

Section 5-1111 – 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 5-1112 - Enforcement.

The enforcement of the "I-2" district within the joint jurisdictional area in Beadle County shall be the responsibility of the city and county zoning administrators under the authority of the Huron City Commission and the Beadle County Commission.

Section 5-1113 – 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.

Comprehensive Plans

Section 5-1201

The City of Huron and Beadle County have on file comprehensive plans for their respective jurisdictions—and this joint jurisdictional area falls within the scope of these comprehensive plans.

TITLE 6

DRAINAGE

DRAINAGE

TITLE 6 ARTICLE 1

SECTION 6 - 101 – Purpose.

This Ordinance is promulgated under specific statutory authority of Chapter 46A-10A of the South Dakota Codified Laws. It is the intent of this ordinance to monitor by regulation, the drainage activity or obstruction of drainage within Beadle County and to provide an impartial forum for the resolution of landowner drainage disputes.

The permit requirements of this ordinance are prospective in nature and are intended to facilitate communication prior to the construction or installation of drainage works. This Ordinance shall only be applicable and enforced in the unincorporated areas of Beadle County, South Dakota.

Determination or awarding damages associated with permitted drainage works is outside the scope of this Ordinance. Any permit to drain issued under this Ordinance constitutes permission to drain with respect to this Ordinance only. Any other State or Federal Conservation or water rights program or requirements must be met in addition to the requirements of this Ordinance.

SECTION 6 - 102 – Definitions.

For the purpose of this Ordinance, certain terms and words are hereby defined unless the context otherwise requires. The word shall is mandatory and not discretionary. Terms defined in SDCL 46A-10A-1 shall have the same meaning when used in this Ordinance.

1. Board – a board of county commissioners, as established in SDCL chapter 7-8;
2. Closed drain or blind drain - a man-made drain or drainage scheme utilizing pipes, tiles, or other materials and constructed in such a way that flow of water is not visible;
3. Coordinated drainage area - a defined geographic area containing one or more parcels of real property and established under the provisions of this chapter and chapter 46A-11 by a board or commission to provide a planned network or method of natural or man-made drainage, or both, to benefit all parcels of real property involved;
4. Dominant estate - any parcel of real property, usually at a higher elevation, which holds a common law or statutory legal right to drain water onto other real property;
5. Drainage map - any map adopted by resolution of the board that delineates the extent of county drainage, a drainage project, or a coordinated drainage area;
6. Drainage plan - a document which may illustrate by maps, charts, and other descriptive matter the policies of the board to interrelate all man-made and natural systems and activities relating to drainage under its jurisdiction;
7. Drainage scheme - a plan or system by which water is drained from one or more parcels of real property onto one or more parcels of real property;

8. Engineer - a professional, registered engineer;
9. Established water course - a fixed and determinate route, either natural or man-made, by which water has flowed from one parcel of real property to another and by which water has been discharged upon a servient estate for a period of time, on such a regular basis and in such quantities as to make it a predictable continuous activity;
10. Governing body - a board of county commissioners, a city council, or a city commission;
11. Intermittent Stream - a stream that only flows for part of the year and is marked on topographic maps with a line of blue dashes and dots. Also called seasonal stream;
12. Landowner or owner - any individual, firm, or corporation, public or private, or public agency, who has legal title to real property as shown by the records of the register of deeds of the county in which the real property is situated. If the real property is sold under a contract for deed and the contract is of record in the office of the register of deeds for the respective county, both the recorded owner of the real property and the purchaser as named in the contract for deed are deemed owners of the real property;
13. Legal drain - a drain or drainage scheme that:
 - A. Is vested under the provisions of this chapter and chapter 46A-11;
 - B. Has been constructed by a person or by a unit of government under the provisions of past or present law; or
 - C. Has been granted a drainage permit, if a permit is necessary under the provisions of this chapter and chapter 46A-11;
14. Municipality - a city or town, however organized, as defined in § 9-1-1;
15. Natural drain - a drainage system which operates as part of a natural water course, as defined in subdivision (15) of this section;
16. Natural water course - a fixed and determinate route by which water naturally flows from one parcel of real property to another due to the conformation of the land and by which water is discharged upon the land receiving the water. It is not necessary that the force of the flow of water be sufficient to form a channel having a well-defined bed or banks;
17. Official control - any ordinance, order, regulation, map, or procedure adopted by a board to regulate drainage;
18. Ordinance - any ordinance, as defined in subdivision 7-18A-1(2), adopted by a board to regulate drainage of both rural and urban areas to provide coordination of drainage projects, individual drainage efforts and drainage areas and to foster conformity with any county drainage plan;

19. Perennial Stream – a stream which flows continuously all year and is marked on topography maps by solid blue line;
20. Private drain - a drainage system or scheme designed, constructed, and maintained by a person primarily for his own benefit or a natural drain, whether or not actively maintained, that provides a benefit primarily to one person;
21. Rural or rural area - any territory outside a municipality as defined in § 9-1-1;
22. Servient estate - any parcel of real property, usually at a lower elevation, which is subject to a legal right allowing a dominant estate to drain water onto it;
23. Unit of local government - a municipality as defined in § 9-1-1, an irrigation district as defined in chapter 46A-4, a school district as defined in § 13-5-1, a water project district as defined in chapter 46A-18, a water user district as defined in § 46A-9-2, a township as defined in chapter 8-1, a sanitary district as defined in chapter 34A-5, a conservation district as defined in chapter 38-8 or other special district;
24. Vested right - a right of water drainage from one parcel of property to another which is settled or accrued to the property on the basis of state law;
25. Water management board - the state board created in § 1-40-15; and,
26. Wetland – has a predominance of hydric soils and is inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophilic vegetation typically adapted for life in saturated soil conditions.

SECTION 6 - 103 – Administration and Enforcement.

An administrative official, who shall be known as the Drainage Administrator and who shall be designated by the Board of County Commissioners, shall administer the Drainage Ordinance of Beadle County. The Drainage Administrator may be provided with the assistance of such other persons as the Board of County Commissioners may decide.

If the Drainage Administrator shall find that any of the provisions of the Drainage Ordinance of Beadle County, South Dakota are being violated, the Drainage Administrator shall inform the Board of County Commissioners. The person(s) responsible for such violations will subsequently be notified in writing, indicating the nature of the violation and indicating any action necessary to correct it.

SECTION 6 - 104 – Drainage Commission Established.

The Beadle County Drainage Commission is hereby established and designated as the Beadle County Drainage Board in accordance with SDCL 46A-10A-34. The Beadle County Drainage Board is hereby designated to be the Board of County Commissioners. The Beadle County Drainage Board shall adopt rules necessary for the conduct of its affairs and in keeping with the drainage ordinance of Beadle County, South Dakota. The Beadle County Drainage Board shall retain a record of all proceedings. All meetings shall be open to the public. A notice of each

meeting shall be published in the newspaper in general circulation. The Beadle County Drainage Board shall maintain minutes of its proceedings showing the vote of each member upon each question, or if absent or failure to vote, indicating such actions, all of which shall be of public record and filed with the Drainage Administrator. A majority attendance of the full membership is required to have a quorum and a majority vote of the quorum is required to decide in favor of any application or other matter before the Board. Any Beadle County Drainage Board member with a personal conflict of interest concerning any drainage dispute or permit application must abstain from voting on the decision of such a dispute or permit. Disputes, because of the placement, replacement, or modification of township road culverts or township roads, shall not be heard by the Beadle County Drainage Board and said disputes shall be taken directly to Circuit Court.

SECTION 6 - 105 – Permit Required.

It shall be unlawful to commence the excavation for or begin the construction or installation of drainage works until a permit has been issued by the Drainage Administrator or the Beadle County Drainage Board. The following work shall require a permit:

1. A permit is required before any individual or landowner may construct any type of drain (tiling, ditching, or waterway and associated appurtenances) for the purpose of draining water from a natural wetland or any artificially impounded water, or any series or combination thereof, having any possible or potentially substantial effect on the property of adjacent landowners, the environment, or the public as a whole.
2. A permit is required before any individual or landowner may drain by pumping any natural wetland or artificially impounded water, or any series or combination thereof having any possible or potentially substantial effect on the property of adjacent landowners, the environment, or the public as a whole.
3. A permit is required for a drainage project constructed pursuant to South Dakota Drainage Law Chapters 46A-10A and 46A-11.
4. A permit is required before any individual or landowner may modify or obstruct the drainage of any legal or natural drain (see definitions). Modification includes, but is not limited to, deepening, widening, obstruction, rerouting, or the extension of a drain. Obstruction includes, but is not limited to, man-made crossings.
5. A permit is required before any individual or landowner may fill any natural wetland, having any possible or potentially substantial effect on the property of adjacent landowners, the environment, or the public as a whole, for the purpose of causing the drainage of the wetland by elimination of the existing storage.
6. A permit is required for the process of pumping, the construction, modification, repair or improvement of any drainage work, or ditch, that results in water flowing into or across adjacent landowners and any public road right-of-way.

SECTION 6 - 106 – Expiration of Drainage Permit.

If the work described in any drainage permit has not commenced within two (2) years from the date of issuance thereof, said permit shall expire. Applicant may request (in writing) an extension from the Drainage Administrator. The Drainage Administrator may grant a one-time extension of one (1) year for a drainage permit. If work has not commenced at the end of the extension, a new application will be required.

SECTION 6 - 107 – Exceptions to Permits Required.

The provisions of 21A-05 shall not apply to any drain constructed or to be constructed under the direct and comprehensive supervision of the Army Corps of Engineers or the Bureau of Reclamation. Individuals shall notify the Drainage Administrator or the Beadle County Drainage Board of any exempt project being undertaken.

SECTION 6 - 108 – Filing Application.

Any individual or landowner desiring a drainage permit shall complete and file an application with the Drainage Administrator on a form approved by the Beadle County Drainage Board. The applicant shall provide a detailed site plan showing the location of the proposed construction. The site plan shall include a description of the type and size of the drain, and the location of the proposed outlet. It is recommended that, if available, a wetland determination from Natural Resources Conservation Service must be included with the application. If the application is incomplete, or if the information contained therein is insufficient to enable the Drainage Administrator or the Beadle County Drainage Board to make an informed decision on the application, the application will be returned to the applicant for completion. A non-refundable fee shall be charged for the filing of drainage permit applications when the applicant has obtained the written approval of all landowners within 1½ miles downstream from the drain outlet and within a ¼ mile buffer from the center of the drain to each side. A hearing will be required unless all required signatures from landowners as specified in the previous statement are included with the application. The non-refundable fee for a permit application requiring a hearing shall be charged. The application fee shall be interpreted to apply to each individual landowner where more than one landowner signs a single drainage permit application.

The Drainage Administrator or the Beadle County Drainage Board may request that the applicant provide a detailed survey prepared by a professional engineer or surveyor. The applicant, if requested, shall provide an engineering analysis showing the downstream impacts of the proposed drainage. The analysis may include, but not be limited to, a determination of the capacity of the drain and the receiving watercourse and a comparison of volume and timing of pre-drainage and post-drainage flows.

The permit for a drainage project constructed pursuant to SDCL Chapters 46A-10A and 46A-11 may encompass the entire assessed or benefited area. In order for a permit to encompass the entire assessed or benefited area, the project must be designed to accommodate the drainage of the entire assessed area and must be so stated in the application.

SECTION 6 - 109 – As Installed Map Required.

The contractor, installer, or landowner shall provide to the Drainage Administrator, the GPS data for installed tile in decimal degrees or degrees-minutes-seconds. Contractors or installers without GPS capabilities shall provide an as-installed map for the tile. This information shall be provided not more than 180 days from final date of installation.

SECTION 6 - 110 – Administrative Approval of Drainage Permit Applications.

The Drainage Administrator shall have the authority to grant or deny a drainage permit for the following projects. All other drainage permit applications shall be addressed by the Beadle County Drainage Board.

1. A proposed drainage project which outlets directly into Cain Creek, Foster Creek, James River, Pearl Creek (tributary to Cain Creek), Pearl Creek, Middle Pearl Creek, South Fork Pearl Creek, Sand Creek, Shue Creek, Silver Creek, Stony Run (tributary to Stony Run Lake), Stony Run (tributary to James River), or Turtle Creek, as delineated on the most recently published USGS 7.5 –minute topographic maps.
2. A proposed drainage project which outlets directly into a perennial stream or an intermittent stream not listed in subsection (1), provided that the intermittent stream is connected to a named stream as defined by the most recently published USGS 7.5 – minute topographic map. Furthermore, the township(s) and all downstream landowners for at least 1 ½ mile below the proposed outlet have signed the permit application indicating that they do not oppose the proposed drainage project.
3. A proposed drainage project that does not outlet into a perennial or intermittent stream, provided the applicant has obtained the written approval of the township(s) and all landowners within 1½ mile downstream from the drain outlet and within a ¼ mile buffer from the center of the drain to each side.
4. Routine Maintenance.

The Drainage Administrator shall have the authority to require waivers from other landowners if the potential impact of the proposed drainage extends a distance greater than 1 ½ mile.

SECTION 6 - 111 – Hearings Required.

A hearing is required for applications involving a Drainage Project outlined in 21A-05, 6-11- (3) of this Ordinance and all applications of statewide or inter-county significance.

A hearing is also required to decide on drainage complaints and disputes between landowners. A hearing and Beadle County Drainage Board approval is necessary for permit applications that cannot be approved by the Drainage Administrator because the applicant has failed to obtain the consensus of all affected persons or entities.

Any decision made by the Beadle County Drainage Board in order to settle a drainage dispute between landowners may be appealed to the Circuit Court.

The Beadle County Drainage Board may hold hearings on any applications at its discretion. The purpose of a hearing is to establish a record on which to make a decision as to whether the application to drain shall be granted, and if so, under what conditions, if any.

SECTION 6 - 112 – Emergency Drainage.

The requirements for a permit, hearings and notice thereon may be waived by a unanimous vote of the quorum of the Beadle County Drainage Board in order to facilitate emergency drainage. However, a permit shall be obtained and all hearings shall be conducted at the earliest opportunity if the drainage so created is to be permanent.

SECTION 6 - 113 – Notice of Hearing, Content.

For all drainage permit hearings required pursuant to this ordinance, the Beadle County Drainage Board shall, at the applicant's expense, publish notice in a newspaper in general circulation in the area of the proposed drainage, once a week for two (2) consecutive weeks. The final notice shall be published not more than thirty (30) days, nor less than one (1) day before the date set for the hearing. The Beadle County Drainage Board shall also give, at the applicants expense, notice by first class mail not more than thirty (30) days, nor less than ten (10) days from the date set for the hearing to:

1. All downstream landowners of within 1½ mile downstream from the drain outlet and within a ¼ mile buffer from the center of the drain to each side when draining into natural waterway; private drainage into a depression or low area with no natural outlet requires signatures from landowners within a ½ mile buffer area from the center of the area receiving the water.
2. Any county that would be affected by the water to be drained.
3. The state highway department, county highway department, municipal government, water district, and township board of supervisors for any proposed drainage that will affect the right-of-way of any highway or roadway.
4. Any person who has notified the Beadle County Drainage Board in writing of the person's objection to the drainage project proposed, and who has requested in writing notification of such hearing on the drainage project proposed.

The notice shall give the name and address of the applicant, the legal description of the land to be drained, the date, the time, and the location where the hearing will take place. Evidence that notice has been completed by the filing of a certificate setting forth the names and addresses of those receiving notice by mail shall be kept by the County Auditor.

SECTION 6 - 114 – Time for Determination.

Within thirty (30) days after a hearing required pursuant to this Ordinance, or at the earliest opportunity, the Beadle County Drainage Board shall make a determination on the application. For complex or unique applications, this time limit may be extended by the Beadle County Drainage Board. Following the determination, the Beadle County Drainage Board shall notify by mail the

applicant and all individuals or landowners making appearances with respect to the application, of the determination. This notice must be accompanied by the basis on which the determination was made.

SECTION 6 - 115 – Applications of Statewide or Inter-County Significance.

In determining whether the proposed drainage is of statewide or inter-county significance, the Drainage Administrator or the Beadle County Drainage Board shall be guided by the following criteria:

1. Drainage which affects property owned by the United States, the state of South Dakota, or any of their political subdivisions.
2. Drainage of natural wetlands having recognized fish and wildlife values.
3. Drainage that would have a substantial effect on another county.

For good cause, the Beadle County Drainage Board or its designated official may classify any proposed drainage as having statewide or inter-county significance. Upon receipt of an application of statewide or inter-county significance, the Beadle County Drainage Board shall set the date, time, and place for a public hearing on the application. Notice shall be given pursuant to 21A-13 of this Ordinance and, additionally, the South Dakota Department of Environment and Natural Resources shall be notified.

SECTION 6 - 116 – Referral of Applications.

Upon receipt of an application of statewide or inter-county significance, the Beadle County Drainage Board shall attach to the application any comments, recommendations, and engineering data which may assist the appropriate county or counties. If the appropriate county or counties do not have a permit system, the Beadle County Drainage Board will consult with such county(ies) and reach a joint agreement under SDCL 46A-10A-9 to 46A-10A-10, if appropriate. The Beadle County or Drainage Board of each county affected by a proposed drainage or inter-county significance shall make a determination whether the permit should be granted. Approval by all counties involved is required for permit approval. If no agreement is reached between counties, the Beadle County Drainage Board may petition to have the state Water Management Board resolve the dispute pursuant to SDCL 46A-10A-9.1.

SECTION 6 - 117 – Considerations.

In evaluating a drainage permit application, the Drainage Board shall consider the project's impact on the following:

1. Flood hazards, floodplain concerns;
2. Erosion potential or reduction;
3. Water supply quality and quantity;

4. Agricultural concerns;
5. Conservation concerns;
6. General environmental concerns;
7. Aesthetics;
8. Potential adverse effects on adjacent landowners; and
9. Any other factors deemed important.

In accordance with SDCL 46A-10A-20, any rural land that drains onto other rural land has a right to continue that drainage if:

1. The land receiving the drainage remains rural in character;
2. The land being drained is used in a reasonable manner;
3. The drainage creates no unreasonable hardship or injury to the owner of the land receiving the drainage;
4. The drainage is natural and occurs by means of a natural watercourse or established watercourse;
5. The owner of the land being drained does not substantially alter on a permanent basis the course of flow, the amount of flow, or the time of flow from that which would occur; and
6. No other feasible alternative drainage system is available that will produce less harm without substantially greater cost to the owner of the land being drained.

SECTION 6 - 118 – Board Action.

All permits acted upon by the Beadle County Drainage Board, unless appealed shall be recorded within two (2) weeks of the action with the County Register of Deeds at the applicant's expense. The Beadle County Drainage Board or its designated official shall have the following options available with respect to the disposition of the permit application.

1. Approve the application;
2. Conditionally approve the application;
3. Deny the application; and
4. Defer the application.

The Beadle County Drainage Board may require as a condition to the approval of any drainage permit application a post-construction survey of the permitted drain. Any permit to which the

Beadle County Drainage Board has attached such a condition will be perfected upon receipt and favorable review of the survey. The Beadle County Drainage Board may attach conditions to an approved permit application deemed necessary by the Drainage Board according to the circumstances of each application.

Violation of the conditions of a permit is a Class 2 misdemeanor.

Members of the Beadle County Drainage Board are the Beadle County Commissioners; therefore, all appeals shall be filed within 30 days of notice to Circuit Court.

SECTION 6 - 119 – Notification of the Natural Resources Conservation Service.

The Drainage Administrator shall provide a copy of all permit applications to USDA Natural Resources Conservation Service.

SECTION 6 - 120 – Penalty for Failure to Secure Permit for Drainage Work.

Any individual or landowner or his contractor draining water without a permit or a recorded vested right as required under the provisions of this Ordinance and SDCL 46A-10A may be subject to a Class 1 Misdemeanor. Further, the court may assess a civil penalty of one thousand (\$1000) dollars per day for each day of violation.

SECTION 6 - 121 – Drainage Complaints and Disputes.

Any party wishing to raise a question of a violation of this Drainage Ordinance shall file with the Drainage Administrator a statement in accordance with this section. The Drainage Administrator shall promptly investigate the complaint and if it is substantiated, notice shall be issued to the party in violation of this Ordinance advising them of the violation. The notice shall advise the party in violation of the corrective action necessary and of the party's right to have a hearing before the Beadle County Drainage Board to contest the notice of violation. If a hearing is needed, notice shall be given in accordance with this section, and shall be conducted pursuant to 22 through 26, both inclusive.

SECTION 6 - 122 – Contents of Notice in Contested Cases.

The notice shall include:

1. A statement of the time, place, and nature of the hearing;
2. A statement of the legal authority and jurisdiction under which the hearing is to be held;
3. A reference to the particular sections of the statutes and rules involved;
4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;

5. A statement of any action authorized by law, which may affect the parties, as a result of any decision made at the hearing, whether it be the revocation of a license, the assessment of a fine or other effect;
6. A statement that the hearing is an adversary proceeding and that a party has the right at the hearing, to be present, to be represented by a lawyer, and that these and other due process rights will be forfeited if they are not exercised at the hearing;
7. A statement that the decision based on the hearing may be appealed to the Circuit Court and the state Supreme Court as provided by law.

SECTION 6 - 123 – Rights of Parties at Hearings on Contested Cases.

Opportunity shall be afforded all parties to respond and present evidence on issues of fact and argument on issues of law or policy. A party to a contested case proceeding may appear in person or by counsel, or both may be present, during the giving of all evidence, may have reasonable opportunity to inspect all documentary evidence, may examine and cross-examine witnesses, may present evidence in support of his interest, and may have subpoenas issued to compel attendance of witnesses and production of evidence in his behalf.

SECTION 6 - 124 – Rules of Evidence in Contested Cases.

In contested cases:

1. Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence as applied under statutory provisions and in the trial of civil cases in the circuit courts of this state, or as may be provided in statutes relating to the specific agency, shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not otherwise admissible there-under may be admitted except where precluded by statute if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidence may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interest of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.
2. A party may conduct cross-examinations required for a full and true disclosure of the facts;
3. Notice may be taken of judicially cognizant facts. In addition, notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the agency.

SECTION 6 - 125 – Transcript in Contested Cases – Minutes in Lieu of Transcript.

Whenever a party requests in writing that oral proceedings be transcribed, a verbatim record of all proceedings and testimony shall be kept by the agency, at the applicant's expense. Unless otherwise provided by law the agency shall not be required to transcribe the record unless the requesting party tenders and pays the reasonable cost thereof. If transcribed, a copy of the record shall be furnished to any other party to the hearing at the request and expense of such other party. If no verbatim record is transcribed, the agency shall prepare minutes of the hearing. The minutes shall consist of a written summary of the evidence and proceedings.

SECTION 6 - 126 – Experts.

In contested cases, it shall be the responsibility of the litigants to supply expert opinion when necessary to record their respective burden of proof. The Beadle County Drainage Board may also appoint a special master, whose findings and recommendations may or may not be adopted by the Board; and may also appoint an attorney to act as a hearing officer to preside over the hearing; and, may assess the costs of both against the litigants.

SECTION 6 - 127 – Compliance with Laws or Regulations not Affected by Permit Approval.

A permit approval under the provisions of this Ordinance shall in no way remove any responsibility on the part of any landowner, tenant or contractor to comply with all applicable local, State, or Federal laws or regulations.

SECTION 6 - 128 – Disclaimer of Liability.

The application of this Ordinance shall not create liability on the part of Beadle County, or any officer or employee thereof.

TITLE 7

ALCOHOL REGULATIONS

ALCOHOL REGULATIONS

SECTION 7-101 Intent:

Beadle County will provide for times when on-and off-sale alcoholic beverage services prohibited in Beadle County.

SECTION 7-102 Purpose:

Beadle County desires to regulate the time for selling or serving intoxicating liquor.

SECTION 7-103 Times:

No on-sale or off-sale licensee, licensed under SDCL 35-4-2(3), (4), (5), (6), (9), (11), (13), or (18), may sell, serve, or allow to be consumed on the premises covered by the license, alcoholic beverages between the hours of two a.m. and seven a.m. or at any time on Christmas Day.

The sale, service, and consumption of alcoholic beverages shall be permitted on Sundays and Memorial Day, except between the hours of two a.m. and seven a.m.

SECTION 7-104 Punishment:

A violation of this section is a Class 2 misdemeanor.

SECTION 7-201 Intent:

Ordinance regulating and restricting permits for special alcoholic beverage licenses issued in conjunction with special events in Beadle County.

SECTION 7-202 Purpose:

Pursuant to SDCL 35-4-124 and SDCL 35-4-125, Beadle County desires to regulate and restrict permits special alcoholic beverage licenses issued in conjunction with special events in Beadle County;

SECTION 7-203 Regulations:

- (1) That any license issued pursuant to SDCL 35-4-124 shall be issued for a period of time established within the sole discretion of the Board of County Commissioners of Beadle County, not to exceed fifteen consecutive days; and
- (2) That no person or organization may be issued a permit pursuant to SDCL 35-4-124 more than three times in any one calendar year; and
- (3) That the licensee must comply with all applicable state laws concerning the consumption of alcoholic beverages as set forth in SDCL 35-4;

SECTION 7-204 Fees:

The fee for a license issued pursuant to SDCL 35-4-124 and this Ordinance shall be established by the Beadle County Commission, which must accompany the application for the permit.

TITLE 8

ROADS AND HIGHWAY REGULATIONS

ROADS AND HIGHWAYS REGULATIONS

SECTIONS 8 – 101 - GENERAL REGULATIONS OF ROADS AND HIGHWAYS

SECTION 8 - 102 - County Roads; Closed Roads; Restrictions.

An ordinance restricting motor vehicles from Closed Roads.

1. No person may cause any motor vehicle to operate on any county road that has been designated closed.
2. Any person who fails to comply with this section, upon conviction thereof, shall:
 - A. Be punished by a fine of not more than \$500 and 30 days in the county jail; and
 - B. Pay damages or restitution for damages or injuries to the roads or rights of way or to any person using the roads or rights of way.

SECTION 8 - 103 - County Roads; Unlicensed Farm Equipment; Restrictions.

An ordinance restricting unlicensed farm equipment from County Roads

1. No person may cause any unlicensed farm equipment to be operated, towed, or travel on any county road in excess of the weight and load restrictions found in SDCL 32-22-16 et seq.
2. Any person who fails to comply with this section, upon conviction thereof, shall:
 - A. Be punished by a fine of not more than \$500 and 30 days in the county jail; and
 - B. Pay damages or restitution for damages or injuries to the roads or rights of way or to any person using the roads or rights of way.

SECTION 8 - 104 - Snow Removal.

Snow Removal from Private Property. No person or persons shall remove snow from private property, drive-ways, or field entrances and deposit, push, or dump the same on any Beadle County Highway or public right-of-way or on shoulders of the highways. Violation of this provision is a Class II Misdemeanor.

Violators of this ordinance shall be responsible for the removal of the snow. If Beadle County is required to move the snow it will be a minimum of \$100.00. The cost and expenses of these protective operations will be billed to the individual responsible. If these costs and expenses are not paid to the Beadle County Treasurer by October 1st of the incurring year, the sum will be extended onto the tax list against the landowner of the described property.

SECTION 8 - 201 - HIGHWAY UTILITY CROSSING REGULATIONS.

SECTION 8 - 202 – INTENT

An Ordinance for Permitting Requirements for Utilities Crossing Highways Under Beadle County Jurisdiction:

WHEREAS, transportation, communications, and utility networks are growing in complexity, which include highways, railways, and waterways at the surface; subways, pipelines, and cables below the surface; communication lines and transmission lines above the surface; and wireless communication systems; and,

WHEREAS, the possibility of two or more networks occupying a common right-of-way or intersecting increases as the networks grow, and, problems may arise due to the construction, maintenance, and operations of one network affecting the others; and,

WHEREAS, it is in the public interest for utility facilities to be accommodated on highway rights-of-way when such use and occupancy do not adversely affect highway safety, construction, maintenance, or operations; and,

WHEREAS, in this respect, guidelines outlining safe and rational practices for accommodating utilities within highway rights-of-way are of valuable assistance to transportation agencies, and;

WHEREAS, it is in the best interest of the County in order to develop and preserve safe highway operations and roadsides that standard guidelines and permitting processes be put in place; and

THEREFORE, BE IT ORDAINED BY THE BEADLE COUNTY COMMISSION:

SECTION 8 - 203 – ORDINANCE REGULATIONS

1) DEFINITIONS AND SCOPE

- (a) The term "utility facility" as used in this ordinance includes all public and private utilities, including but not limited to, electric power, communications, cable television, water, gas, oil, slurry, petroleum products, steam, sanitary sewers, wireless facilities (towers), public and private drainage systems, irrigation, and all other facilities that are similar to those contained within in these policies.
- (b) The term "right-of-way" or "highway right-of-way" as used in this ordinance includes only those under the jurisdiction of the Beadle County Highway Department, unless otherwise indicated.
- (c) The term "public government applicants" as used in this ordinance includes the United States government, State of South Dakota, municipalities, counties, and townships that are applicants for a permit pursuant to this Ordinance.

2) AUTHORITY OF SUPERINTENDENT TO PROMULGATE CRITERIA

- a) The County Highway Superintendent is hereby granted the authority to promulgate criteria, rules, and forms for the permitting of utility facilities within the right of way of any highway under the jurisdiction of the County. These criteria and rules shall be promulgated in the form of a policy document that shall define all criteria and rules applicable to the permitting of such utility installations, relocations, or expansions within County highway rights-of-way.
- b) Any criteria, rules, and forms promulgated by the County Highway Superintendent under this section, including any proposed revisions of the same, must be approved by resolution of the County Commission before becoming effective.
- c) Any criteria, rules, and forms so promulgated by the County Highway Superintendent and approved by the County Commission by resolution shall be compiled as a policy document in guidebook form and shall be placed on file with the County Auditor, with the County Highway Department, and at other publicly accessible locations at the discretion of the Superintendent.
- d) Criteria, rules, and forms so promulgated in the manner required by this section that are not inconsistent with the provisions of this Ordinance shall have the same force and effect of the provisions of this Ordinance.

3) PERMIT REQUIRED

- a) Before the installation, relocation, or expansion of any utility facility may be made within any highway right of way under the jurisdiction of the County, the owner of a utility shall submit an application to the County Highway Superintendent for a utility permit allowing for such installation, improvement, maintenance, relocation, or expansion. The application for said permit shall be in a form promulgated by the Superintendent pursuant to Section 2 of this Ordinance.
- b) The Superintendent may grant, grant with modifications or conditions, or deny a permit application based on the requirements of this Ordinance and the criteria and rules promulgated by the Superintendent pursuant to Section 2 of this ordinance.
- c) Any installation, relocation, or expansion of a utility facility made by the owner must be done in accordance with all conditions of the permit as granted by the Highway Superintendent.
- d) Permits granted pursuant to this Ordinance may be revoked by the Superintendent upon a written finding that any of the criteria or rules applicable to such permits have in fact been violated, or that any of the conditions placed upon a permit have been violated or otherwise not fulfilled.
- e) Any person or entity aggrieved by a decision of the Superintendent to grant, grant with conditions, deny, or revoke a permit pursuant to this Ordinance may appeal the decision by providing written notice of said appeal to the County Auditor, County Highway Superintendent, and County Commission Office within five (5) working days of the Superintendent's decision. The County Commission shall hear all such appeals as an agenda item at one of its regular

meetings. The County Commission shall review the Superintendent's decision for abuse of discretion and shall vote to uphold, uphold with modification, or reverse the Superintendent's decision.

4) PERMIT FEES

- (a) The County Highway Superintendent may set a fee for the issuance of permits under this Ordinance. Any such fee shall be set and published in the criteria guidebook promulgated by the Superintendent under Section 2 of this Ordinance.
- (b) No permit application may be granted under this chapter unless the applicable permit fee is paid in full or is otherwise exempted under this Ordinance.
- (c) Such fees are waived for public government applicants.

5) BONDING

- (a) The County Highway Superintendent may, as a condition of granting a permit pursuant to this Ordinance, require a performance bond be furnished by the applicant if not otherwise required by law.

6) VIOLATIONS AND PENALTIES

- (a) Any violation of this ordinance may be punished as a Class 2 misdemeanor, with the maximum penalties for such violation defined by SDCL 22-6-2(2), in accordance with SDCL 7-18A-2. Restitution to return the highway to the condition it was in before work was performed in violation of this ordinance may also be required pursuant to SDCL Ch. 23A-28. Each and every day that such violation continues may constitute a separate offense.
 - (1) At the time of adoption, this penalty as defined by SDCL 22-6-2(2) is a maximum fine of five hundred dollars (\$500.00) and maximum thirty (30) days imprisonment in the county jail. However, it is the intent of this ordinance to provide for the maximum penalty allowed by law as defined by SDCL 22-6-2(2) at the time of the offense.
- (b) In addition, any violation of any the provisions of this Ordinance or of the criteria and rules promulgated pursuant to this Ordinance may be considered cause for denial of a permit or the revocation of an existing permit issued pursuant to this Ordinance, as well as the consequences of such denial or revocation for non-compliance specified in this Ordinance or in the criteria and rules promulgated pursuant this Ordinance.
- (c) If a performance bond is required for the project pursuant to Section 5 of this Ordinance or other provision of law, the County may assert a claim against such bond for any unreasonable lengthy loss of public service and for any remedial work required to place the highway in the same or similar condition as it was in before the commencement of work by the permit holder, if the permit holder fails to remedy the highway itself in a timely manner consistent with the requirements of the permit.

TITLE 9

NUISANCES

ARTICLE 1

Nuisances

TITLE 9 – ARTICLE 1

DECLARATION AND ABATEMENT OF NUISANCES

SECTION 9-101 – Intent.

This Ordinance is for the declaration and abatement of public nuisances in the incorporated areas of Beadle County and in any area of unincorporated Beadle County that is deemed necessary and warranted by the Beadle County Commission.

Beadle County, a pursuant to the SDCL 7-8-33 and consistent with the purpose of creating and maintaining a safe and healthy environment for the public welfare of Beadle County residents and their posterity have accepted the ordinance to address public nuisances.

SECTION 9-102 - Public Nuisance.

What is a public nuisance? Unlawfully doing an act, or omitting to perform a duty, which act or omission either:

1. injures, or endangers the comfort, repose, health, or safety of others;
2. a hazard or an injury to human health; org
3. specific acts, conditions, and things that are declared to constitute a public nuisance.

Whoever shall create, commit, maintain, or permit to be created, committed, or maintained:

1. any of the enumerated conditions, specific acts, things, and situations or;
2. otherwise violates the general provisions of this ordinance is guilty of a public nuisance and the place, contents, area, thing, or all of the foregoing, are declared a public nuisance and shall be enjoined and abated as provided by state statute and/or county ordinance.

It will be the responsibility of the Zoning Administrator or an Official designated by the Beadle County Commission, to enforce these public nuisance ordinances in Beadle County.

All nuisances/condemnations will be handled on a signed site specific complaint basis only.

SECTION 9 - 103 - Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this article, or whenever the Official, or an authorized representative, has reasonable cause to believe that there exists in any building or upon any premises, any condition which is prohibited under this article, Official or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed by this article. If such building or premises is

occupied, a reasonable effort will be made to locate the owner of the building or premises and demand entry. If such entry is refused, the Zoning Administrator or Official or an authorized representative shall have recourse of every remedy provided by law to secure entry.

No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand made as herein provided, to properly permit entry therein for purpose of inspection an examination pursuant to this article.

SECTION 9 - 104 – Notification.

Whenever notification is given that any condition or conditions prohibited in this article exist on any premises located in Beadle County, the Zoning Administrator or Official or an authorized representative shall give cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be in writing to the person creating, permitting, or maintaining such nuisance to abate the same with a reasonable period of time.

SECTION 9 - 105 – Procedures.

Beadle County Commission will adopts procedures to follow when a nuisance complain is received.

SECTION 9 - 106 - Owner Unknown - Notice Waived.

Whenever the owner, occupant, or agent of any premises in or upon which any nuisance may be found is unknown or cannot be found, the Zoning Administrator or Official shall proceed to abate the nuisance without notice. In either case the expenses of such abatement shall be collected from the person who may have created, caused or suffered such nuisance to exist.

SECTION 9 - 107 - Right of Appeal.

The owner or any person affected shall have the right of appeal to the Beadle County Commission for investigation and review of the Zoning Administrator's or Official's determination. Such appeal shall be in writing, shall state the objection of the person filing the same, shall be filed with the Zoning Administrator within ten (10) days after the date of posting, publishing, serving, or mailing of the Notification, and shall be presented to the Beadle County Commission by the Zoning Administrator who shall proceed in accordance with the Abatement Notice, or as modified by the Commission; or not at all, and its decision thereon shall be final and conclusive.

SECTION 9 - 108 - Failure to Abate.

In the event a person fails to abate such nuisance the Zoning Administrator or Official shall prepare a statement of the expenses incurred in the razing, demolishing, removing, reconstruction, or other affirmative act necessary to abate the unlawful condition occurred.

SECTION 9 - 109 - Abatement by State Law.

In addition to the method of abatement of nuisances provided in this article, the County may abate any nuisance found within the County in the manner provided by State Law, Title 21 Chapter 10.

SECTION 9 - 110 - Penalty and Remedy.

The County may use the remedies of a criminal or civil action and abatement as set forth in South Dakota Law.

TITLE 9

NUISANCES

ARTICLE 2

MAINTENANCE AND SANITATION OF BUILDINGS

TITLE 9 ARTICLE 2

MAINTENANCE AND SANITATION OF BUILDINGS

SECTION 9-201 - Maintenance of Premises and Buildings.

It shall be unlawful for any person owning, leasing, occupying, or having charge or possession of any building or premises in the Joint Jurisdictional Zoning Area or LFR area to keep or maintain such buildings or premises in a manner which is at variance with and inferior to the level or maintenance of surrounding properties. The following condition or conditions constitute such a variance and are hereby declared a public nuisance:

1. Buildings which are abandoned, boarded up, partially destroyed, or partially constructed and uncompleted subsequent to the expiration of a building permit.
2. Buildings with deteriorating or peeling paint that allow the exterior building covering to deteriorate or to permit the effects of sun and water penetration so as to encourage decay, dry rot, warping, and cracking.
3. Buildings with broken windows, doors, attic vents, and under floor vents.
4. Overgrown vegetation (i.e. weeds over 12 inches in height) which is unsightly and/or likely to harbor rats or vermin.
5. Dead, decayed, or diseased trees, weeds, and other vegetation,
6. Trash, garbage, or refuse cans, binds, boxes, bags, or other such containers permanently stored in front yards visible from public streets/roads.
7. Lumber, junk, trash, tires, debris, or salvage materials maintained upon any premises which are visible from a public street/road, alley, or adjoining premises.
8. Abandoned, discarded, or unused furniture, stoves, sinks, toilets, cabinets, or other household fixtures or equipment stored so as to be visible at ground level from a public alley, street, or adjoining premises.
9. Premises having a topography geology, or configuration which as a result of grading operations or improvements to the land causes erosion, subsidence, unstable soil conditions, or surface or subsurface drainage problems to pose a threat to or be injurious to adjacent premises.
10. Abandoned, wrecked, dismantled, or inoperative trailers, campers, boats, and other motor vehicles which are accumulated or stored in yard areas.

11. Building exteriors, walls, fences, driveways, or walkways which are cracked, broken, defective, or deteriorated, in disrepair, or defaced.

12. Any like and similar condition or conditions.

Section 9 - 202 - Sanitation of Premises and Buildings.

It shall be unlawful to permit by act or omission the following specific acts, conditions, and things which are hereby also declared to be public nuisances.

1. Failing, refusing, or neglecting to keep the thoroughfare or sidewalk in front of a residence, business, or premises in a clean and safe condition.
2. Maintaining upon such premises any slightly or partly improvement structure which may endanger or injure neighboring properties or public safety, or general welfare.
3. Maintaining upon such premises or upon the sidewalk abutting or adjoining such lot, parcel, tract, or piece of land, loose earth, mound of soil, fill material, asphalt, concrete, rubble, or waste material or any kind (all such materials shall hereinafter be referred to as "waste materials"), except for waste materials used for construction or landscaping upon premises in which case it shall be the duty of the owner, lessee, occupant, or persons in possession of premises wherein the waste materials exist, or maintain to remove waste materials after construction is completed, or in any event, within eight (8) months from time of placement of waste materials upon premises.

For sites where filling, grading, or excavation activities have or will span more than one (1) year, it shall be the duty of the owner, lessee occupant, or person in possession of said premises to level or remove the waste materials from said premises at least once a year during the months of either June, July, or August for the purpose of maintaining weed and rodent control.

Section 9 - 203 – Enforcement.

The Building Official is hereby authorized and directed to administer and enforce all of the provisions of this article.

Section 9 - 204 - Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this article, or whenever the Building Official, or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which is prohibited under this article, Building Official or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed by this article, If such building or premises is occupied, he shall first make a reasonable effort to locate the owner of the building or premises and demand entry. If such entry is refused, the Zoning Administrator or Building Official or an authorized representative shall have recourse of every remedy provided by law to secure entry.

No owner or occupant or any other person having charge or care of any building or premises shall fail or neglect, after proper demand made as herein provided, to properly permit entry therein for purpose of inspection and examination pursuant to this article.

Section 9 - 205 - Issuance of Notice to Abate.

Whenever notification is given that any condition or conditions prohibited in this chapter exist on any premises located within the joint jurisdictional zoning area or LFR area, the Building Official or an authorized representative shall give cause to be given, notice to abate the unlawful condition or conditions existing on the premises. Such notice shall be in writing to the person creating, permitting, or maintaining such nuisance to abate the same within a reasonable time as provided in such notice as follows:

1. If the Building Official has determined that the building or structure must be repaired, the order shall mandate that all required permits be secured therefore and the work physically commenced within such time not to exceed sixty (60) days from the date of the order and completed within such time as determined to be reasonable under all of the circumstances.
2. If the Building Official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined to be reasonable.
3. If the Building Official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the Building Official shall determine reasonable (not to exceed sixty (60) days from the date of the order). The order shall also require that all necessary permits be secured therefore within the sixty (60) days from the date of the order, and that the demolition be completed within such time as shall be determined to be reasonable.

Section 9 - 206 - Owner Unknown - Notice Waived.

Whenever the owner, occupant, or agent of any premises in or upon which any nuisance may be found is unknown or cannot be found, the Building Official shall proceed to abate the nuisance without notice. In either case the expenses of such abatement shall be collected from the person who may have created, caused or suffered such nuisance to exist.

Section 9 - 207 - Right of Appeal.

The owner or any person affected shall have the right of appeal to the Beadle County Commission for investigation and review of the Building Official's determination. Such appeal shall be in writing, shall state the objection of the person filing the same, shall be filed with the Zoning Administrator within ten (10) days after the date of posting, publishing, serving, or mailing of the Notice to Abate, and shall be presented to the Beadle County Commission by the Zoning

Administrator who shall proceed in accordance with the Abatement Notice, or-as modified by the Commission; or not at all, and its decision thereon shall be final and conclusive.

Section 9 - 208 - Failure to Abate.

1. In the event a person shall fail to abate any nuisance created, permitted, or maintained by him following written notice to him to do so, the Building Official shall cause such nuisance to be abated.
2. The Building Official shall prepare a statement of the expense incurred in the razing, demolishing, removing, reconstruction, or other affirmative act necessary to abate the unlawful condition occurred. With regard to the premises or each piece of property therein referred to, the statement shall show the number of the lot and block and the name of the addition or subdivision in which lies or upon which the structures, improvements, or buildings were located at the time that the actions to abate the unlawful conditions were taken or shall describe such premises in any other way that they may be easily identified.

Section 9 - 209 - Abatement by State Law.

In addition to the method of abatement of nuisances provided in this article, the County may abate any nuisance found within the County in the manner provided by State law.

Section 9 - 210 - Notice of Assessment of Abatement Expenses Incurred.

Within ten (10) days after the filing of the statement referred to in this article, the Zoning Administrator shall cause to be served upon the owner, agent of the owner, lessee, occupant, or person in possession of the parcel of land described in the statement and a notice either personally, by certified mail, to the last known address, or delivered to general delivery.

Section 9 - 211 - Appeal of Abatement Expenses.

The owner or any person affected shall have the right to appeal to the Beadle County Commission concerning the proposed assessment of abatement expenses. Such appeal shall be in writing, shall state the objections of the person filing the same, and shall be filed with the Zoning Administrator within ten (10) days after the notice. Said objections shall be presented to the Beadle County Commission by the Zoning Administrator at their next regular meeting. The County shall determine by resolution the assessment and shall proceed to recoup these expenses incurred.

Section 9 - 212 - Recovery of Expenses.

The County may recover the expenses incurred by the Building Official in abating any nuisance under the provisions of this article from the person creating, permitting, or maintaining the same in a civil suit instituted for such purpose.

SECTION 9 - 213 – Procedures.

Beadle County Commission will adopt procedures to follow when a nuisance complain is received.

SECTION 9 - 214 - Penalty and Remedy.

The County may use the remedies of a criminal or civil action and abatement as set forth in South Dakota Law.

TITLE 10

ADMINISTRATION AND ENFORCEMENT

TITLE 10

ADMINISTRATION AND ENFORCEMENT

GENERAL

Section 10-101 Permits Required.

1. No building or other structure shall be erected, moved, added to, structurally altered or used without a permit issued by the Zoning Officer. The Zoning Officer except in conformity with the provisions of this ordinance shall issue no permit unless the proposed project meets the requirements of this ordinance, or unless they received a written order from the Board of Adjustment, under conditional use, or variance as provided by this ordinance.
2. Rural Municipality: Any Building Permit issued in a Rural Municipality as identified in Title 4, the applicant must provide proof that they have notified the Rural Municipality and received a permit from said municipality if so required.
3. It shall be unlawful to commence the excavation for the construction of any building or any accessory building without a permit. A permit is also required for any filling, grading, lagooning, or dredging which is related to site preparation for future construction.

Section 10-102 Applications.

1. Application for building and use permits shall be made to the Zoning Officer upon forms approved by the Board of County Commissioners. These forms shall be filled in by the owner, or authorized agent. All applications for permits shall be accompanied by a site plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building(s) or alteration. The applicant shall also state the existing and intended use of all such buildings, and the location of existing or proposed water and sewer facilities. In the case of a change of use, the applicant shall, in writing, state the intended change. The application shall include such other information as lawfully may be required by the Zoning Officer, including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; existing or proposed water, sewer, electrical facilities; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this ordinance. All plans and data accompanying the permit shall be final and conclusive. Deviations shall be deemed a violation of this Ordinance, and punishable as provided by law or in these ordinances and shall require a new building and use permit.

Section 10-103 Building/Use Permit.

1. Issuance of a Building/Use Permit. If the proposed excavation alteration, construction, or change of use, as set forth in the application for a Building/Use Permit are in conformity with

the provisions of this Ordinance, and other regulations of the County then in force, the Zoning Officer shall issue a building/use permit for such excavation, construction, alteration or change in use. If a building/use permit is refused, the Zoning Officer shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application with the cause for denial. The Zoning Officer shall grant or deny the permit within a reasonable time from the date the application is submitted. A Building/Use Permit shall be deemed to authorize, and is required for both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect, so long as such building and the use thereof or the use of such land is in full conformity with the requirements of this ordinance and any requirements pursuant thereto. However, on the serving of a written notice by the Zoning Officer of any violation of any of the said provisions or requirements with respect to any building or the use thereof or of land, the Building/Use Permit for such use shall without further action, be null and void, and a new Building/Use Permit shall be required for any further use of such building or land.

2. The issuance of a building/use permit shall, in no case, be construed as waiving any provisions of this Ordinance. A Building Permit shall become null and void twelve (12) months from the date of issuance thereof unless substantial progress has been made by that date on the project described therein. If the work described in any building permit has not begun within six (6) months or has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Officer and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building/use permit has been issued. If substantial progress has been made within twelve (12) months from the issuance of the permit but has not been completed, the Zoning Officer may extend the building/use permit and additional six (6) months.
3. Rural Municipality: Any Building Permit issued in a Rural Municipality as identified in Title 4, the applicant must provide proof that they have notified the Rural Municipality and received a permit from said municipality if so required.

Section 10-104 Permits Displayed.

1. Permits Displayed. It shall be unlawful to commence work until the building permit is displayed in a conspicuous place visible from public right-of-way. The permit shall be placed upon the premises at all times from the beginning until the completion of such construction, alteration, repair, occupancy or change of use.

Section 10-105 Fees.

1. The Board of County Commissioners shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the County Zoning Officer and may be altered or amended only by the Board of County Commissioners.

2. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

ZONING OFFICER

Section 10-106 Zoning Officer.

1. The provisions of this Ordinance shall be administered and enforced by a County Zoning Officer appointed by the Board of County Commissioners, who shall have the power to make inspection of buildings or premises necessary to carry out their duties in the enforcement of this Ordinance.

Section 10-107 Duties of Zoning Officer.

1. Issue all building/use permits and make and maintain records thereof.
2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, conditional use permits, appeals, and applications.
7. Prepare documents, easements, letters of assurance, waivers, etc. as required by this Ordinance, or at the direction of the Beadle County Planning Commission and/or the Beadle County Board of Adjustment and/or Beadle County Commissioners.
8. Provide public information relative to all matters arising out of this Ordinance.
9. Forward to the Planning Commission applications for amendments to this Ordinance.
10. Forward to the Board of Adjustment, applications for appeals, conditional uses, variances, or other matters on which the Board of Adjustment is required to hear under this ordinance.

11. Initiate, direct, and review, from time to time, a study of the provisions of this ordinance, and to make such reports available to the Planning Commission.
12. The Zoning Officer shall receive applications required under this ordinance, specifically but not limited to Building Permits, Conditional Uses, Variances, and Zoning Amendments.
 - a. For building permits, the Zoning Officer shall approve the application only in accordance with the provisions of the County's Zoning Ordinance.
 - b. For Conditional Uses and Variances, the Zoning Officer shall review the application, and shall make recommendations regarding said application to the Board of Adjustment.
 - c. For Zoning Amendments, the Zoning Officer shall review the application, and shall make recommendations regarding said application to the Planning Commission and Board of County Commissioners.

Section 10-108 Right of Entry.

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

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

Section 10-109 Stop Order.

Whenever any work is being done contrary to the provisions of this ordinance, the Zoning Officer may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Zoning Officer to proceed with the work.

Section 10-110 Occupancy Violation.

Whenever any building or structure regulated by this ordinance is being used contrary to the provisions of this ordinance, the Zoning Officer may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such persons shall discontinue the use within the time prescribed after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this ordinance.

PLANNING COMMISSION.

Section 10-111 Establishment.

The Planning Commission shall consist of five (5) members and at least one member of which, shall be a member of the Board of County Commissioners.

Section 10-112 Term of Office.

The term of each of the appointed members shall be for five years; the length of the terms shall be varied so that no more than 1/3 of the terms expire in the same year. Members of the Planning Commission may be removed for cause by the appointing authority. Vacancies shall be filled by the Board of County Commissioners and shall be for the unexpired term.

Section 10-113 Meetings of the Planning Commission

1. The Planning Commission shall meet at such times as may be necessary to accomplish the purposes of their duties, but in no event shall they meet less than once every three (3) months.
2. The Planning Commission shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Zoning Officer and shall be public record. The Planning Commission shall keep record in the minutes showing the vote of each member upon each question or if absent or failing to vote, indicating that fact.

Section 10-114 Per Diem and Expenses of Commission

1. Per Diem and expenses of the County Planning Commission shall be established by the Board of County Commissioners and paid by the County.

Section 10-115 Powers and Duties of the Board.

1. The Planning Commission may initiate proposed amendments to this Ordinance.
2. The Planning Commission shall review all proposed amendments to this Ordinance and make recommendations to the Board of County Commissioners.
3. The Planning Commission shall have all other responsibilities designated to it by this Ordinance and South Dakota Law.

BOARD OF ADJUSTMENT.

Section 10-116 Establishment.

Within Beadle County, the power and jurisdiction related to this ordinance shall be executed by the Board of Adjustment.

1. The Beadle County Commission shall act as the Board of Adjustment.
2. The Board of County Commissioners shall appoint two (2) alternates to the Board of Adjustment. The 1st alternate will be a member of the Planning Board. If a County Commissioner acting as a Board of Adjustment member is unable to participate in a meeting, the alternate, or second alternate in turn, shall serve in the absent County Commissioner's place. The term of the Alternates shall be for three (3) years.

Section 10-117 Procedures for Meetings.

1. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
2. The Board of Adjustment shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Auditor and shall be public record. The Board of Adjustment shall keep record in the minutes showing the vote of each member upon each question or if absent or failing to vote, indicating that fact.

Section 10-118 Powers and Duties of the Board.

1. The Board of Adjustment shall have the following powers and duties:
 - a. Administrative Review. To hear and decide where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Zoning Officer or other administrative officers in the carrying out or enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map.
 - b. Conditional Uses. To hear and decide applications for conditional uses that are specified in this Ordinance and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.
 - c. Variance. To hear and decide applications for variance from the terms of this Ordinance because of unnecessary hardship and to authorize upon appeal in specific cases such variance from the terms of this Ordinance as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

Section 10-119 Board of Adjustment has Powers of Administrative Officer on Appeals: Reversing Decision of Zoning Officer.

1. In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Officer from whom the appeal is taken.
2. The majority vote of all members of the Board of Adjustment present shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Officer, or to decide in favor of the applicant for a conditional use permit or any other matter upon which it is required to pass under this ordinance.
3. A concurring vote of two-thirds (2/3) of all the members of the Board of Adjustment (4 votes) shall be necessary to approve any variance request.

Section 10-120 Appeals, Record of Appeal, Hearing and Stays

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Officer, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Officer and that recourse from the decision of the Board of Adjustment shall be to the courts as provided by the laws of the State of South Dakota. If Zoning Officer receives written request and fails to issue written response within 30 days the requester can request a hearing in front of the Board of Adjustment by contacting the County Auditor.
2. Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the zoning officer. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days.
3. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.
4. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the office from whom the appeal is taken and on due cause shown.
5. The Board of Adjustment shall hear and decide, on not less than ten (10) days public notice prior to an affixed time and place for hearing appeals where it is alleged by the appellant that

there is error in any order, requirement, permit decision, determination or refusal made by the Zoning Officer or other administrative officers in carrying out the enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map. At the hearing, any party may appear in person or by agent or attorney.

Section 10-121 Appeals to a Court of Record.

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the county, may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the County Zoning Officer.

PROCEDURES FOR CONDITIONAL USES, VARIANCES, AND ZONING AMENDMENTS.

Section 10-122 Conditional Uses.

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

1. A written application for a conditional use is submitted, indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested.
2. The Zoning Officer shall require the applicant for a conditional use permit to notify adjacent property owners and other interested parties (municipalities) by mail, at the cost of the applicant, of the conditional use permit or in lieu of this, at the discretion of the Zoning Officer, obtain written consent from adjacent landowners.
3. Notice of hearing shall be published once, at least ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.
4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, and that the granting of

the conditional use will not adversely affect the public interest. While considering the following:

- a. Compatibility with the zoning district;
 - b. Adverse affect on the character of the area by an increase in such element as dust, odors, noise, gas and traffic volumes;
 - c. Opposition of surrounding property owners;
 - d. The public safety;
 - e. Effect on established property values.
6. Before granting any conditional use, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangements have been made while considering the following, where applicable:
 - a. Entrance and exit to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - b. Off-street parking and loading areas where required, with particular attention to the items in (a) above and the economic, noise, glare or other effects of the conditional use on adjoining properties and properties generally in the district.
 - c. Utilities refuse and service areas, with reference to locations, availability, and compatibility.
 - d. Screening and buffering with reference to type, dimensions and character.
 - e. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
 - f. Required yards and other open space.
 - a. General compatibility with adjacent properties and other property in the district.
 - b. The roads providing access to the property are adequate to meet the transportation demands of the proposed conditional use. The Board of Adjustment may require the applicant to enter into a written contract with any affected township or other governmental unit regarding the upgrading and continued maintenance of any roads used for the conditional use requested prior to issuance of a Conditional Use Permit.
7. In granting any conditional use, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions

and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this regulation and punishable under the terms of this regulation.

8. A majority members of the Board of Adjustment present is required to pass any application for a Conditional Use.
9. A conditional use permit shall expire one (1) year from the date upon which it becomes effective if no work has commenced. Upon written request to the Board of Adjustment and prior to the conditional use permit expiration date, a one (1) year time extension for the conditional use may be granted by the Board of Adjustment.
10. A conditional use permit is transferable, subject to the new permittee signing a letter agreeing to the same terms of the previously issued letter(s) of assurance.
11. The Board of Adjustment may, after notice and hearing, revoke a conditional use permit in the event of a violation of any of the conditions upon which such permit was issued. In addition, the conditional use permit may not be transferred while any violation is pending.
12. Rural Municipality: Any application for a Conditional Use Permit within a Rural Municipality as identified in Title 4, the applicant must provide proof that they have notified the Rural Municipality of said application and before granting the permit the Board of Adjustment must receive input from the municipality.

Section 10-123 Powers and Jurisdiction Relating to Variances.

The Board of Adjustment shall have the power, where, by reason of exception, narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantially impairing the intent and purpose of this Ordinance. A variance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted, indicating the section of this Ordinance under which the variance is sought and stating the grounds on which it is requested.
2. The Zoning Officer shall require the applicant for a conditional use permit to notify adjacent property owners and other interested parties (municipalities) by mail, at the cost of the applicant, of the conditional use permit or in lieu of this, at the discretion of the Zoning Officer, obtain written consent from adjacent landowners.
3. Notice of hearing shall be published once, at least ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.

4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the variance, and that the granting of the variance will not adversely affect the public interest. When deciding, a variance application the Board of Adjustment should consider the following
 - a. There are no special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are applicable to other land, structures, or buildings in the same district;
 - b. The literal interpretation of the provisions of this ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - c. The special conditions and circumstances do result from the actions of the applicant;
 - d. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
 - e. The granting the variance request would confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
 - f. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
6. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under the terms of this regulation.
7. The concurring vote of two-thirds (2/3) of all members of the Board of Adjustment four (4) votes is required to pass any application for a variance.
8. A variance shall expire one (1) year from the date upon which it becomes effective if no work has commenced. Upon written request to the Board of Adjustment and prior to the variance expiration date, a one (1) year time extension for the variance may be granted by the Board of Adjustment.
9. Rural Municipality: Any application for a Variance within a Rural Municipality as identified in Title 4, the applicant must provide proof that they have notified the Rural Municipality of said application and before granting the Variance the Board of Adjustment must receive input from the municipality.

Section 10-124 Zoning Amendments/Zoning District Boundaries Change.

1. Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the Planning Commission, as provided herein, the Board of County Commissioners may change zoning district boundaries, use groups, or the regulations established by this ordinance. A proposed change of zoning district boundaries or regulations may be initiated by the Board of County Commissioners, the Planning Commission, or by application of one (1) or more of the owners of property within the area requested to be rezoned. Initiated petitions which create amendments to this ordinance are required to submit signatures of twenty (20) percent of the landowners in the zoning district or districts requesting change. Unless otherwise provided for in these regulations, any change in these regulations, shall require Board of County Commissioners approval of an ordinance describing said changes. The Board of County Commissioners may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance amendment.
2. The landowner or other person(s) requesting the Amendment/Boundary change shall complete an application, available from the Zoning Officer. Completed applications shall be returned to the Zoning Officer for review. To be considered by the Planning Commission and Board of County Commissioners, the application form shall be completed and shall be accompanied by the following items:
 - a. Any required attachments and fees, including costs for Registered or Certified Mail.
 - b. Intention: A complete statement giving reason and intention for the planned future use of the area proposed for amendment or the reason for the change to the zoning ordinance.
 - c. Site Plan: A site plan, drawn to scale, showing existing and proposed structures, uses, open space, and facilities for parking and loading, and arrangements for pedestrian and vehicular circulation of the area proposed for amendment and all abutting properties with their use and zoning district defined. Water and sewer facilities must also be shown on site plan.
 - d. A proposed time schedule for beginning and completion of development.
 - e. Any additional information, as requested by the Zoning Officer, as lawfully may be required to determine conformance with and provide for enforcement of this ordinance.
 - f. The Zoning Officer shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.
 - g. The Zoning Officer shall set the date, time, and place for public hearings to be held by the Planning Commission and Board of County Commissioners. The Zoning Officer shall publish notice of the public hearing in a newspaper of general circulation in the area

affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to each board's (Planning Board, Board of County Commissioners) public hearing. If the proposed amendment will change the boundaries of a zoning district, the Zoning Officer shall notify all owners of property within two hundred fifty (250) feet of the proposed boundary change, by Mail at the expense of the applicant, at least one (1) week before the public hearing.

- h. The public hearing shall be held in front of the Planning Board. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
- i. The Planning Commission shall recommend approval or disapproval of a requested change, either in whole or in part. Recommendations for changes shall be presented to the Board of County Commissioners.
- j. Adoption. The Board of County Commissioners shall after a public hearing by ordinance and shall either adopt or reject the proposed amendment. After passage, the Ordinance Amendment shall take effect on the 20th day after its publication in an official newspaper of the County or on stated affection date at least 20 days after publication.
- k. When the Board of County Commissioners approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If said protest as outlines below is filed with the auditor within twenty (20) days of the Beadle County Commission adoption, such amendment shall not become effective unless the amendment is approved by two-thirds (4 votes) of the Board of County Commissioners.
- i. Protest Standard: The protest shall be signed by at least 40% of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within 250 feet of the area affected by the amendment.

SECTION 10 - 125 – Rights of Parties at Hearings.

Opportunity shall be afforded all parties to respond and present evidence on issue of fact and argument on issues of law or policy. A party may appear in person or by counsel, or both may be present, during the giving of all evidence, may have reasonable opportunity to inspect all documentary evidence, may submit questions, may present evidence in support of his interest, and may have subpoenas issued to compel production of evidence in his behalf.

SECTION 10 - 126 – Rules of Evidence in Hearing.

- 1. Irrelevant, incompetent, immaterial, or unduly repetitious evidence shall be excluded. When the interest of the parties will not be prejudiced substantially, evidence may be received in written form.

2. Notice may be taken of judicially cognizant facts. In addition, notice may be taken of generally recognized technical or scientific facts. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board.

SECTION 10 - 127 – Transcript – Minutes in Lieu of Transcript.

Whenever a party requests in writing that oral proceedings be transcribed, a verbatim record of all proceedings and testimony shall be kept by the county, at the applicant's expense. Unless otherwise provided by law the county shall not be required to transcribe the record unless the requesting party tenders and pays the reasonable cost thereof. If transcribed, a copy of the record shall be furnished to any other party to the hearing at the request and expense of such other party. If no verbatim record is transcribed, the county shall prepare minutes of the hearing. The minutes shall consist of a written summary of the evidence and proceedings.

SECTION 10 - 128 – Experts.

It shall be the responsibility of the applicants or those opposed to the application to supply expert opinion when necessary. The County may also appoint a special master, who's finding and recommendations may or may not be adopted; and may also appoint an attorney to act as a hearing officer to preside over the hearing; and, may assess the costs of both against the applicant.

SECTION 10 - 129 – Time for Determination.

Either the day of hearing or within thirty (30) days after a hearing required pursuant to this Ordinance the Beadle County Board of Adjustment shall make a determination on the application. For complex or unique applications, this time limit may be extended by the Beadle County Board of Adjustment. Following the determination, the Beadle County Board of Adjustment shall notify by mail the applicant and all individuals or landowners making appearances with respect to the application, of the determination. This notice must be accompanied by the basis on which the determination was made. During this 30 day period the Board may meet to discuss the issue and request further information during any properly noticed open-meeting.

Section 10 - 130 Reapplication.

No application requesting a variance, conditional use, or zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board of Adjustment (variances, conditional uses) or Board of County Commissioners (Zoning Amendments, Zoning District Boundary Changes), shall again be considered by the Planning Commission, Board of Adjustment or Board of County Commissioners before the expiration of six (6) months from the date of the final action of the Planning Commission, Board of Adjustment, or Board of County Commissioners.

ENFORCEMENT

SECTION 10 - 131 – Penalty for Violation of this Ordinance.

General: Any person, individual or landowner or his contractor who violate any provisions of this Ordinance and may be subject to a Criminal Prosecution for such violation. Any violation of this Ordinance unless otherwise specified is a Class 2 Misdemeanor. Further, the county may seek a civil resolution and/or ask a court assess a civil penalty of up to what the law or Ordinance allows per day for each day of violation.

Building Permit: Any person who fails to obtain a Building Permit as required herein is subject to a doubling of the fee of the building permit and a civil fine of \$20/day for each day they were in violation.