process.
- b. The cost estimate shall provide the estimated cost of and schedule for decommissioning in accordance with the decommissioning plan and any other applicable conditions set by the County.
- c. The cost estimate and schedule above will be reviewed and analyzed by a third-party engineer of the County's choosing. The applicant or its successor shall compensate the County for any third-party review and analysis by an engineer of the initial cost estimate.
- d. The applicant or its successor shall update the decommissioning cost and schedule every five (5) years following approval of the conditional use permit and compensate the County for any review and analysis of each cost estimate and schedule revision by a licensed professional engineer.

C. *Financial Resources*:

- a. Fifty percent (50%) of the estimated decommissioning cost will be placed into an escrow account held by the County at the beginning of the LWECS construction phase. The balance of the decommissioning cost estimate will be guaranteed with a surety bond so as to cover one hundred percent (100%) of the estimated decommission costs.
- b. Each year after the beginning of the LWECS construction phase, the applicant or its successor will contribute an additional five percent (5%) of the most current cost estimate to the escrow account, allowing for the reduction of the surety bond by the same percentage not the obligation, to undertake decommissioning financed by the financial agreement required for a conditional use permit.

- c. Should the five-year (5) updated cost estimate increase, the applicant or its successor will increase the required escrow and surety bond combination as outlined above to meet the percentages for the given year. Amounts may be reduced, at the discretion of the County, if an updated cost estimate shows a decrease from the previous cost estimate.
 - d. The County will credit interest to the escrow account.
- D. *Notice to County:* The applicant or its successor shall provide six (6) months' written notice to the Zoning Administrator that it intends to commence the decommissioning process.
- E. *Termination of Use:*
 - a. Decommissioning of turbines must occur in the event the LWECs is not in use for six (6) consecutive months. At this time the applicant or its successor and/or land owner will have six (6) months to complete decommissioning in full accordance with the decommissioning plan.
 - b. If the applicant or its successor and/or land owner fail to decommission the LWECs within six (6) months following commencement of decommissioning, the County has the right, but not the obligation, to undertake decommissioning financed by the financial agreement required for a conditional use permit. If the applicant or its successor, or the County incurs expenses in excess of the funds available for decommissioning, the County has the right to file a deficiency judgement against the land on which the LWECs stands. This deficiency judgment will be treated as a tax lien against the land and the landowner at the time decommissioning is complete. This tax lien will become due and payable in the year the deficiency is incurred by the County.
 - c. The county is granted the right to seek injunctive relief to effect and complete decommissioning, as well as to seek reimbursement from the applicant or its successor or the landowner for decommissioning costs against any real estate owned by applicant or its successor, or the landowner in which they have an interest and to take all steps allowed by law to enforce said lien. NOTE: The land owner is ultimately responsible and could have a Lien placed on their property should the applicant or its successor fail to fully remunerate the costs of decommissioning.
- F. *Liability insurance:* The applicant or its successor shall obtain and hold a general liability policy covering bodily injury and property damage and name Yankton County as an additional insured with limits of at least five million dollars (\$5,000,000.00) per occurrence and ten million dollars (\$10,000,000.00) in the aggregate with a deductible of no more than fifty thousand dollars (\$50,000.00). The applicant or its successor must provide proof of insurance to the Zoning Administration prior to construction.
- G. *Indemnity:* Applicant or its successor shall hold the County and its officers and employees harmless from claims made by applicant or its successor and third parties for damages sustained or costs incurred resulting from said LWECs project. The Applicant or its successor shall indemnify the County and its officers and employees for all costs, damages or expenses that the County may pay or incur in consequence of such claims, including attorney fees. Third parties shall have no recourse against the County under this agreement.

Conditional Use Permit Application Requirements.

The following information shall be submitted for the consideration of a LWECS Conditional Use Permit:

- A. The applicants', owners', managers', management company's or similar entities' name, address and telephone number.
- B. A legal description of the site(s) and proposed 911 address(es) for the location(s).
- C. Site diagram(s) depicting:
 - a. boundary of entire area included in permit, showing project acreage and property lines of all participating and non-participating land owners
 - b. location of existing area structures and their distances from the project to illustrate all Facility Setback Requirements are met
 - c. points of access from public road ways
 - d. topography with contours at intervals of two (2) feet showing surface water drainage patterns
 - e. schematic location of wind towers, collector and feeder lines, electrical transmission lines and electrical interconnection points with the utility grid
 - f. internal access and maintenance roads and other accessory structures associated with the LWECS
 - g. proposed property and ROW setbacks of all structures from the exterior boundaries
 - h. fencing, lighting and signage locations
 - i. location and purpose of any existing underground pipelines, utility easements and farmland tile drainage systems
- D. Soil erosion and sediment control plan during construction
- E. Federal Aviation Administration requirements, if applicable
- F. Flicker Study Analysis
- G. Inventory of endangered species and wetlands
- H. A signed Roadway Maintenance and Haul Agreement with State, County, and/or Township authority approval
- I. Power Purchase Agreement
- J. Any third party technical studies requested by the County
- K. Noise study post construction (attached to the CUP after completed)
- L. Decommissioning plan
- M. Liability insurance policy
- N. Indemnification of County and its officers and employees

Such other information deemed relevant and necessary by the Zoning Administrator.

Permit Expiration

All permits shall become void if no substantial construction has been completed within three (3) years of issuance.

Section 2917 Conditional Use Permit for an LWECS Not Permitted if Applicant Applies for the Permit for the Purpose of Selling, Transferring, or Brokering.

The Board of Adjustment shall not grant a Conditional Use Permit for an LWECS if the applicant

is applying for the Permit for the purpose of selling, transferring, or brokering the Permit.

For the purposes of this Ordinance, any sale or transfer of the Permit from the applicant to any other person or entity within five (5) years of the date that the Permit is issued shall be considered to be prima facie evidence that such Permit was obtained for the purpose of selling, transferring or brokering the Permit. The Board of Adjustment may hear and grant exceptions to this rule in the case of unforeseen life events that may force the sale of an operation.

Any evidence that is presented by any person that any Building Permit and/or Conditional Use Permit for an LWECS was sought for the purpose of selling, transferring, or brokering the Permit shall be considered by the Zoning Administrator, Planning Commission, and/or Board of Adjustment in considering a new application for Conditional Use Permit. It may be the basis for a denial or revocation of the application, building permit, and/or a conditional use permit by the Board of Adjustment.