- B. No junkyards will be allowed within three hundred thirty (330) feet from any adjoining property line.
- C. Junkyards shall be screened on all sides by a solid wall, with construction materials and design to be approved by the Board of Adjustment, at least two (2) feet above the highest stock pile or a shelterbelt or shrubs and trees as approved by the Board of Adjustment; screening must be maintained in good repair.
- D. No junkyards will be allowed within one thousand (1000) feet from the junkyard property line to the nearest residence; excluding the residence of the junkyard operator.
- E. All junkyards have a minimum lot area of ten (10) acres.
- 24. Municipal or multi-residential sewage treatment sites;
- 25. Off site signs;
- 26. Operation and maintenance terminals for trucks and other equipment;
- 27. Private plane landing strips;
- 28. Private recreation areas;
- 29. Private shooting preserves;
- 30. Public parks or public recreational areas;
- 31. Repair shops;
- 32. Riding stables;
- 33. Sanitary landfill, provided:
 - A. The site meets the requirements of the State Department of Environment and Natural Resources.
 - B. A site plan is provided indicating the following information:
 - i. Present topography, soil types, and depth to groundwater;
 - ii. Location of existing water drainage, existing buildings, existing shelterbelts;
 - iii. Identification of roads leading to the site;

- iv. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines;
- v. Proposed monitoring wells, etc.;
- vi. No sanitary landfill will be allowed within two thousand six hundred forty (2640) feet from the landfill property line to the nearest residence or commercial use; excluding the residence of the landfill operator.
- 34. Schools, private or denominational;
- 35. Shooting range;
- 36. Swimming pools;
- 37. Towers;
- 38. Utility Substations;
- 39. Wildlife and game production areas;
- 40. Wind energy systems
- 41. Wireless Telecommunication Towers and Facilities

SECTION 2-104 - Determination of Uses and Structures.

The uses and structures specifically listed in this chapter are not considered to be the only conceivable uses of agricultural land. However, these uses listed do represent the types of uses which may be considered. If an applicant desires to construct a building or conduct a use which is not specifically listed, such applicant shall carry the burden of proof through the variance process to the board of adjustment that his/her request is the type of use allowed in the agricultural district, is not more compatible with a different zoning district, and it does in no way violate the intent of this chapter.

SECTION 2-105 - Maximum Number of Approaches.

Before any approaches are constructed within Beadle County, an applicant must obtain a permit from contact the Highway Superintendent, Town Board, and/or Township Board. Approaches will be constructed at the expense of the land owner and limited to what is allowed by State Law.

SECTION 2-106 - Minimum Requirements for Residence.

1. There shall be a minimum front yard setback from the right of way and property line of not less than seventy-five (75) feet, whichever is greater.

- 2. On corner lots there shall be a minimum setback from both right of ways of not less than seventy-five (75) feet on property that has two (2) intersecting roads.
- 3. The minimum lot area shall be five (5) acres.
- 4. There shall be a frontage of not less than three hundred (300) feet across the front yard.
- 5. All lots will front on a right-of-way dedicated to public use or have an ingress/egress easement for access.
- 6. The maximum lot coverage for all structures is ten percent (10%).
- 7. The maximum residential dwelling height is thirty-five (35) feet.
- 8. The maximum residential dwelling density is one residence per forty acres, except where more than one residence is necessary for persons employed on a farm, then additional dwellings may be allowed.

SECTION 2-107 - Minimum Shelterbelt Setback.

Shelterbelts, field belts, and living snow fence consisting of one or more rows shall have the windward row of plantings on the north and west sides of roads set back a minimum of 160 feet from the shoulder of the road. The windward row of plantings on the south and east side will be set back a minimum of one hundred (100) feet from the shoulder of the road. Existing shelterbelts are exempt from minimum setback requirements.

SECTION 2-108 - Protection of Natural Waterways.

No building or construction shall be permitted within one hundred feet of the high water mark of natural water drainage ways, nor shall any such building or construction be permitted within the flood-prone area of the James River. Flood Hazard Boundary maps are available at the Director of Equalizations Office at the Beadle County Courthouse, at the Beadle County Emergency Managers Office and at the City Planning and Inspection Office.

SECTION 2-109 - Private Sewage Disposal Systems.

All private sewage disposal systems will comply with U.S. Environmental Protection Agency regulations and South Dakota Law. All residences and businesses will file a septic system plan with the Beadle County equalization office. The city planning and inspections office and Beadle County zoning administrator can provide copies of the state regulations that explain installation and inspection requirements for septic systems.

SECTION 2-110 - Right to Farm Notice Covenant.

Any new residence or non farm structure with in the AG district must complete and record a Right to Covenant with the Beadle County Register of Deeds.

See Title 1 Article 11

TITLE 2

ZONING AGRICULUTRAL AREA

TITLE 2

ZONING AGRICULUTRAL AREA

ARTICLE 2

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) REGULATIONS

TITLE 2 - ARTICLE 2

CONCENTRATED ANIMAL FEEDING OPERATION (CAFO) REGULATIONS

SECTION 2-201 General Requirements.

An adequate supply of healthy livestock, poultry and other animals is essential to the well-being of county citizens and the State of South Dakota. This section applies to any concentrated animal feeding operation (CAFO) constructed or used after the effective date of March 31, 2017. Any facility shall be sufficiently separated from other land uses so as not to unreasonably interfere with or burden the enjoyment of other neighboring lands, consistent with the policy established under this Ordinance. All concentrated animal feeding operations shall comply with the regulations as outlined herein.

SECTION 2-202 Concentrated Animal Feeding Operation Permit Requirements

Two (2) or more concentrated animal feeding operations under common ownership are a single concentrated animal feeding operation if they adjoin each other (within one mile) or if they use a common area or system for disposal of manure. Required setbacks for the two (2) or more concentrated animal feeding operations treated as a single operation shall not be less than the minimum setback required for each operation if said operations were treated as individual operations.

Any person who owns, operates, or proposes to own or operate a concentrated animal feeding operation with over 999 animal units shall be required to apply for a conditional use permit pursuant to these regulations whenever any of the following occurs:

- 1. A new concentrated animal feeding operation is proposed where one does not exist.
- 2. An expansion in the number of animal units of a concentrated animal feeding operation, which would result in the creation of either a Class A concentrated animal feeding operation or an increase of at least 20% of the current State permit or Animal Unit Statement on file with the County.
- 3. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.

SECTION 2-203 Classes of Concentrated Animal Feeding Operations:

Concentrated animal feeding operations are hereby classified as Class A or B concentrated animal feeding operations and are defined by the number of animal units as listed in Table A.

See Table A.

SECTION 2-204 Concentrated Animal Feeding Operation Control Requirements:

 Required Minimum Setbacks and Separation Distance for Concentrated Animal Feeding Operations and those Existing Concentrated Animal Feeding Operations without a County issued permit expanding by 20% or into a Class A Concentrated Animal Feeding Operations after March 31, 2017. See Table B.

2) Setback and Separation Distance Requirements for Classes A and B, Concentrated Animal Feeding Operations:

a. Measurement for Setbacks and/or Separation Distances

The facility shall be sited not closer than those distances indicated in the "Setback Table". Setbacks shall be measured from the outermost structure of the concentrated animal feeding operation to the outermost point of a structure/use as identified on the "Setback Table". If land is platted to hold a CAFO the measurement shall be from the outermost point of the land so platted to the outermost point of the structure/use as identified on the "Setback Table". However, to any structure that is considered a "Dwelling" the measurement shall be from the center of the dwelling plus 263 feet.

b. Increase in Separation Distance

The Board of Adjustment may consider an increase in Separation Distance for a Class A application using the following criteria:

- 1. The stated animal units exceed 20% of the minimum for that type of animal in a Class A operation.
- 2. Based on the number of CAFOs in the immediate area.
- 3. Based on topography, location and prevailing wind direction additional separation distance would be appropriate to safeguard air and/or water quality.
- 4. Concerns or circumstances unique to a specific permit application.
- 5. If the proposed CAFO will operate with state of the art odor control practices and manure management practices as determined by Best Practices within the Industry.

c. Considerations to Decrease Setbacks and/or Separation Distances

The Board of Adjustment may allow an exception from the separation distance only when the applicant obtains a waiver from the owner(s) of property within the separation distance that does not comply with the above table. Any authorized person, business, or governmental entity that is within the separation distance may waive the separation distance through a written instrument to be filed with the County Register of Deeds. This waiver shall pass with the land.

3) Exemptions to Setback and/or Separation Distance Requirements (Expansion)

- a. All Concentrated Animal Feeding Operations (CAFO) in operation prior to March 31, 2017, which do not comply with the minimum setback requirements, but continue to operate, and are not expanded in a manner which will result in one of the following examples, are exempt from setback/separation distance requirements:
 - i. Example 1: A Class B CAFO expands to a Class A CAFO.
 - ii. Example 2: A Class A CAFO expands by 20% of the number of animal units
- b. A concentrated animal feeding operation which is expanded or constructed, if the title holder of the land benefiting from the distance separation requirement executes a written waiver with the title holder of the land where the CAFO is located, under such terms and conditions which the parties may negotiate. The written waiver becomes effective only upon the recording of the waiver in the office of the Register of Deeds in the county. The title holder of the land benefiting from the distance separation requirement land is the individual or individuals, business entity, governmental entity, bona-fide religious institution, or educational institution from which separation is required. The waiver shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land.
- c. A concentrated animal feeding operation which is constructed or expanded closer than the required setback/separation distance from the corporate limits of a city, if the incorporated community approves a written waiver. The written waiver becomes effective only after it's recorded with the Register of Deeds.
- d. A concentrated animal feeding operation which existed prior to the creation of a structure set out in Table B, if said structure was built after Janaury 1, 2012 and after the date the concentrated animal feeding operation was established. The date that the concentrated animal feeding operation was established is the date on which concentrated animal feeding operation commenced operating. A change in ownership or expansion shall not change the date of operation.

e. It is the intention of the Board of Adjustment in the enforcement of this ordinance that when an operator of an existing Concentrated Animal Feeding Operation applies for a permit to expand to another class level, the standards that apply to the expansion will not be applied to existing structures that were built in compliance with accepted industry standards in existence at the time of the construction of such facilities.

4) Standards for Conditional Use Permits

- a. The Board of Adjustment or the County Zoning Officer may request information relating to concentrated animal feeding operations not contained in these regulations.
- b. The Board of Adjustment may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which the Board of Adjustment considers necessary to protect the public health, safety and welfare.
- c. A Conditional Use Permit for concentrated Animal Feeding Operations shall be in effect only as long as other provisions of the permit are being adhered to.
- d. When considering an application, the Board of Adjustment will take into consideration current and past violations relating to concentrated animal feeding operations that the applicant has or had an interest in.
- e. Permit applicants will be required to file a letter of assurances as required by the Board of Adjustment. The letter of assurances will be prepared by the applicant and signed by both the applicant and the Chair of the Board of Adjustment. The permit for the concentrated animal feeding operation is based upon compliance with the regulations herein, and letter of assurances. Any violation of these regulations or non-compliance with the letter of assurances shall be cause for revoking a permit. If a violation of these regulations or non-compliance with the letter of assurance with the letter of assurance occurs, permit holders will be notified by registered mail and a hearing before the Board of Adjustment will be held concerning status of the permit. The Board of Adjustment shall either revoke the permit or set a time line for compliance. If compliance is not met, the permit shall be revoked and the permit holder ordered to cease operations.
- f. Owner of land or permit holder may transfer said permit within one year of being granted said permit with condition that new permit holder must sign letter of assurances and agree to all conditions of said permit.
- g. Any permit granted expires after 12 months if construction has not begun. Permit holder may request an extension of up to one year.

5. Information Required for Class A Concentrated Animal Feeding Operation

- a. Owner's, manager's, management companies or similar entities name, address and telephone number.
- b. Legal descriptions of site.
- c. The number and type of animals to be housed by the proposed concentrated animal feeding operation.
- d. Concentrated Animal Feeding Operations shall obtain a State General Permit pertaining to the animal species of the Concentrated Animal Feeding Operation, if required by the State of South Dakota. A County conditional use permit may be approved conditioned upon receiving a State General Permit.
- e. Information on ability to meet designated setback requirements, including maps showing measured distances.
- f. Notification of whomever maintains the access road (township, county and state).
- g. The Board of Adjustment may require an Environmental Impact Study for a Class A or B application. Said study may include a study of the possible impact on all wells, lakes, rivers and streams within .5 mile of the proposed site.

SECTION 2-205 ANIMAL WASTE APPLICATION.

Any operator of a concentrated animal feeding operation who applies animal waste to farmland must meet the setbacks in Table C. See Table C.

SECTION 2-206 REPORT OF ANIMAL NUMBERS.

Concentrated animal feeding operations which are in existence and operating before the enactment of this Ordinance (March 31, 2017) and are of a size that would require them to have a state general permit must file a statement of animal units using the form provided by the Zoning Officer on or before July 1, 2017. Failure to do so will result in a violation of this ordinance and subject the offending operator to a fine of \$50/day.

SECTION 2-207: FAILURE TO GET PERMIT BEFORE EXPANSION:

Any Operator or Concentrated Animal Feeding Operation that expands its number of Animal Units beyond what is permitted in this Ordinance and continues to operate at this expanded number of Animal Units for over 30 days without obtaining a conditional use permit is a violation of this Ordinance and is subject to a civil fine in the amount of \$50/day for each day of operation while in violation. Table A: Animal Units to Define Classes of Concentrated Animal Feeding Operations

TYPE OF ANIMAL:	Class A	Class B
Number of Animal Units	1,000 or more	300 to 999

*For definition and calculation of animal units see Definitions Title 1 Article 10.

Table B: Minimum Setbacks

	CLASS A	CLASS B
Dwellings (other than owner's or	2.64 feet per Animal Unit	2.64 feet per Animal Unit
operator's) Churches, Schools, Businesses,	up to 2000 Animal Units	with a maximum of <mark>9</mark> 99
Designated County or State Parks, Lake	then 1 foot per Animal	animal units
Park, Planned Residential, Town (Rural	Unit to a maximum	7
Municipalities) Zoning Districts and	distance of 7920 feet	
Incorporated Municipality Limits with		
Populations over 5000		· · · · · · · · · · · · · · · · · · ·
Well (other than owner/operator), Lake,	500 feet	500 feet
River and Stream		
Federal, State, County, & Township Road	300 feet	300 feet
Right of Way		

Table C: Animal Waste Application:

Description	Surface Applied	Incorporated or Injected
Lakes, Rivers and Streams Classified as Fisheries	300 ft	100 ft
Lakes, Rivers and Streams as Drinking Water Supplies and Public Wells	1000 ft	1000 ft
Private Shallow Wells	250 ft	250 ft
Residences	300 ft	300 ft
Municipalities	1000 ft	300 ft

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TITLE 2

ZONING AGRICULTURAL AREA

ARTICLE 3

WIND ENERGY SYSTEMS (WES)

TITLE 2 – ARTICLE 3

SITING OF WIND ENERGY SYSTEMS (WES)

SECTION 2-301 - Purpose.

The purpose of this ordinance is to ensure that the placement, construction and modification of a Wind Energy System (WES) facility is consistent with the County's land use policies, to minimize the impact of WES facilities, to establish a fair and efficient process for review and approval of applications, to assure a comprehensive review of environmental impacts of such facilities, and to protect the health, safety and welfare of the County's citizens.

SECTION 2-302 - Federal and State Requirements.

All WES facilities 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 WES facilities.

SECTION 2-303 - Requirements for Siting Small Wind Energy Systems.

1. Standards.

A Small Wind Energy System shall be a Conditional Use in an Ag district subject to the following requirements:

A. Setbacks.

The minimum setback distance between each wind turbine tower and all surrounding property lines, overhead utility or transmission lines, other wind turbine towers, electrical substations, public roads and dwellings shall be equal to no less than one point one (1.1) times the system height, unless written permission is granted by each affected person.

B. Access.

All ground mounted electrical and control equipment shall be secured to prevent unauthorized access, and the tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight (8) feet above the ground.

C. Lighting.

A SWES shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.

D. Noise.

SWES facilities shall not exceed fifty-five (55) decibels of sound, as measured at the closest neighboring inhabited dwelling. The level, however, may be exceeded during short-term events such as utility outages or wind storms.

E. Appearance, Color, Finish.

The SWES shall remain painted or finished in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the conditional use permit.

F. Signs.

All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a SWES visible from any public road shall be prohibited.

G. Electrical Code Compliance.

A SWES shall comply with all applicable state construction and electrical codes, and the National Electrical Code.

H. Utility Notification.

No SWES 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. Off-grid systems shall be exempt from this requirement.

- 2. Permit Requirements.
 - A. Conditional Use.
 - i. A conditional use permit shall be required for the installation of SWES.
 - ii. The permit shall be accompanied by a plot plan which includes the following:
 - a) Property lines and physical dimensions of the property;
 - b) Location, dimensions, and types of existing major structures on the property;

- c) Location of the proposed SWES;
- d) The right-of-way of any public road that is contiguous with the property;
- e) Any overhead and underground utility lines;
- f) Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type (monopole, lattice, guyed);
- g) Tower foundation blueprints or drawings;
- h) Tower blueprint or drawing;
- i) Proof of notification to the utility in the service territory in which the SWES is to be erected.
- j) The status of all necessary interconnection agreements or studies.
- B. Expiration.
 - i. A permit issued pursuant to this ordinance shall expire if:
 - a) The SWES is not installed and functioning within twenty-four (24) months from the date the permit is issued; or
 - b) The SWES is out of service or otherwise unused for a continuous 12-month period.
- C. Abandonment.
 - i. A SWES that is out-of-service for a continuous 12-month period will be deemed to have been abandoned. The Board may issue a Notice of Abandonment to the owner of a SWES that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The Board shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the SWES has not been abandoned.
 - ii. If the SWES is determined to be abandoned, the owner of the SWES shall remove the wind generator from the tower at the Owner's sole expense within three (3) months of receipt of Notice of Abandonment. If the owner fails to remove the wind generator from the tower, the Board may pursue legal action to have the wind generator removed at the owner's expense.

SECTION 2-304 - Requirements for Siting Large Wind Energy Systems.

A Large Wind Energy System shall be a Conditional Use in an Ag district subject to the following requirements:

1. 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 LWES.

2. Topsoil Protection.

The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.

3. 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.

4. Livestock Protection.

The permittees shall take precautions to protect livestock on the LWES site from project operations during all phases of the project's life.

5. Fences.

The permittees shall promptly replace or repair all fences and gates removed or damaged by project operations during all phases of the project's life unless otherwise negotiated with the fence owner.

- 6. Roads.
 - A. Public Roads.

Prior to commencement of constructions, the permittees shall identify all state, county or township "haul roads" that will be used for the WES 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 practicable, existing roadways shall be used for all activities associated with the WES. Where practicable, 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 arrangements with the appropriate state, county or township governmental body having jurisdiction over approved haul roads for construction of the WES for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and WES components. The permittees shall notify the County Zoning Office of such arrangements.

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 Class 5 gravel or similar material. Access roads shall avoid crossing streams and drainage ways wherever possible. If access roads must be 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.

C. 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.

7. Control of Dust.

The permittee shall utilize all reasonable measures and practices of construction to control dust during construction.

8. 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 Office. 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 that uses native plant species 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 bathers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.

9. Setbacks.

A. LWES shall meet the following minimum spacing requirements.

- i. Distance from currently occupied off-site residences, business and public buildings shall be not less than 2500 feet unless a waiver is obtained. In any case they shall not be less than 1000. Distance from the residence of the landowner on whose property the tower(s) are erected shall be not less than 1000 feet or one point one (1.1) times the system height, whichever is greater. For the purposes of this section only, the term "business" does not include agricultural uses.
- Distance from right-of-way (ROW) of public roads shall be not less than five hundred (500) feet or one point one (1.1) times the system height, whichever is greater.
- iii. Distance from any property line shall be not less than five hundred (500) feet or one point one (1.1) times the system height, whichever is greater, unless appropriate easement has been obtained from adjoining property owner.
- 10. Electromagnetic Interference.

The permittees shall not operate the LWES 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 LWES or its operation, the permittees shall take the measures necessary to correct the problem.

11. 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.

12. Turbine Spacing.

The turbines shall be spaced no closer than is allowed by the turbine manufacturer in its approval of the turbine array for warranty purposes. 13. Footprint Minimization.

The permittees shall design and construct the WES so as to minimize the amount of land that is impacted by the WES. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers and monitoring systems shall to the extent practicable be mounted on the foundations used for turbine towers or inside the towers unless otherwise allowed by the landowner on whose property the LWES is constructed.

14. Electrical Cables.

The permittees shall place electrical lines, known as collectors, and communication cables underground when located on private property except when total distance of collectors from the substation require an overhead installation due to line loss of current from an underground installation. This paragraph does not apply to feeder lines.

15. Feeder Lines.

The permittees shall place overhead electric lines, known as feeders, on public rights-of-way if a public right-of-way exists or immediately adjacent to the public right-of-way on private property. Changes in routes may be made as long as feeders remain on public rights-of-way or immediately adjacent to the public right-of-way on private property and approval has been obtained from the governmental unit responsible for the affected right-of-way. 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(s) negotiated. The permittees shall submit the site plan and engineering drawings for the feeder lines to the Board before commencing construction.

16. Height from Ground Surface.

The minimum height of blade tips at their lowest possible point shall be twenty-five (25) feet above grade.

- 17. Towers.
 - A. Color and Finish.

The finish of the exterior surface shall be non-reflective or matte.

B. All towers shall be singular tubular design, unless approved by the Board.

18. Noise.

Noise level produced by the LWES shall not exceed 55 decibels of sound at the perimeter of occupied residences existing at the time the permit application is filed, unless a signed waiver or easement is obtained from the owner of the residence.

19. Permit Expiration.

The permit shall become void if no substantial construction has been completed within 2 years of issuance.

Required Information for Permit Application.

- 1. Boundaries of the site proposed for LWES and associated facilities on United States Geological Survey Map or other map as appropriate.
- 2. Map of easements for LWES.
- 3. Map of occupied residential structures, business and public buildings within one half mile of the proposed LWES site boundaries.
- Preliminary map of sites for LWES, access roads and utility lines. Location of other LWES within five (5) miles of the proposed LWES site.
- 5. Project-specific environmental and cultural concerns (e.g. native habitat, rare species, and migratory routes). This information shall be obtained by consulting with the following agencies:
 - A. South Dakota Department of Game, Fish and Parks;
 - B. U.S. Fish and Wildlife Service; and
 - C. South Dakota State Historical Society.

Evidence of such consultation shall be included in the application.

- 6. Project schedule.
- 7. Mitigation measures.
- 8. Status of interconnection studies/agreements.
- 9. Pre-construction Filing. At least forty-five (45) days prior to commencement of construction, the applicant/permittee shall submit final maps depicting the approximate location of the proposed wind turbines, access roads and collector and feeder lines. Upon completion, the applicant shall also supply an "as-built" ALTA survey indicating that the

proposed facilities are in compliance with the setbacks in the permit.

Decommissioning.

1. Cost Responsibility.

The owner or operator of a LWES is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities. The decommissioning plan shall clearly identify the responsible party.

2. Useful Life.

A LWES is presumed to be at the end of its useful life if the facility generates no electricity for a continuous period of twelve (12) months. The presumption may be rebutted by submitting to the Board of Adjustment for approval of a plan outlining the steps and schedule for returning the LWES to service within twelve (12) months of the submission.

3. Decommissioning Period.

The facility owner or operator shall begin decommissioning a LWES facility within eight (8) months after the time the facility or turbine reaches the end of its useful life, as determined in 14(b). Decommissioning must be completed with eighteen (18) months after the facility or turbine reaches the end of its useful life.

4. Decommissioning Requirements.

Decommissioning and site restoration includes dismantling and removal of all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of fortytwo (42) inches; and removal of surface road material and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately before construction of the LWES. To the extent possible, the site must be restored and reclaimed to the topography and topsoil quality that existed just prior to the beginning of the construction of the commercial wind energy conversion facility or wind turbine. Disturbed earth must be graded and reseeded, unless the landowner requests in writing that the access roads or other land surface areas be retained.

5. Decommissioning Plan.

Prior to commencement of operation of a LWES facility, the facility owner or operator shall file with the Board of Adjustment the estimated decommissioning cost per turbine, in current dollars at the time of the application, for the proposed facility and a decommissioning plan that describes how the facility owner will ensure that resources are available to pay for decommissioning the facility at the appropriate time. The Board of Adjustment shall review a plan filed under this section and shall approve or disapprove the plan within six (6) months after the decommissioning plan was filed. The Board of Adjustment may at any time require the owner or operator of a LWES to file a report describing how the LWES owner or operator is fulfilling this obligation.

6. Financial Assurance.

After the tenth (10th) year of operation of a LWES facility, the Board of Adjustment may require a performance bond, surety bond, letter of credit, corporate guarantee or other form of financial assurance that is acceptable to the Board of Adjustment to cover the anticipated costs of decommissioning the LWES facility.

7. Failure to Decommission

If the LWES facility owner or operator does not complete decommissioning, the Board of Adjustment may take such action as may be necessary to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the Board of Adjustment may take such action as may be necessary to decommission a LWES facility and seek additional expenditures necessary to do so from the facility owner.

TITLE 2

ZONING AGRICULTURAL AREA

ARTICLE 4

WIRELESS TOWERS AND TELECOMMUNICATIONS FACILITIES

TITLE 2 – ARTICLE 4

WIRELESS TOWERS AND TELECOMMUNICATIONS FACILITIES.

SECTION 2-401 - Purposes.

The general purpose of this Section is to regulate the placement, construction, and modification of Towers and Telecommunications Facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the County. Specifically, the purposes of this Ordinance are:

- 1. To regulate the location of Towers and Telecommunications Facilities in the County;
- 2. To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities;
- 3. To minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, sighting, landscaping, and innovative camouflaging techniques;
- To promote and encourage shared use/collocation of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;
- 5. To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new Tower structures to support antenna and Telecommunications Facilities;
- 6. To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and
- 7. To ensure that Towers and Telecommunications Facilities are compatible with surrounding land uses.

SECTION 2-402 - Development of Towers.

Wireless Towers and Telecommunication Facilities shall be a conditional use in an AG district subject to following requirements:

Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred and fifty (150) feet. Towers may be permitted in excess of one hundred and fifty (150) feet in accordance with "Criteria for Site Plan Development Modifications."

A development permit application to develop a Tower shall include:

- 1. The name, address, and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated. If the Applicant is not the Owner of the parcel of land upon which the Tower is situated, the written consent of the Owner shall be evidenced in the Application.
- 2. The legal description, folio number, and address of the parcel of land upon which the Tower is situated.
- 3. The names, addresses, and telephone numbers of all owners of other Towers or usable Antenna Support Structures within a one-half (1/2) mile radius of the proposed new Tower site, including County-owned property.
- 4. A description of the design plan proposed by the Applicant. Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The Applicant must demonstrate the need for Towers and why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the Applicant's telecommunications services.
- 5. A written statement from an Engineer(s) that the construction and placement of the Tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
- 6. Written, technical evidence from an Engineer(s) that the proposed structure meets the standards set forth in, "Structural Requirements," of this Ordinance.
- 7. Written, technical evidence from a qualified Engineer(s) that the proposed site of the Tower or Telecommunications Facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
- 8. The FCC has sole jurisdiction of the field of regulation of radiofrequency (RF) emissions and does not allow the County to condition or deny on the basis of RF impacts the approval of any Telecommunications Facilities (whether mounted on Towers or Antenna Support Structures) which meet FCC standards. In order to provide information to its citizens, the County shall make available upon request copies of ongoing FCC information and RF emission standards for Telecommunications Facilities transmitting from Towers or Antenna Support Structures. Applicants shall be required to submit information on the proposed power density of their proposed Telecommunications Facilities and demonstrate how this meets FCC standards.

9. No application shall be accepted from landowners or on property on which there are current or past unresolved violations outstanding.

The Board of Adjustment may require an Applicant to supplement any information that the Board considers inadequate or that the Applicant has failed to supply. The Board of Adjustment may deny an Application on the basis that the Applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the Board in a prompt manner and all decisions shall be supported in writing setting forth the reasons for approval or denial.

SECTION 2-403 - Setbacks.

- A. All Towers up to one hundred (100) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district.
- B. Towers in excess of one hundred (100) feet in height shall meet the following:
 - 1. Distance from existing off-site residences, business and public buildings shall be one thousand (1,000) feet. Distance from on-site or lessor's residence shall be five hundred (500) feet.
 - 2. Distance from public right-of-way shall be the height of the tower.
 - 3. Distance from any property line shall be the height of the tower.
- C. Setback requirements for Towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located.
- D. Setback requirements may be modified, as provided herein, when placement of a Tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the Tower.

SECTION 2-404 - Structural Requirements.

All Towers must be designed and certified by an Engineer to be structurally sound and, at minimum, in conformance with the Building Code, and any other standards outlined in this Ordinance. All Towers in operation shall be fixed to land.

SECTION 2-405 - Separation Requirements.

For the purpose of this Section, the separation distances between Towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed Tower.

Proposed Towers must meet the following minimum separation requirements from existing Towers or Towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Ordinance:

- 1. Monopole Tower structures shall be separated from all other Towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet.
- 2. Self-supporting lattice or guyed Tower structures shall be separated from all other self-supporting or guyed Towers by a minimum of fifteen hundred (1,500) feet.
- 3. Self-supporting lattice or guyed Tower structures shall be separated from all monopole Towers by a minimum of seven hundred and fifty (750) feet.
- 4. These separation requirements shall not be required of existing Towers.

SECTION 2-406 - Method of Determining Tower Height.

Measurement of Tower height for the purpose of determining compliance with all requirements of this Section shall include the Tower structure itself, the base pad, and any other Telecommunications Facilities attached hereto which extend more than twenty (20) feet over the top of the Tower structure itself. Tower height shall be measured from grade.

SECTION 2-407 - Illumination.

Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a Tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode lighting shall be requested from the FAA.

SECTION 2-408 - Exterior Finish.

Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.

SECTION 2-409 - Modification of Towers.

A Tower existing prior to the effective date of this Ordinance, which was in compliance with the Count's zoning regulations immediately prior to the effective date of this Ordinance, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this Section, except for Sections "Separation Requirements", "Certification and Inspections", and "Maintenance," provided:

B. The Tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within six (6) months of the completion of the modification or rebuild, additional Telecommunications Facilities comparable in weight, size, and

surface area to the discrete operating Telecommunications Facilities of any Person currently installed on the Tower.

- C. An Application for a development permit is made to the Board of Adjustment which shall have the authority to issue a development permit without further approval. The grant of a development permit pursuant to this Section allowing the modification or demolition and rebuild of an existing nonconforming Tower shall not be considered a determination that the modified or demolished and rebuilt Tower is conforming.
- D. The height of the modified or rebuilt Tower and Telecommunications Facilities attached thereto do not exceed the maximum height allowed under this Ordinance.

Except as provided in this Section, a nonconforming structure or use may not be enlarged, increased in size, or discontinued in use for a period of more than one hundred eighty (180) days. This Ordinance shall not be interpreted to legalize any structure or use existing at the time this Ordinance is adopted which structure or use is in violation of the Code prior to enactment of this Ordinance.

SECTION 2-410 - Certifications and Inspections.

The County or its agents shall have authority to enter onto the property upon which a Tower is located, between the inspections and certifications required above, to inspect the Tower for the purpose of determining whether it complies with this ordinance and all other construction standards provided by federal and state law.

The County reserves the right to conduct such inspections at any time, upon reasonable notice to the Tower owner. All expenses related to such inspections by the County shall be borne by the Tower owner.

SECTION 2-411 - Maintenance.

Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

Tower owners shall install and maintain Towers, Telecommunications Facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.

1. All Towers, Telecommunications Facilities, and Antenna Support Structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any Person.

- 2. All maintenance or construction of Towers, Telecommunications Facilities, or Antenna Support Structures shall be performed by licensed maintenance and construction personnel.
- 3. All Towers shall maintain compliance with current RF emission standards of the FCC.
- 4. In the event that the use of a Tower is discontinued by the Tower owner, the Tower owner shall provide written notice to the County of its intent to discontinue use and the date when the use shall be discontinued.

SECTION 2-412 - Criteria for Site Plan Development Modifications.

Notwithstanding the Tower requirements provided in this Ordinance, a modification to the requirements may be considered by the Board of Adjustment as a Conditional use in accordance with the following:

- 1. In addition to the requirement for a Tower Development Permit Application, the Application for Modification shall include the following:
 - A. A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.
 - B. A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification.
 - C. A technical study that documents and supports the criteria submitted by the Applicant upon which the request for modification is based. The technical study shall be certified by an Engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.
 - D. For a modification of the setback requirement, the Application shall identify all parcels of land where the proposed Tower could be located, attempts by the Applicant to contract and negotiate an agreement for collocation, and the result of such attempts.
 - E. The Board of Adjustment may require the Application to be reviewed by an independent Engineer under contract to the County to determine whether the antenna study supports the basis for the modification requested. The cost of review by the County's Engineer shall be reimbursed to the County by the Applicant.

- 2. The Board of Adjustment shall consider the Application for Modification based on the following criteria:
 - A. That the Tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.
 - B. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.
 - C. In addition, the board may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts which arise in connection with the approval of the modification.

In addition to the requirements of subparagraph (1) above, in the following cases, the Applicant must also demonstrate, with written evidence, the following:

- 3. In the case of a requested modification to the setback requirement, that the setback requirement cannot be met on the parcel of land upon which the Tower is proposed to be located and the alternative for the Person is to locate the Tower at another site which is closer in proximity to a residentially zoned land.
- 4. In the case of a request for modification of the separation requirements from residential use of land, if the Person provides written technical evidence from an Engineer(s) that the proposed Tower and Telecommunications Facilities must be located at the proposed site in order to meet the coverage requirements of the Applicant's wireless communications system and if the Person is willing to create approved landscaping and other buffers to screen the Tower from being visible to residentially used property.
- 5. In the case of a request for modification of the height limit for Towers and Telecommunications Facilities or to the minimum height requirements for Antenna Support Structures, that the modification is necessary to:
 - A. Facilitate collocation of Telecommunications Facilities in order to avoid construction of a new Tower; or
 - B. To meet the coverage requirements of the Applicant's wireless communications system, which requirements must be documented with written, technical evidence from an Engineer(s) that demonstrates that the height of the proposed Tower is the minimum height required to function satisfactorily, and no Tower that is taller than such minimum height shall be approved.

SECTION 2-413 - Abandonment.

If any Tower shall cease to be used for a period of three hundred sixty-five (365) consecutive days, the Beadle County zoning officer shall notify the Owner, with a copy to the Applicant, that the site will be subject to a determination by the Board of Adjustment that such site has been abandoned. The Owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence that the Tower has been in use or under repair during the period. If the Owner fails to show that the Tower has been in use or under repair during the period, the Board of Adjustment shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the Owner shall, within seventy-five (75) days, dismantle and remove the Tower.

To secure the obligation set forth in this Section, the Applicant [and/or Owner] may be required to post a bond upon application.

TITLE 3

ZONING LAKE FRONT RESIDENTIAL
LAKE FRONT RESIDENTIAL

ARTICLE 1

LAKE FRONT RESIDENTIAL (R-3)

TITLE 3 - ARTICLE 1

LAKE FRONT RESIDENTIAL (R-3)

SECTION 3-101 - Intent.

The intent of the Lake Front Residential District (R-3) is to provide for residential uses of shoreline land without altering natural surroundings of the District.

SECTION 3-102 - Permitted Principal Uses and Structures.

- 1. Single family residential
- 2. Mobile homes, excluding mobile home parks, as defined herein.
- 3. Modular homes

SECTION 3-103 - Conditional Uses.

After the provisions of this Ordinance relating to a conditional use have been fulfilled, the Board of Adjustment may permit as conditional uses in Lake Front Residential Districts:

- 1. Golf courses and country clubs;
- 2. Resorts;
- 3. Grocery Stores;
- 4. Sporting goods stores;
- 5. Restaurant/Lounge;
- 6. Motel/Bed & Breakfast; and
- 7. Home Occupations.

SECTION 3-104 - Permitted Accessory Uses and Structures.

Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of the district.

SECTION 3-105 - Minimum Lot Requirements.

All new platted lots shall have a depth of not less than one hundred fifty (150) feet. The minimum lot road frontage shall not be less than seventy-five (75) feet in width.

SECTION 3-106 - Minimum Setback Requirements.

- 1. Each structure shall be set back not less than thirty (30) feet or the average setback in alignment with the adjoining property main structure from a normal high watermark. The normal high water mark, as set by the Department of Environment and Natural Resources, for Lake Byron is 1250.0 feet above mean sea level.
- 2. The road or front yard setback shall not be less than fifteen (15) feet from the property line, not from the public-right of-way or center of road.
- 3. Each side yard shall not be less than seven (7) feet.
- 4. Lots that do not have shoreline frontage shall have a frontage width of not less than seventy-five (75) feet and a depth of not less than one hundred fifty (150) feet.

SECTION 3-107 - Building or Structure Depth.

Any building or structure except boathouses, piers and docks shall be placed at an elevation such that the lowest floor, including a basement, is three (3) feet above the highest known water level. In locations where sufficient data on known high water levels are not available, the elevation of the line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize before construction is begun.

Cabins/residences, sheds, and enclosed porches will all need to meet the thirty foot (30) or average setback requirements. Plot plans will be required to be submitted to the Equalization Office for approval prior to a building permit being issued. Building permits must be obtained before any construction begins.

All structures moved into or within the Lake Front Residential Zone will require a moving permit, and the property will be posted, neighbors within 150' will be notified and a public hearing will be held by the Board of Adjustment.

For those properties where variances have been approved for setbacks closer than allowed in the ordinance the County will be held harmless.

SECTION 3-108 - Private Sewage Disposal Systems.

All private sewage disposal systems will comply with U.S. Environmental Protection Agency regulations and South Dakota Law. All residences and businesses will file a septic system plan with the Beadle County equalization office. The Beadle County zoning administrator can provide copies of the state regulations that explain installation and inspection requirements for septic systems.

Minimum lot sizes for septic systems are as follows;

1. Twenty thousand (20,000) square feet for lots that have a public water supply and forty-three thousand five hundred sixty (43,560) square feet for lots that have a well.

Structures built on these lots must meet the setbacks established by the Department of Environment and Natural Resources. Lots under twenty thousand (20,000) square feet will be required to have a sealed holding tank(s) only.

Existing septic tanks and drain-fields (as of January 1, 2011) on lots with an area of less than twenty thousand (20,000) square feet are considered nonconforming uses and shall not be allowed to be replaced or repaired after the adoption of this ordinance.

Prior to lake property being transferred, the septic system will need to be inspected by an individual appointed by the Beadle County Zoning Administrator.

SECTION 3-109 - Permits Required.

No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the County Zoning Administrator. Additionally, all structures moved into the LFR District must be brought up to code within one (1) year of permit issuance or shall be removed by the owner of such property. Code will follow the same guidelines as the City of Huron, as adopted by the Beadle County Commission. Failure of compliance shall constitute a violation of this ordinance.

SECTION 3-110 - Additional Requirements.

- 1. Platting Required: All lots within this district shall be platted.
- 2. Outside Storage Next to "R" District: Within any "B-3" general business district, any use which requires uncovered outside storage and/or open sales lots and is located adjacent to land or uses which are zoned Residential shall be enclosed by a solid wall or opaque fence not less than six feet in height erected along the lot line except along abutting required front yards. Outside storage of materials, other than outside display of goods for sale, shall be enclosed by a solid wall or fence not less than six (6) feet in height and such uses shall not be located less than one hundred (100) feet from any "R" district.

SECTION 3-111 - Variances.

Requests for variances or conditional use permits in the "B-3" general business district will be heard by the joint planning commission, after notification of the adjoining property owners by mail and posting of the property. Notice of such hearing shall be in the same form and manner as is required in response to any other zoning variance. Recommendations provided by the joint planning commission will be forwarded to city and county Board of Adjustment for their consideration and action.

SECTION 3-112 - Protection of Natural Waterways.

No building or construction shall be permitted within one hundred feet of the high water mark of natural water drainage ways, nor shall any such building or construction be permitted within the flood-prone area of the James River. Flood hazard boundary maps are available at the Beadle County Director of Equalization Office in the Beadle County Courthouse, at the Beadle County Emergency Manager's Office and at the city planning and inspection office.

SECTION 3-113 - Minimum Shelterbelt Setback.

Shelterbelts, field belts, and living snow fence consisting of one or more rows when parallel to the right-of-way shall be set back a minimum of one hundred (100) feet from the center of the road. Existing shelter belts are exempt from minimum setback requirements. Any new or replacement shelterbelts should follow the minimum requirements if surrounding area allows it.

SECTION 3-114 – Private Sewage Disposal Systems.

All private sewage disposal systems will comply with Department of Environmental Protection Agency regulations, and their updates as promulgated in Chapter 34:04:01 General Authority 46-25-107; Law Implemented 46-25-28 through 46-25-47. All residences and businesses will file a septic system plan with the Beadle County Equalization Office. The city planning and inspections office and Beadle County zoning administrator can provide copies of the state regulations that explain installation and inspection requirements for septic systems.

All sewage disposal systems are to be installed by a certified contractor. If certified owner installed, it will be up to the discretion of the Beadle County Planning Commission to have the system inspected. Individuals will be required to submit a plot plan of the septic system to the Beadle County Planning Commission, for approval prior to installation. Violations will be reported to the South Dakota Department of Environment and Natural Resources.

SECTION 3-115 - Right to Farm Covenant.

Prior to receiving a building permit for new residential structure the applicant for the permit must sign and file in the register of deeds office a Right to Farm Covenant contained in this ordinance.

ZONING RURAL MUNICIPALITY

RURAL MUNICIPALITIES

ARTICLE 1

RURAL MUNICIPALITY RESIDENTIAL DISTRICT (R-2)

TITLE 4 - ARTICLE 1

RURAL MUNICIPALITY RESIDENTIAL DISTRICT (R-2)

SECTION 4-101 - Intent.

The intent of the Rural Municipality Residential District is to provide for residential uses of all types and other compatible uses in a pleasant and stable environment. This shall be used within communities with a population of 5,000 or less.

SECTION 4-102- Permitted Uses.

Within any "R-2" one family use district, no structure shall be used except for one or more of the following uses:

- 1. One family detached dwellings;
- 2. Public parks and playgrounds;
- 3. Child care facilities, Class I;
- 4. Modular home as defined in Title 1 Article 10;

SECTION 4-103- Conditional Uses.

Within any "R-2" one family use district, no structure or land shall be used for the following uses except by conditional use permit:

- 1. Public and parochial schools which teach a curriculum similar to public schools provided;
 - a. No building shall be located within fifty feet of any lot line of an abutting lot in an "R" use district, and
 - b. A fence shall be erected along the boundary line which is common with private property not owned by the school;
- 2. Churches including those related structures located on the same site which are an integral part of the church proper, convents or homes for persons related to a religious function on the same site provided no building shall be located within fifty feet of any lot line of an abutting lot on an "R" district;
- 3. Municipal buildings and utility structures subject to the following:
 - a. Water pump houses and sanitary sewage lift stations which if not located below grade on a landscaped site shall be in a building which conforms to yard requirements and architectural style of the neighborhood,
 - b. Gas regulator stations, electric power regulator stations and telephone regulator stations, which if not located below grade on a landscaped site shall be in a building which conforms to yard requirements and architectural style of the neighborhood. Should the structure require fencing, the fence shall be located in conformance to all yard requirements,
 - c. Water towers shall be so located as to conform to all yard requirements,

- d. Electric power transmission line towers shall be so located as to share the right-ofway or be directly abutting rights-of-way for railroads or major thoroughfares,
- e. Park buildings, provided no building is less than fifty feet from a lot line of an abutting lot line in an "R" district,
- f. Public transportation shelters which are open may be erected to within one foot of the public right-of-way;
- 4. Golf courses, country clubs, tennis clubs, swimming pools serving more than one family provided:
 - a. No principal buildings are within fifty feet of a lot line in an "R" district,
 - b. "Golf course" means one averaging one hundred fifty yards per hole of more with not less than five holes,
 - c. "Country club" shall have at least a nine-hole golf course,
 - d. All golf courses shall provide a link fence along the boundaries common to private land,
 - e. Tennis clubs shall not provide lighted courts after eleven p.m., and
 - f. Swimming pools shall not be nearer than twenty-five feet to a lot line in an "R" district;
- 5. Greenhouses and vegetable stands selling products grown on the premises;
- 6. Operation of through trains, but not switching, storage or other railroad operations;
- 7. Nursing Homes;
- 8. Medical Facilities;
- 9. Rental Storage Units;
- 10. Mobile Home Parks.

SECTION 4-104- Permitted Accessory Uses.

Within the "R-2" one family district the following uses shall be permitted accessory uses:

- 1. Private garages, parking space, carport for passenger cars and for one straight truck not to exceed twenty-five thousand GVW and truck tractors, when owned by the occupant of the dwelling;
- 2. Accessory buildings other than private garages not to exceed two hundred square feet;
- 3. Private swimming pool and tennis court provided such pool is adequately fenced and located not less than ten feet from the lot line;
- 4. Home occupation (requires certificate of occupancy);
- 5. Signs, as regulated here in;
- 6. Buildings temporarily located for purposes of construction on the premises for a period not to exceed time normally necessary for such construction;

- 7. Gardening and other horticultural uses;
- 8. Decorative landscape features;
- 9. Keeping of not more than two boarders or roomers by resident family;
- 10. Garage sales, provided that no sale shall continue for more than two days and frequency shall not be greater than twice a year. A "garage sale," for purposes of this title, means the display of used goods and/or salesmen's samples and sale of the goods on a property customarily used as a residence. The persons conducting the sale shall be residents of the immediate neighborhood.

SECTION 4-105- Minimum/Maximum Requirements.

Requirements shall be as follows:

- 1. There shall be a front yard setback of not less than a depth of thirty (30) feet. There shall be a rear yard setback of not less than a depth of seven (7) feet. Each side yard setback shall not be less than seven (7) feet. All distances shall be measured from the outer edge of the property line. Front yard and side yard setbacks adjacent to a road right-of-way shall be not less than thirty (30) feet.
- 2. No structure or building shall exceed three stories or thirty-five feet, whichever is the lesser in height;
- 3. A side yard abutting on a street shall not be less than thirty feet in width;
- 4. The following minimum requirements shall be observed subject to the additional requirements, exceptions and modifications as set forth in this section.
 - a. The minimum lot width for a one story structure shall by sixty feet with a front and rear yard setback of thirty feet and a side yard setback (not adjacent to a public road) shall be seven feet;
 - b. The minimum lot width for a two story structure shall be sixty feet with a front and rear yard setback of thirty feet and a side yard setback (not adjacent to a public road) shall be nine feet;
 - c. The minimum lot width for a three story structure shall be sixty feet with a front and rear yard setback of thirty feet and a side yard setback (not adjacent to a public road) shall be eleven feet.
- 5. All lots within this district shall be platted.
- 6. All such lots shall provide two side yards.

SECTION 4-106- Dwelling Units.

The following minimum area requirements for dwelling units in this zoning classification shall be as follows:

1. Single family detached dwelling shall contain at least seven hundred square feet of floor area, five hundred square feet of which shall be on the first floor.

RURAL MUNICIPALITIES

ARTICLE 2

RURAL MUNICIPALITY INDUSTRIAL DISTRICT (I-3)

TITLE 4 - ARTICLE 2

RURAL MUNICIPALITY INDUSTRIAL DISTRICT (I-3)

SECTION 4-201 – Intent.

The intent of the Rural Municipality Industrial District (I-3) is to provide space for certain types of industrial, manufacturing, warehousing or storage operations which are compatible to adjoining districts in a community with a population of 5,000 or less. Such uses generally require open storage of materials or goods either before, during, or after the manufacturing process but are of a low noise or nuisance level. Land designed for this District should be located in relation to the thoroughfare network of the community as well as rail if required and designed to not disrupt normal traffic flows. Because of increasing technological developments, extensive lists of permitted uses are not practical.

SECTION 4-202- Permitted principal uses.

Within any Rural Municipality "I-3" industrial district, no structure or land shall be used except for one or more of the following uses for the purpose of conducting any of the following uses, sale, servicing, manufacture, fabrication or processing of any of the following articles or products:

- (1) Artificial limbs;
- (2) Auction houses;
- (3) Automobile painting, upholstering, tire recapping, repairing, body and fender repairing;
- (4) Apparel;
- (5) Batteries;
- (6) Bag, carpet and rag cleaning, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust;
- (7) Bakery goods;
- (8) Bedsprings and mattresses;
- (9) Belting and chain conveyors;
- (10) Bicycles and toys;
- (11) Blacksmithing;
- (12) Boat building, repair, and storage;
- (13) Building materials yard;
- (14) Cabinet and carpentry shop, electrical service, heating, plumbing, upholstery, air condition shop;
- (15) Camera and photographic supplies;
- (16) Canning or packaging of food-stuff;

- (17) Canvas and canvas products;
- (18) Ceramic products manufacturing, using only previously pulverized clay and kilns fired only by electricity or gas;
- (19) Cigarettes and tobacco products;
- (20) Cork and cork products;
- (21) Creameries, dairy plants, ice cream plants;
- (22) Drug, cosmetics, pharmaceuticals and toiletries;
- (23) Electric motors, generators, transformers and other controls including rebuilding;
- (24) Engraving and printing;
- (25) Felt products;
- (26) Parking lots;
- (27) Products made of glass, cellophane, leather, feathers, fur, precious metals, hair, horn, paper, plastics, shell, wax, wood, and yarn products, provided they are produced from such previously prepared materials;
- (28) Heating, washing, cooling, drying, cleaning process;
- (29) Television, radio, appliances, sheet metal work, ornamental iron, welding, and stamping;
- (30) Ice, cold storage plants, bottling works;
- (31) Laundries;
- (32) Lumber yards;
- (33) Machine shops;
- (34) Metal polishing and plating;
- (35) Motor fuel station with minor repair;
- (36) Musical instruments;
- (37) Novelties;
- (38) Paper products, boxes, bags, envelopes, etc.;
- (39) Packaging;
- (40) Railroad sidings, spurs and depots;
- (41) Ready-mix, concrete block and blacktop plants;
- (42) Rental service;
- (43) Rental storage units;
- (44) Restaurant;
- (45) Rubber, synthetic rubber and plastic products;
- (46) Shoes, boots, footwear;

- (47) Sporting equipment;
- (48) Tools, hardware and small metal products;
- (49) Trade school;
- (50) Warehousing and office wholesaling.

SECTION 4-203-Conditional uses.

Within any "I-3" industrial district, no structure or land shall be used for the following uses except by conditional use permit:

- (1) Research laboratories;
- (2) Public utility structure;
- (3) Airports, heliports;
- (4) Open sales lot
- (5) Radio, television or transmission towers;
- (6) Material processing in relation to mining;
- (7) Structures in excess of four stories or fifty feet, whichever is less,

SECTION 4-204-Lot area, height, lot widths, and yard requirements.

Lot area, lot width, height and yard requirements shall be as follows:

- 1. The floor-area ratio within the "I-3" district shall not exceed 1.0;
- 2. Side yard abutting a street or alley on a corner lot shall be not less than fifteen feet in width;
- 3. Where a use has railroad trackage abutting the interior side or rear of a site, a variance may be granted to the side or rear yard requirements to provide for a railroad loading facility;
- 4. All outside storage operations shall be enclosed within an approved enclosure
- 5. There shall be a twenty-foot-wide setback between any "I-3" use (including permitted, conditional, accessory uses or structures or on-site parking) and the lot line of any adjacent "R" district lot. For the purposes of this subsection, outside storage, signage, parking, fencing, parking, loading dock(s), driveways and other similar uses that may be located outside of the buildings on the site are considered industrial uses and must be set back from an adjacent residential property line;
- 6. The following minimum requirements shall be observed subject to the additional requirements, exceptions and modifications as set forth in these ordinances.
 - a. Lot area: ten thousand square feet, if connected to municipal water and sewer;
 - b. Lot width: eighty feet;
 - c. Front yard depth: fifteen feet;

- d. Side yard width: every lot, which does not abut on a public street or alley, shall have side yards of twelve feet or more. If parking is provided in any side yard then the side yard shall be at least twenty feet in depth plus driving lane if required. If a side yard is adjacent to an "R" district, then the side yard setback shall be at least twenty-five feet between any "I" use on the site and the adjacent property line. For the purposes of this section, outside storage, signage, fencing, parking, loading dock(s), driveways and other similar uses that may be located outside of the buildings on the site are considered industrial uses and must be set back from an adjacent residential property line as noted here;
- e. Rear yard depth: if the building has no openings on the alley side or abutting rear lot line, and off-street loading is provided to the side or front of the building, the building may extend to within twelve feet of the lot line; or if no alley exists the building may extend to within one-half the height of the building or twelve feet from the lot line, whichever is greater; or if the abutting lot is in the "B" or "I" district, the building may extend to within twelve feet of the lot line. If the building is to have openings, the building may extend to within twelve feet of the lot line. If the building is to have openings, the line is zoned "B" or "I." If an area zoned "R" is located across the property line adjacent to the rear yard, then all "I" related uses shall be set back at least twenty-five feet from the adjacent property line. For the purposes of this subsection, outside storage, signage, parking, fencing, loading dock(s), driveways and other similar uses that may be located outside of the buildings on the site are considered industrial uses and must be set back from an adjacent "R" zone;
- f. Minimum lot size shall be 5 acres unless connected to maniple water and sewer.
- In no case may any structure except for fences be constructed in utility easement areas along front, side or rear property lines;
- 8. If a detached accessory building is constructed three feet (or less by variance) from the property line, the roof overhang on the building will be limited to one foot including storm water gutters.

SECTION 4-205 - Variances.

Requests for variances or conditional use permits in the "B-3" general business district will be heard by the joint planning commission, after notification of the adjoining property owners by mail and posting of the property. Notice of such hearing shall be in the same form and manner as is required in response to any other zoning variance. Recommendations provided by the joint planning commission will be forwarded to city and county Board of Adjustment for their consideration and action.

SECTION 4-206 - Protection of Natural Waterways.

No building or construction shall be permitted within one hundred feet of the high water mark of natural water drainage ways, nor shall any such building or construction be permitted within the flood-prone area of the James River. Flood hazard boundary maps are available at the Beadle County Director of Equalization Office in the Beadle County Courthouse, at the Beadle County Emergency Manager's Office and at the city planning and inspection office.

SECTION 4-207 - Minimum Shelterbelt Setback.

Shelterbelts, field belts, and living snow fence consisting of one or more rows when parallel to the right-of-way shall be set back a minimum of one hundred (100) feet from the center of the road. Existing shelter belts are exempt from minimum setback requirements. Any new or replacement shelterbelts should follow the minimum requirements if surrounding area allows it.

SECTION 4-208 – Private Sewage Disposal Systems.

All private sewage disposal systems will comply with Department of Environmental Protection Agency regulations, and their updates as promulgated in Chapter 34:04:01 General Authority 46-25-107; Law Implemented 46-25-28 through 46-25-47. All residences and businesses will file a septic system plan with the Beadle County Equalization Office. The city planning and inspections office and Beadle County zoning administrator can provide copies of the state regulations that explain installation and inspection requirements for septic systems.

All sewage disposal systems are to be installed by a certified contractor. If certified owner installed, it will be up to the discretion of the Beadle County Planning Commission to have the system inspected. Individuals will be required to submit a plot plan of the septic system to the Beadle County Planning Commission, for approval prior to installation. Violations will be reported to the South Dakota Department of Environment and Natural Resources.

RURAL MUNICIPALITIES

ARTICLE 3

COMMERCIAL DISTRICT (C)

TITLE 4 - ARTICLE 3

COMMERCIAL DISTRICT (C)

SECTION 4-301 - Intent.

The intent of the Rural Municipality Commercial District (C) is to provide a commercial area for those establishments serving the general shopping needs of the trade area and in particular, those establishments customarily oriented to the pedestrian shopper in a community with a population of 5,000 or less. The grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental and cultural activities and to provide neighborhood commercial convenience areas.

SECTION 4-302 - Permitted Uses and Structures.

The following uses and structures shall be permitted in the Commercial District (C):

- 1. All retail sales and services;
- 2. Finance, insurance, and real estate services;
- 3. Lodges and fraternal organizations;
- 4. Wholesale trade;
- 5. Restaurants and lounges;
- 6. Public buildings and grounds;
- 7. Churches, welfare, and charitable services;
- 8. Rental storage units.
- 9. Those accessory uses and structures normally appurtenant to the permitted uses and structures when established within the space limits of this District.

SECTION 4-303 - Conditional Uses.

After the provisions of this Ordinance relating to Conditional Uses have been fulfilled, the County Planning Commission may permit as conditional uses in the Commercial District (C):

- 1. Grain Elevators;
- 2. Other uses which, in the opinion of the Board of Adjustment, are in the same general character as those enumerated in permitted uses;

- 3. Other trade and service uses which are similar to the permitted uses and which are in harmony with the intent of this Ordinance;
- 4. Structures containing both commercial and residential uses;

SECTION 4-304 - Minimum Lot Requirements.

The minimum lot area shall be two thousand four hundred (2,400) square feet if connected to municipal water and sewer. The minimum lot width shall be twenty-five (25) feet.

SECTION 4-305 - Minimum Yard Requirements.

All permitted structures located on the lot shall have a front yard setback of a least ten (10) feet, minimum side yard setback of ten (10) feet, and a minimum rear yard setback of twenty (20) feet.

SECTION 4-306 - Maximum Lot Coverage.

The maximum lot coverage for all buildings shall not be more than ninety percent (90%) of the total lot area.

RURAL MUNICIPALITIES

ARTICLE 4

HIGHWAY COMMERCIAL DISTRICT (HC)

TITLE 4 - ARTICLE 4

HIGHWAY COMMERCIAL DISTRICT (HC)

SECTION 4-401 - Intent.

The intent of the Rural Municipality Highway Commercial District (HC) is to provide commercial areas for communities with a population of 5,000 or less with establishments which can function most satisfactorily in an area directly related to major vehicular transportation route, and in so doing to establish appropriate locations along major streets and highways for highway and motor vehicle related retail and service establishments in locations which will not cause undue traffic congestion.

SECTION 4-402 – Uses Generally.

Within the "B-5" heavy highway commercial district, no structure or land shall be used except for one or more of the following uses:

SECTION 4-403 – Permitted Principal Uses.

Permitted principal uses shall be businesses providing the following sales and/or service:

- 1. Those uses permitted in Section 4-302 and as regulated therein except as herein amended;
- 2. Armory, exhibit hall;
- 3. Auto and truck sales and repair;
- 4. Auto wash provided each stall for a do-it-yourself type has two parking spaces and if this type is attendant operated parking space equal to fifteen minutes capacity of the facility;
- 5. Auto body and fender repair;
- 6. Boats and marine sales;
- 7. Bottling plant provided the gross floor area does not exceed six thousand square feet;
- 8. Cabinet and carpentry shop, electrical service, heating, plumbing upholstery, air condition shop;
- 9. Commercial greenhouses and nursery;
- 10. Diaper or general laundry service subject to the following requirements;
 - a. The plans for accommodating the sanitary sewer shall be approved by the city engineer;
 - b. Truck loading facilities shall be provided for at least two trucks
- 11. Dental laboratory;
- 12. Garden and landscape supplies;
- 13. Locker plant for frozen foods;
- 14. Locksmith and fix-it-shop;

- 15. Lumber and building accessories;
- 16. Motel, motor hotel provided the site shall contain not less than six hundred square feet per rental unit and one thousand square feet for each apartment and the site shall front on a major thoroughfare;
- 17. Motor fuel station including minor auto repairs;
- 18. Newspaper office including printing;
- 19. Optical and jewelry manufacturing;
- 20. Orthopedic and medical supplies, sales, repair and manufacture;
- 21. Pawn shop and used material;
- 22. Pet shop or commercial dog kennels (the keeping of three or more dogs, over two months of age on the premises shall constitute a kennel);
- 23. Physical culture and health club;
- 24. Picture framing;
- 25. Printing shop;
- 26. Public auction house;
- 27. Rental service;
- 28. Roller rinks, public dance hall, ice arenas;
- 29. Stone and monument sales;
- 30. Taxidermist;
- 31. Taxi terminal;
- 32. Tire and battery sales;
- 33. Tire recap service;
- 34. Trade school;
- 35. Veterinary animal hospital;
- 36. Wholesale office and warehouse.

SECTION 4-404 - Conditional Uses.

Within any highway commercial district, no structure or land shall be used for the following uses except by conditional use permit:

- 1. Drive-in businesses subject to the following requirements:
 - a. A fence of acceptable design not over six feet in height or less than four feet which is at least fifty percent closed shall be constructed along the property line or a planting strip not less than fifteen feet in width reserved and planted along the property line according to a planting plan approved by the building inspector when the use is abutting property in one of the "R" districts; such fence or planting shall

be adequately maintained. A fence or planting shall not be required within the required front yard;

- b. The entire area shall have a drainage system approved by the zoning administrator;
- c. The entire area other than that occupied by the structure or planting shall be surfaced with a material, which will control dust and drainage to the approval of the zoning administrator;
- d. A box curb at least six inches above grade shall separate the public walk from the lot except at approved entrances or exits;
- 2. Limited manufacture fabrication or processing of clean products;
- 3. Off-street parking lots
- 4. Open sales lots provided:
 - a. The lot is surfaced and graded according to a plan submitted by the applicant and approved by the zoning administrator;
 - b. That all lots on which vehicles are to be parked abutting the required front yard shall conform to the front yard requirements with a curb separating the parking area from the front yard;
 - c. That the assembly, repair, or manufacture of goods shall not occur within an open sales lot;
 - d. That all lots abutting a lot line of an "R" district shall have a six-foot, at least fifty percent closed fence, erected along the line except abutting required front yards;
 - e. That should the operation of the open sales lot be self-operated or automated in total or in part, a site plan shall be submitted indicating the location of such devices;
- 5. Parking ramps;
- 6. Public utility structures.

SECTION 4-405 – Permitted Accessory Uses.

Within the highway commercial district the following uses shall be permitted accessory uses:

1. Any incidental repair or processing necessary to conduct a permitted principal use provided the area does not exceed fifty percent of the floor area devoted to the principal use;

SECTION 4-406 – Minimum Requirements.

Minimum setbacks, lot area and maximum building height requirements shall be as follows:

- 1. Minimum side yard on the street side shall be not less than twenty feet or the height of the structure measured from the property line; whichever is greater;
- 2. Minimum side yard on the interior lot side shall be not less than twenty feet or onehalf the height of the structure, whichever is greater;

- 3. Minimum lot depth shall be three hundred feet;
- 4. Minimum lot area shall be ninety thousand square feet when connected to the public sewer system;
- 5. Minimum lot area shall be ninety thousand square feet when connected to a holding tank that provides for no release (in anticipation of connection to the public sewer system);
- 6. Minimum lot area shall be five acres when not connected to the public sewer system;
- 7. Minimum front yard shall be seventy-five feet;
- 8. Minimum rear yard shall be twenty feet or one-half the height of structure, whichever is greater;
- 9. Minimum lot frontage (width) shall be three hundred feet;

SECTION 4-407 - Lawful Use of Existing Structures and Property.

Any structure or use of property lawfully existing upon the effective date of the ordinance codified in this title may be continued at the size and in a manner of operation existing upon such date.