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OF BROOKINGS COUNTY, SOUTH DAKOTA

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ARTICLE 1.00
SHORT TITLE AND APPLICATION

Section 1.01. This regulation may be known and may be cited and referred to as the "Brookings County Zoning Regulation" to the same effect as if the full title were stated.

Section 1.02. Jurisdiction. Pursuant to SDCL Chapter 11-2, 1967 as amended, the provision of this regulation shall apply within the un-incorporated areas of Brookings County, South Dakota, and including any joint jurisdictional areas, as established on the map entitled "The Official Zoning Map of Brookings County, South Dakota."

Section 1.03. Provisions of Regulation Declared to be Minimum Requirements. In their interpretation and application, the provisions of this regulation shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this regulation are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

**ARTICLE 2.00
DEFINITIONS**

Section 2.01. For the purpose of this regulation, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure", and the word "shall" is mandatory and not discretionary.

Section 2.02. A 25-year, 24-hour Storm Event is the amount of rainfall in a 24-hour period expected to occur only once every 25 years. Typically, the 25-year, 24-hour storm event is about 5 inches in Brookings County. The map in Appendix A shows the actual amount of rainfall that constitutes the 25-year, 24-hour storm event for South Dakota.

Section 2.03. Accessory Buildings and Uses is a subordinate use which is incidental to that of the main building or to the main use of the premises. Buildings of 120 square feet or less are not required to have a building permit.

Section 2.04. Anaerobic Lagoon means an impoundment used in conjunction with an animal feeding operation, if the primary function of the impoundment is to store and stabilize organic manure, the impoundment is designed to receive manure on a regular basis, and the impoundment's design manure loading rates provide that the predominant biological activity is anaerobic. An anaerobic lagoon does not include any of the following:

- a. A confinement feeding operation structure.
- b. A runoff control basin which collects and stores only precipitation induced runoff from an open feedlot.
- c. An anaerobic treatment system which includes collection and treatment facilities for all gases.

Section 2.05. Animal Feeding Operation Structure means an anaerobic lagoon, formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or confinement building.

Section 2.06. Animal Manure is poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding or other materials.

Section 2.07. Animal Unit See Page 22.07.

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Section 2.08. Applicant is an individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations.

Section 2.09. Aquifer is a geologic formation, group of formations or part of a formation capable of storing and yielding ground water to wells or springs.

Section 24.10. Basement A basement has more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes, other than by a janitor.

Section 2.11. Bed and Breakfast Home A building in which not to exceed five (5) rooms are rented to transients.

Section 2.12. Best Management Practices (BMP) means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMP's also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, waste or manure stockpiles, or drainage from raw material storage.

Section 2.13. Building is any structure in excess of 120 square feet designed for the support, shelter and protection of persons, animals, or property.

Section 2.14. Buildings, Height of The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip and gambrel roofs.

Section 2.15. Bypass means the intentional diversion of waste streams from any portion of a treatment facility.

Section 2.16. Change in Operation means a cumulative increase of more than 500 animal units, after May 13, 1997, which are confined at an un-permitted concentrated feeding operation.

Section 2.17. A Chronic or Catastrophic Event is a single precipitation event, or a series of rainfall events in a short period of time, that totals or exceeds the volume of a 25-year, 24-hour storm event. The event includes tornadoes, or other catastrophic conditions. The event would directly result in, or cause, an overflow from the containment structure or lagoon that receives and contains runoff from an open lot.

Section 2.18. Common Ownership is defined as single, corporate, cooperative or other joint operation or venture.

Section 2.19. Concentrated Animal Feeding Operation See Page 22.01

Section 2.20. Conditional Use A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning division or district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as conditional uses, as specific provisions for such uses are made in these zoning regulations. The Board of Adjustment may, after notice and hearing, revoke the conditional use in the event of a violation of any of such conditions. In addition, the conditional use permit may not be transferred during any violation. (Ord. 2004-01, 9-28-2004)

Section 2.21. Confinement Feeding Operation means a totally roofed animal feeding operation in which wastes are stored or removed as a liquid or semi-liquid.

Section 2.22. Confinement Feeding Operation Structure means a formed manure storage structure, egg washwater storage structure, earthen manure storage basin, or confinement building. A confinement feeding operation structure does not include an anaerobic lagoon.

Section 2.23. Corner Lot is a lot with two front yards.

Section 2.24. District A section or sections of the County for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Section 2.25. Domestic Animal is any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind. For the purpose of this ordinance the definition shall include, but is not limited to, animals commonly raised on farms and ranches, such as cattle, horses, hogs, sheep and mules.

Section 2.26. Dwelling Any building, including seasonal housing structures, or a portion thereof, which is designed and used exclusively for residential purposes.

Section 2.27. Dwelling, Single-Family A building occupied exclusively by one (1) family.

Section 2.28. Dwelling, Multiple A building occupied by two (2) or more families.

Section 2.29. Dwelling Unit One (1) or more rooms in a dwelling occupied as separate living quarters by a single family.

DEFINITIONS

Section 2.30. Earthen Manure Storage Basin means an earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from a confinement feeding operation if accumulated wastes from the basin are removed at least once each year.

Section 2.31. Established Building Site means an established building site shall have been used in the past as a farmstead for a normal farming operation. Any residence established for more than ten (10) years shall become an established building site.

Section 2.32. Established Residence is any residence established by a personal presence, in a fixed and permanent dwelling and an intention to remain there.

Section 2.33. Family One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as an individual housekeeping organization. A family may include two (2), but not more than two (2), persons not related by blood, marriage, or adoption.

Section 2.34. Farm An area with or without family dwelling which is used for the growing of the usual farm products, such as vegetables, fruit, trees and grain, and their storage on the area, as well as for the raising, feeding, or breeding thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities.

Section 2.35. Farm Dwelling means any residence farmer owned or occupied by the farm owners, operators, tenants, or seasonal or year-around hired workers.

Section 2.36. Farm Employee A person hired by the farm owner/ manager and works at least an average of 20 hours a week on the farm doing customary farm work. Proof of a Employer/Employee relationship must be provided in writing.

Section 2.37. Feedlot Operator means an individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations.

Section 2.38. Formed Manure Storage Structure means a structure, either covered or uncovered, used to store manure from a confinement feeding operation, which has walls and a floor constructed of concrete, concrete block, wood, steel, or similar materials.

Section 2.39. Frontage All the property on one (1) side of a street or road.

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Section 2.40. Garage, Private An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is accessory.

Section 2.41. Home Occupation and Home Extended Occupations (See General Requirements section, Article 17.00.)

Section 2.42. Housed Lot means totally roofed buildings that may be open or completely enclosed on the sides. Animals are housed over solid concrete or dirt floors, slotted floors over pits or manure collection areas in pens, stalls or cages. Housed lot is synonymous with other industry terms such as slotted floor buildings.

Section 2.43. Institution farm Agricultural land wholly owned by a government agency, Federal, State, County or Municipality, and used to grow an agricultural commodity. (Ord. 2004-01, 9-28-2004)

Section 2.44. Junk/Salvage/Recycling Yard The use of more than one thousand (1,000) square feet of any land, building, or structure for commercial purposes, where waste, discarded materials such as scrap metals, used building materials, used lumber, used glass, discarded vehicles, paper, rags, rubber, cordage, barrels etc., are stored.

Section 2.45. Letter of Assurances is a list of conditions signed by the applicant for a permit acknowledging agreement to follow the conditions of the permit.

Section 2.46. Lodging House A building or place where lodging is provided (or which is equipped to provide lodging regularly) by pre-arrangement for definite periods, for compensation, for three (3) or more persons in contradistinction to hotels open to transients.

Section 2.47. Lot, Buildable (1) A parcel of land occupied or intended for occupancy by a use permitted in this regulation, including one (1) main building together with its accessory buildings, the open spaces and parking spaces required by this regulation. (2) A lot which is a part of a subdivision, the plat of which has been recorded in the office of the County Register of Deeds at the time of the adoption of this regulation, provided that said lot has a frontage of not less than seventy five (75) feet; or an irregular tract lot described by a deed recorded in the office of the County Register of Deeds at the time of the passage of this regulation; provided that if a lot has less width or area as required by this regulation, the lot is not a buildable lot.

Section 2.48. Lot, Corner A lot abutting upon two (2) or more streets at their intersection.

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Section 2.49. Lot, Depth of The average horizontal distance between the front and rear lot lines.

Section 2.50. Lot, Double Frontage A lot having a frontage of two (2) streets as distinguished from a corner lot.

Section 2.51. Man-made means a pipeline, ditch, drain, tile, terrace, irrigation system, machine, or other object that carries manure, wastewater, or runoff into waters of the state.

Section 2.52. Manufactured Home is a building, used exclusively for human habitation, which is constructed in a manufacturing facility after June 15, 1976, in compliance with the National Manufactured Home Construction and Safety Standards Act and transportable in one or more sections to a building site.

Section 2.53. Manure Management System means any piping, containment structures, and disposal appurtenances associated with the collection, storage, treatment, and disposal of manure or wastewater at a concentrated animal feeding operation.

Section 2.54. Mobile Home is a building, used exclusively for human habitation, constructed in a manufacturing facility prior to June 15, 1976, the effective date of the National Manufactured Home Construction and Safety Standards Act, which is transported on a permanent chassis to a building site. A mobile home shall be construed to remain a mobile home subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle.

Section 2.55. Mobile Home Park Any premises used or set apart for supplying to the public parking space for one (1) or more mobile homes for living and sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended for use by park residents.

Section 2.56. Modular Home is a building, used exclusively for human habitation, constructed off site and in compliance with the applicable local or state building code and which is transported on a temporary chassis to a permanent building site.

Section 2.57. Motel A series of attached, semi-attached, or detached sleeping or living units, for the accommodation of transient guests and not customarily including individual cooking or kitchen facilities, said units having convenient access to off-street parking spaces for the exclusive use of guests or occupants.

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Section 2.58. Non-conforming Use Any building or land lawfully occupied by a use at the time of passage of this regulation or amendment thereto, which does not conform after the passage of this regulation or amendment.

Section 2.59. Non-farm Dwelling means any occupied dwelling, which is not a farm dwelling.

Section 2.60. No-till Cropland means land which is subject to a conservation farming practice: where the soil is left undisturbed from harvest to planting; where planting or drilling is done in a narrow seedbed or slot created by coulters, row cleaners, disk openers, or in-row chisel; and where this conservation practice has been ongoing for at least four consecutive years to establish the soil characteristics necessary to reduce or eliminate erosion from runoff.

Section 2.61. Open Concentrated Animal Feeding Operation is an un-roofed or partially roofed animal feeding operation in which no crop, vegetation, forage growth or post-harvest residues are maintained during the period that animals are confined in the operation.

Section 2.62. Open Lot means pens or similar confinement areas with dirt, or concrete (or paved or hard) surfaces. Animals are exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type shade areas. Open lot is synonymous with other industry terms such as pasture lot, dirt lot or dry lot.

Section 2.63. Parking Space An area, enclosed or un-enclosed, sufficient in size to store one (1) automobile, together with a driveway connecting the parking space with a street or alley.

Section 2.64. Permit is required by these regulations unless stated otherwise.

Section 2.65. Potential Pollution Hazard A Concentrated Animal feeding Operation of 100 to 500 Animal Units may be classified as a Class D Operation by the County Zoning Officer when a Potential Pollution Hazard exists. Factors to be considered by the Zoning Officer in determining a Potential Pollution Hazard include the following:

- a. The Concentrated Animal Feeding Operation does not meet the minimum setback and separation distances of these regulations.
- b. A Potential Water Pollution Hazard exists due to sitting over a shallow aquifer or drainage which contributes to the waters of the State.

Section 2.66. Process Generated Wastewater means water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from watering systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure

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collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.

Section 2.67. Process Wastewater means any process generated wastewater and any precipitation (rain or snow) that comes into contact with the animals, manure, litter or bedding, feed, or other portions of the animal feeding operation. The term includes runoff from an open lot.

Section 2.68. Producer means the owner or operator of the concentrated livestock feeding operation.

Section 2.69. Religious Farming Community An agricultural community with common land and property ownership. (Ord. 2004-01, 9-28-2004)

Section 2.70. Sale or Auction Yard or Barn A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one (1) day during sale or auction.

Section 2.71. Seasonal Camp Trailers or Recreational Vehicles A vehicle designed for temporary seasonal living quarters.

Section 2.72. Sediment Basin is a basin constructed to trap and store water-born sediment and debris.

Section 2.73. Service Station Any building or premises where automotive fuels are stored and made available for sale and dispensing through fixed equipment into fuel supply tanks or motor vehicles and where automotive supplies and accessories may or may not be available.

Section 2.74. Severe Property Damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Section 2.75. Shall means that the condition is an enforceable requirement of this permit.

Section 2.76. Shallow Aquifer is an aquifer vulnerable to contamination because the permeable material making up the aquifer (a) extends to the land surface so percolation water can easily transport contaminants from land surface to the aquifer, or (b) extends to near the land surface and lacks a sufficiently thick layer of impermeable material on the land or near the land surface to limit percolation water from transporting contaminants from the land surface to the aquifer.

Section 2.77. Shallow Well is a well which is located in a shallow aquifer.

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Section 2.78. Shelterbelt A strip or belt of trees or shrubs established to reduce soil erosion and to protect yards, lots, buildings, livestock and residences, recreation and wildlife from wind.

Section 2.79. Should means that the condition is a recommendation. If violations of the permit occur, the Board of Adjustment will evaluate whether the producer implemented the recommendations contained in this permit that may have helped the producer to avoid the violation.

Section 2.80. Significant Contributor of Pollution means to determine if a feedlot meets this definition, the following factors are considered:

- a. Size of feeding operation and amount of manure reaching waters of the state;
- b. Location of the feeding operation in relation to waters of the state;
- c. Means of conveyance of manure and process wastewater into waters of the state; and
- d. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal manure and process wastewater into waters of the state.

Section 2.81. Solid Waste (reference SDCL 34A-6-1.3, 17.) any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semisolid or contained gaseous material resulting from industrial, commercial and agricultural operations and from community activities, but does not include mining waste in connection with a mine permitted under Title 45, hazardous waste as defined under chapter 34A-11, solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1989, or source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended to January 1, 1989.

Section 2.82. Solid Waste Facility or solid waste disposal facility, (reference SDCL 34A-6-1.3, 18.) All facilities and appurtenances connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained or operated to facilitate the disposal or storage of solid waste.

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Section 2.83. Solid Waste Management System (reference SDCL 34A-6-1.3, 19.) Is the entire process of storage, collection, transportation, processing and disposal of solid wastes by any person.

Section 2.84. Street, Highway or Road All property acquired or dedicated to the public and accepted by the appropriate governmental agency for street, highway or road purposes.

Section 2.85. Street, Highway or Road, Right-of-Way (ROW) Line A dividing line between a lot or parcel of land and a contiguous street, highway or road.

Section 2.86. Structure Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

Section 2.87. Structural Alterations Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls.

Section 2.88. Twin Homes A two family unit, with a common wall, under separate ownership, on more than one lot, zero setback with one side yard and having separate septic systems for each family.

Section 2.89. Unauthorized Releases mean the discharge of water from the lower end of the treatment or containment system through a release structure or over or through retention dikes. An unauthorized release is distinguished from a bypass in that a bypass discharges wastewater prior to any treatment or containment.

Section 2.90. Waters of the State means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state.

Section 2.91. Yard An open space on the same lot with a building, unoccupied and unobstructed. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and bearing wall of the main building shall be used.

Section 2.92. Yard, Front A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the road right-of-way line and the main bearing wall of the main building or any projections

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thereof other than the projections of the usual steps, un-enclosed balconies or open porch.

Section 2.93. Yard, Rear Any yard extending across the rear of a lot measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or bearing wall or any projections other than steps, un-enclosed porches, or un-enclosed balconies. On corner lots the rear yard may be to the rear of either street, provided that the minimum rear yard depth requirement shall be calculated on the longest average lot dimension. On interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Section 2.94. Yard, Side A yard between the main building and the side line of the lot being the minimum horizontal distance between the bearing wall of the building and the side yard line, and extending from the front lot line to the rear yard line.

Section 2.95. Zoning Complaints All zoning complaints must be in writing and signed.

ARTICLE 3.00
ESTABLISHMENT OF DISTRICTS

Section 3.01. Districts. For the purpose of this regulation, the un-incorporated areas of the County may be divided into any of the following zoning districts: A--Agricultural; CI--Commercial/ Industrial; LP--Lake Park; NR--Natural Resources; Flood Plain Overlay District; Aquifer Protection Overlay District.

Section 3.02. Provision for Official Zoning Map.

1. The un-incorporated area of the County is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this regulation. The Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, attested by the County Auditor, and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 3.02 of the regulation adopted May 24, 1988 by Brookings County, South Dakota.

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

No changes of any nature shall be made on the official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this regulation. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this regulation and punishable as provided under Article 7.00

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2. In the event the official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may, by resolution, adopt a new official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Chairman of the Board of County Commissioners, attested by the County Auditor, and bearing the seal of the County under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the official Zoning Map adopted (date of adoption of map being replaced) for Brookings County, South Dakota." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.

Section 3.03. Interpretation of District Boundaries.

1. A district name or letter symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or symbol extend throughout the whole area in the un-incorporated portions of the County bounded by the district boundary lines.
2. In cases where the boundary line is given a position within a street, road, or non-navigable stream, it shall be deemed to be in the center of the street, road, or stream, and if the actual location of such street, road, or stream varies slightly from the location as shown on the district map, then the actual location shall control.
3. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
4. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from the railroad shall be measured from the center of the designated mainline track.
5. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines and where the districts designated on the Official Zoning Map accompanying and made a part of this regulation are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map or by resolution.

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6. In un-subdivided property, unless otherwise indicated, the district boundary line on the official Zoning Map accompanying and made a part of this regulation shall be determined by the use of the scale contained on such map.

Section 3.04. All territory which may hereafter become a part of the un-incorporated area of the County by the dis-incorporation of any village, town or city, or for some other reason may fall within the zoning jurisdiction of the County, shall automatically be classified in the "A" Agricultural District until within a reasonable time following dis-incorporation or acquisition of zoning jurisdiction, the territory shall be appropriately classified by regulation.

Section 3.05. Application of District Regulations.

Except as hereafter provided:

1. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.
2. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit established for the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area and parking regulations of the district in which the building is located.
4. The minimum yards and other open spaces, including lot area per family, required by this regulation for each and every building at the time of passage of this regulation or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this regulation.
5. Every building hereafter erected or structurally altered shall be located on a buildable lot as herein defined and in no case shall there be more than one (1) main building on one (1) buildable lot.
6. All sign sizes, light, and location shall, at a minimum, meet all State and Federal laws and regulations.

**ARTICLE 4.00
NONCONFORMING USES OR LOTS OF RECORD**

Intent: Within the districts established by this regulation or amendments that may later be adopted, there exist lots, structures, uses of land and structures, and characteristics of use, which were lawful before this regulation was passed or amended but which would be prohibited, regulated or restricted under the terms of this regulation or future amendments. It is the intent of this regulation to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this regulation that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Section 4.01. If no structural alterations are made, any non-conforming use of a structure or structure and premises, may, as a special exception, be changed to another non-conforming use provided that the County Zoning Commission, either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing non-conforming use. In determining such a change, the County Zoning Commission may require appropriate conditions and safeguards in accord with the provisions of this regulation. When a non-conforming use has been changed to a conforming use, it shall not be changed subsequently to any non-conforming use.

Section 4.02. In the event that a non-conforming use of any building or premises is, in fact, discontinued or its normal operation stopped for a period of one (1) year, the Board may adopt, after notice by registered or certified mail to the property owners, an amortization schedule to bring about the gradual elimination of such non-conforming use or occupancy.

Section 4.03. No existing building devoted to a use not permitted by this regulation, in the district in which such building is located, except when required to do so by law, shall be enlarged, extended, converted, reconstructed or structurally altered, unless such use is changed to a use permitted in the district in which the building is located.

Section 4.04. When a building, the use of which does not conform to the provisions of this regulation, is damaged by fire, explosion, or the public enemy, to the extent of more than sixty percent (60%) of its fair market value, it shall not be restored except in conformity with the regulations of the district in which the building is situated.

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OR LOTS OF RECORD**

Section 4.05. Nothing in this regulation shall be interpreted as authorization for, or approval of, the continuance of the use of a building or premises in violation of zoning regulations in effect at the time of the effective date of this regulation.

Section 4.06. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendments of this regulation, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this regulation, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this regulation, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this regulation.

Section 4.07. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done on ordinary repairs, or on repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the nonconformity of the structure shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to the lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 4.08. Non-conforming lots of record which were zoned for small lot development prior to the adoption of amendments in 1988 may be developed if other minimum requirements of this ordinance are met.

CHAPTER 4.02 – “CI” - COMMERCIAL/ INDUSTRIAL DISTRICTS

Purpose

The "CI" District is intended for commercial and industrial uses which due to their size and nature require highway access to a county, state, or federal road.

Section 4.02.01 - Permitted Use

Permitted uses in the "A" Agricultural District except residential dwellings, are listed below:

1. Agricultural activities and farm related buildings, including Class D but excluding Classes A, B, and C Concentrated Animal Feeding Operations;
2. Single family residences including manufactured, mobile and modular homes;
3. Fisheries services and game propagation areas;
4. Orchards, tree farms, truck gardening, nurseries and greenhouses;
5. Public parks and recreation areas;
6. Institution farms;
7. Agricultural research facility;
8. Signs;
9. Accessory uses and structures.

Section 4.02.02 - Conditional Uses

1. Implement sales and service;
2. Truck terminals and freight warehouses;
3. Seed sales and grain storage, fertilizer and chemical storage and sales;
4. Highway and street maintenance shops;
5. Welding and machine shops;
6. Gas stations, oil and liquid propane stations including bulk stations;
7. Public utility and public service structure including substations, gas regulator stations, community equipment buildings, pumping stations, and reservoirs;
8. Livestock sales;
9. Contractors' shops and yards;

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10. Wholesale distributing companies;
11. Restaurants, bar/taverns;
12. Motels;
13. Wireless telecommunication towers and facilities provided they meet requirements of Chapter 5.36
14. Convenience store/service stations.
15. Freestanding sign area greater than one hundred sixty (160) square feet.
16. Light manufacturing.
17. Agricultural product processing facilities including but not be limited to ethanol Plants and corn/soybean processing.
18. Conditional Uses in the "A" Agricultural District except residential dwellings, and as listed below:
 - a. Commercial public entertainment enterprises not normally accommodated in commercial areas, including but not limited to, the following: music concerts, rodeos, tractor pulls, and animal and vehicle races. See Chapter 5.23;
 - b. Contractors' shops and yards. See Chapter 5.39;
 - c. Commercial Game lodge; non-residential use. See Chapter 5.25;
 - d. Golf course, golf driving range;
 - e. Holiday tree farms. See Section 5.19.03.5;
 - f. Junk/salvage/recycling yards. See Chapter 5.26;
 - g. Livestock sale barns. See Chapter 5.22
 - h. Private campground; See Chapter 5.38
 - i. Private Wind Energy Conversion System (PWECS) provided they meet the requirements of Chapter 5.29;
 - j. Rock crushers; and concrete and asphalt mixing plants. See Chapter 5.31;
 - k. Seasonal retail stands, including garden produce and fireworks stands;
 - l. Sewage (domestic) treatment plants. See Chapter 5.33;
 - m. Shooting ranges. See Chapter 5.34;
 - n. Stables, dog/cat kennels;

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- o. Veterinary clinics;
- p. Wineries. See Section 5.19.03.4;
- q. Wireless telecommunication towers See Chapter 5.36.

19. Aviation facilities; including airstrips.

20. Commercial Storage units.

Section 4.02.03 - Highway Access

All property in the "CI" District must have access to a County, State, or Federal road.

Section 4.02.04 - Area Regulations

Minimum lot area, maximum building height, and minimum yard requirements shall be regulated in accordance with the following tables:

1.

	Minimum Lot Area	Maximum Height (A)	Maximum Lot Coverage
Permitted Uses	3 Acres	50'	25%
Other Conditional Uses	To be determined by the Board of Adjustment		

A. *[Exception to maximum height]* The Zoning Official may allow heights to exceed fifty (50) feet for the following:

- i. Agricultural bulk storage structures and associated loading/unloading equipment.
- ii. Chimneys, smokestacks, and cooling towers.
- iii. Wireless Telecommunications Towers and Facilities.
- iv. Wind Energy Systems, Private Wind Energy Systems.
- v. Others as determined by the Board of Adjustment.

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2.

	Minimum Front Yard (A)	Minimum Rear Yard	Minimum Side Yard	Minimum Side or Rear Yard Adjacent to Residential Use or "A" – Agricultural Zoning District
Permitted Uses	100'	50'	50'	100'
Signs	1'	10'	10'	10'
Conditional Uses	To be determined by the Board of Adjustment			

A. In no case shall an accessory building be located or extend into the front yard.

3. Access. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit.
4. Lot Area. Lot area shall be determined by need, setback, side yards, rear yards, parking requirements, freight handling requirements, building site and future expansion; however, in no case shall a lot have less than three (3) acres.

An applicant for a Conditional Use shall provide a proposed site plan which can be reviewed by the County Zoning Commission. For commercial and industrial uses, buildings shall occupy no more than twenty-five (25) percent of the lot.

5. Storage. All outdoor storage within five hundred (500) feet of a residential dwelling must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stock pile which fence shall be maintained in safe and good repair. The County may require asphalt or concrete surfacing of parking lots.
6. Parking. Each lot shall provide off-street parking. Number of parking spaces shall be determined by the Board of Adjustment. Trees used for landscaping within a paved parking lot are exempt from minimum front, rear and side yard requirements for shelterbelts.

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Section 4.02.05 - Performance Standards

1. Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
2. Air Pollution. State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.
3. Odor. The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
4. Glare, Heat or Radiation. Every use shall be so operated that there is no emission of heat, glare or radiation visible or discernable beyond the property line.
5. Vibration. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
6. Sewage and Liquid Wastes. No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radioactive nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.
7. Fire Hazard. All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the County Commissioners
8. Physical Appearance. All operations shall be carried on within an enclosed building except that new or operable equipment may be displayed or stored in the open and waste materials stored in enclosed containers not readily visible from the street.

CHAPTER 4.03. "LP" LAKE/ PARK DISTRICTS.

Purpose

The Lake-Park District was established to provide for orderly residential and recreational development together with certain public facilities, customary home occupations, and certain recreation oriented commercial establishments along lake shores and to preserve the natural environment, including shorelines and lakes, from destructive land uses.

Area Contained in "LP" District

All land, unless otherwise zoned in the Brookings County Official Zoning Map adopted May 29, 2007, as amended October 1, 2013, and as amended thereafter, within one thousand (1,000) feet of the normal high water line of a designated lake shall be zoned Lake-Park District and usage shall conform to the regulations for this District.

Section 4.03.01. Permitted Uses.

1. New and used single-family residences, manufactured or modular homes **subject to the provisions of Chapter 5.09.**
2. Public parks and recreation areas;
3. Agriculture and horticulture uses excluding Concentrated Animal Feeding Operations (CAFO);
4. Accessory buildings of new construction, with a maximum of 14' side-walls and 2,000 square feet or less and which meet all required setbacks are a permitted use. New or used accessory buildings of 120 square feet or less are a permitted use and are not required to have a building permit. (Ord. 2006-02, 3-28-2006, Ord. 2015-03, 12-29-2015).

Section 4.03.02. Conditional Uses.

1. Twin homes;
2. Private parks and camp grounds;
3. Resorts; **subject to the provisions of Chapter 5.40;**
4. Restaurants;
5. Boat houses adjacent to lake shore;
6. Accessory buildings with a side-wall greater than fourteen (14) feet or more than 2,000 square feet and used accessory buildings greater than 120 square feet.
7. Golf courses/country clubs;
8. Marinas;

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9. Boat Repair/shops;
10. Grocery, convenience and sporting goods stores;
11. Gas stations;
12. Riding Stables;
13. Skating Rinks;
14. Essential Public Services;
15. Public utility and public service structure including transmission lines, substations, gas regulator stations, pipelines, community equipment buildings, pumping stations, and reservoirs;
16. Laundromats;
17. Outdoor music events;
18. Commercial storage units;
19. Bars/Taverns;
20. Firework sales; subject to SDCL Chapter 37-32.
21. Home occupations; **subject to the provisions of Chapter 5.16;**
22. Bed and Breakfasts / Vacation Rental By Owner (VRBO);
23. Extended home occupations; **subject to the provisions of Chapter 5.24.**

Section 4.03.03. Density, Area and Yard Regulations.

- 1. Minimum lot area, maximum lot coverage/density, minimum frontage, and minimum yard requirements for the Lake Park District shall be regulated in accordance with the Table 4.03.03.1:**

Table 4.03.03.1

Land Uses		Maximum Per Unit Density (Sq. Ft.)	Minimum Lot Area (Sq. Ft.)	Minimum Shoreline Frontage	Minimum Road Frontage	Minimum Front Yard	Minimum Rear Yard or Lake Front	Minimum Side Yard
Lots Adjacent to Lake	Single Family Dwelling	20,000'	20,000'	75'	75'	25' (A)	75' (B)	8'
	Other Allowable Uses	20,000'	20,000'	75'	75'	25' (A)	75' (B)	8'
Lots Not Adjacent to Lake	Single Family Dwelling	20,000'	20,000'	NA	75'	25' (A)	25'	8'
	Other Allowable Uses	20,000'	20,000'		75'	25' (A)	25'	8'

(A) Side of lot facing road right-of-way or access easement.

(B) Measured from wall of the structure to the estimated high water elevation.

- A corner lot will have two front yards. In the case of a lot abutting more than one street, the owner may choose any street lot line as the front lot line with consent of the Zoning Official, based on the effects of such choice on development of the lot itself or on adjacent properties. The rear lot line is opposite and most distant the front lot line.
- For lakes or ponds: No structure except piers and docks shall be placed at an elevation such that the lowest floor, including the basement, is less than three (3) feet above the highest known water level. In those instances where sufficient data on known high water level is not available, the elevation line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be required to stabilize before construction begins.
- All residential and commercial uses requiring sanitary sewer/septic services shall be connected to a wastewater treatment system in accordance with the following:**
 - Residential and commercial uses on lots containing less than twenty thousand (20,000) square feet shall be connected to a sealed holding tank or an approved sanitary sewer district. Existing septic tanks and drain fields as of (date of the ordinance) on lots with an area of less than twenty thousand (20,000) square feet are considered nonconforming uses and may only be replaced by connection to an approved sanitary sewer district or a sealed holding tank.**

- b. **Septic systems are required to be installed for cabins and homes on all lots containing twenty thousand (20,000) square feet or more, unless the property is connected to an approved sanitary sewer district.**
 - c. **All septic systems are required to be installed by a South Dakota Department of Environment and Natural Resources (SD DENR) certified installer following South Dakota Administrative Rules Chapter 74:53.**
- 4. No residence shall exceed two and one-half (2 ½) stories or 35 feet from the peak of the residence to the highest ground next to the structure. Exceptions include the following:
 - a. Agricultural buildings.
 - b. Chimneys, smokestacks, cooling towers.
 - c. Radio and TV towers.
 - d. Water tanks.
 - 5. Solar panels are allowed as an accessory use subject to the following conditions:
 - a. **Solar panels must meet height and setback requirements for the Lake Park District.**
 - b. **The energy generated shall be used exclusively on the site where the energy is generated.**
 - 6. Landowners shall comply with South Dakota Codified Law 38-22 Weed and Pest Control and Brookings County Noxious Weed and Pest List for noxious weeds and vegetation.

Section 4.03.04. Shoreline and Bottomland Alterations.

These regulations are deemed necessary along the shores of natural waters to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shore land.

- 1. **Removal of Shore Cover:**
 - a. Natural shrubbery shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
 - b. The removal of natural shrubbery or trees and the replacement of such vegetation within 35 feet inland from all points from the high water mark shall require the granting of a permit by the Zoning Official. An application to alter lakeshore or bottom lands which contains a plan showing the work to be accomplished shall be filed at the Zoning Office. The plan shall be approved South Dakota Game, Fish and Parks and/or the Army Corps of Engineers as required by state or federal law prior to the Zoning Officer issuing the permit. The granting of the permit shall be conditioned upon the applicant providing the Zoning officer, within eighteen (18)

months after the date of granting the permit, satisfactory evidence of compliance with the plan or pay for the cost incurred by the County in replacing the property in compliance. In the event the County pays the cost of putting the property in compliance, a civil lien shall be placed against the property in favor of the County for the amount expended by the County. Nothing in this provision shall prevent the County from pursuing all legal remedies available to enforce this provision. It is solely within the discretion of the County whether to pay the costs of placing the property in compliance.

Section 4.03.05. Filling, Grading, Lagooning and Dredging.

1. Filling, grading, lagooning or dredging are prohibited unless the applicant completes and files with the Zoning Office an application for filling, grading, lagooning or dredging which contains a plan showing the work to be accomplished. The plan shall be approved South Dakota Game, Fish and Parks and/or the Army Corps of Engineers as required by state or federal law prior to the Zoning Officer issuing the permit. The granting of such permit shall be conditioned upon the applicant providing the Zoning officer, within eighteen (18) months after the date of granting such permit, satisfactory evidence of compliance with the plan or pay for the cost incurred by the County in replacing the property in compliance. In the event the County pays the cost of putting the property in compliance, a civil lien shall be placed against the property in favor of the County for the amount expended by the County. Nothing in this provision shall prevent the County from pursuing all legal remedies available to enforce this provision. It is solely within the discretion of the County whether to pay the costs of placing the property in compliance.
2. A permit shall be required for any filling or grading.
3. Building permits are required for all retaining walls or structures.

Chapter 4.04 - NATURAL RESOURCE DISTRICTS

Section 4.04. "NR" Natural Resource District

Section 4.04.01 - Purpose

The purpose of the Natural Resource District is to provide for the retaining of natural vegetation of a particular area, to preserve the natural environment and resources from destructive land uses and to protect wildlife habitat. Such an area may include, but is not limited to, flood plains of rivers, streams, and lakes, abandoned quarries, certain wetlands, natural prairies, and historical sites.

Area Contained in "NR" District

1. All lands totally or partially owned by the state or federal governments as wildlife production or public shooting areas.
2. All land, unless otherwise zoned, within 300-feet from original government surveyed meandered line of water bodies, included in Appendix #/A.
3. Excludes all rivers and tributaries.
4. Any other areas specifically zoned natural resources by the County.

Section 4.04.02 - Permitted Uses

1. Wildlife production areas, wildlife habitat, wetlands, plant and pollinator protection areas and riparian or vegetated buffer zones.
2. Game refuges;
3. Historic sites and/or monuments;
4. Designated natural prairies;
5. Public hunting and fishing access areas;
6. Agriculture/Horticulture uses and livestock grazing.
7. Scientific observation, survey, or research to promote environmental integrity and that does not compromise the natural resource area.

Section 4.04.03 - Uses Permitted by Conditional Use if Deemed Not Detrimental to District

1. Transportation and utility easements and rights-of-way.
2. Utility substations;
3. Public parks and/or playgrounds;

CHAPTER 4.05 - FLOOD DAMAGE PREVENTION.

Flood Damage Prevention Regulations

Section 4.05.01. - Statutory Authorization, Findings of Fact, Purpose and Objectives.

1. Statutory Authorization

The Legislature of the State of South Dakota has in SDCL Chapter 11-2 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the County Commissioners of Brookings County, South Dakota, ordain as follows:

2. Findings of Fact

- a. The flood hazard areas of Brookings County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare
- b. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

3. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- a. To protect human life and health;
- b. To minimize expenditure of public money for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. To minimize prolonged business interruptions;

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- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
- h. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

Section 4.05.02. - Methods of Reducing Flood Losses

In order to accomplish its purposes, these regulations include methods and provisions for:

- 1. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- 2. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- 4. Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- 5. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 4.05.03 - Definitions

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.

- 1. Area of Special Flood Hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

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2. Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year.
3. Corner Lot: A corner lot will have two front yards. In the case of a lot abutting more than one street, the owner may choose any street lot line as the front lot line with consent of the Zoning Official, based on the effects of such choice on development of the lot itself or on adjacent properties. The rear lot line is opposite and most distant the front lot line.th two front yards.
4. Development means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
5. Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters and/or
 - b. The unusual and rapid accumulation of runoff of surface waters from any source.
6. Flood Insurance Rate Map (FIRM) The official map of a community on which FEMA has delineated both the special hazard areas and the risk premium zones applicable to the community. (Ord 2008-07, 6-24-2008)
7. Flood Insurance Study (FIS) A Flood Insurance Study (FIS) is a book that contains information regarding flooding in a community and is developed in conjunction with the Flood Insurance Rate Map (FIRM). (Ord 2008-07, 6-24-2008)
8. Manufactured Home is a building, used exclusively for human habitation, which is constructed in a manufacturing facility after June 15, 1976, in compliance with the National Manufactured Home Construction and Safety Standards Act and transportable in one or more sections to a building site.
9. Mobile Home is a building, used exclusively for human habitation, constructed in a manufacturing facility prior to June 15, 1976, the effective date of the National Manufactured Home Construction and Safety Standards Act, which is transported on a permanent chassis to a building site. A mobile home shall be construed to remain a mobile home subject to all regulations applying thereto, whether or not wheels, axles, hitch or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. A travel trailer or other form of recreational vehicle shall not be construed to be a mobile home.

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10. Modular Home is a building, used exclusively for human habitation, constructed off site and in compliance with the applicable local or state building code and which is transported on a temporary chassis to a permanent building site.
11. Structure means a walled and roofed building or manufactured home that is principally above ground.
12. Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
 - a. Before the improvement or repair is started, or
 - b. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this designation, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
 - b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
13. Zoning Complaints. All zoning complaints must be in writing and signed.

Section 4.05.04. General Provisions

1. Lands to Which This Ordinance Applies.

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Brookings County.

2. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), dated July 16, 2008, is adopted by reference and declared to be part of these regulations. The FIRM is on file at the County Zoning Office, Brookings, SD. (Ord. 2008-07, 6-24-2008)

3. Compliance

No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of these regulations and other applicable regulations.

4. Abrogation and Greater Restrictions

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation.

In the interpretation of these regulations, all provisions shall be:

- a. Considered as minimum requirements;
- b. Liberally construed in favor of the governing body; and
- c. Deemed neither to limit nor repeal any other powers granted under State statutes.

6. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of Brookings County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

7. Severability

If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.

Section 4.05.05. Administration

1. Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 4.05.04.2. Application for a development permit shall be made on forms furnished by the Zoning officer and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the forgoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been flood proofed;
- c. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 4.05.06.2.b; and
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Designation of the Zoning Officer

The Zoning officer is hereby appointed to administer and implement these regulations by granting or denying development permit applications in accordance with their provisions.

3. Duties and Responsibilities of the Zoning Officer

Duties of the Zoning Officer shall include but not be limited to:

- a. Permit Review
 - i. Review of all development permits to determine that the permit requirements of these regulations have been satisfied.
 - ii. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

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iii. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of these regulations, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

1. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.
2. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.
3. If the proposed development is a building, then the provisions of these regulations shall apply.

b. Uses of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 4.05.04.2, Basis for Establishing the Areas of Special Flood Hazard, the Zoning officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 4.05.06.2, Specific Standards.

c. Information to be Obtained and Maintained.

- i. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- ii. For all new or substantially improved flood proofed structures:
 1. Verify and record the Actual elevation (in relation to mean sea level) to which the structure has been flood proofed.
 2. Maintain the flood proofing certification required in Section 4.05.05.1.c.
- iii. Maintain for public inspection all records pertaining to the provisions of these regulations.

d. Alteration of Watercourses

- i. Notify adjacent communities and Emergency and Disaster Services, Pierre, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- ii. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

e. Interpretation of FIRM Boundaries

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, there appears to be a conflict between a mapped boundary and actual field conditions).

Section 4.05.06. Provisions for Flood Hazard Reduction

1. General Standards

In all areas of special flood hazards, the following standards are required:

a. Anchoring

- i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- ii. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
 1. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.
 2. Frame ties must be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured

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homes less than 50 feet long requiring four additional ties per side;

3. All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
4. Any additions to the manufactured home must be similarly anchored.

b. Construction Materials and Methods

- i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- ii. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- iii. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

c. Utilities

- i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals

- i. All subdivision proposals shall be consistent with the need to minimize flood damage;
- ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

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- iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- iv. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or five acres (whichever is less).

e. Encroachments

Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

2. Specific Standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.05.05.3.b, Use of Other Base Flood Data, the following standards are require.

a. Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to one foot above the base flood elevation.

i. Below-Grade Residential Crawlspace Construction

New construction and substantial improvement of any below-grade crawlspace shall:

- 1. Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade;
- 2. Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four feet at any point;
- 3. Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;

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4. Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
5. Be constructed with materials and utility equipment resistant to flood damage;
6. Be constructed using methods and practices that minimize flood damage;
7. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
8. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade;
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (Ord. 2004-01, 9-28-2004).

b. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- i. Must be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;

- ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 4.05.05.3.c.ii.

Section 4.05.07. Penalties for Noncompliance

1. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Board of County Commissioners pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Zoning Ordinance may be subject to a civil or criminal penalty. The maximum penalty for violation of this Zoning Ordinance shall be five hundred dollars (\$500.00) or thirty (30) days in the County Jail or both. In addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification shall constitute a separate offense. All fines for violation shall be paid to the Finance Office and shall be credited to the General Fund of the County.

The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

2. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Brookings County in addition to other remedies, may institute injunction, mandamus or other appropriate actions or proceedings in a court of competent jurisdiction to prevent, restrain, correct or abate such violation of these regulations, and it is the duty of the State's Attorney to institute such action.

CHAPTER 4.06. AQUIFER PROTECTION.

Aquifer Protection Overlay District.

Section 4.06.01. Purpose:

1. The Brookings County Planning Commission and Board of County Commissioners recognize (1) that residents of Brookings County rely exclusively on ground water for a safe drinking water supply and (2) that certain land uses in Brookings County can contaminate ground water particularly in shallow/surficial aquifers.
2. The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow/surficial aquifers of Brookings County. It is the intent to accomplish this, as much as possible, by public education and securing public cooperation.
3. Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations. It is not the intent to grandfather in existing land uses which pose a serious threat to public health through potential contamination of public water supply well head areas.

Section 4.06.02. Definitions.

1. Aquifer. A geologic formation, group of formations or part of a formation capable of storing and yielding ground water to wells or springs.
2. Best Management Practices (BMP). Means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMP's also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, waste or manure stockpiles, or drainage from raw material storage.
3. Buffer Zone. An area outside and adjacent to Zone A that has been delineated to account for possible changes in the boundaries of Zone A due to effects of irrigation pumping.
4. Chemigation. The process of applying agricultural chemicals (fertilizer or pesticides) using an irrigation system by injecting the chemicals into the water.
5. Class V Injection Well. A conduit through which potentially contaminated but generally non-hazardous fluids can move from the land surface to the subsurface; the types of primary concern are (1) commercial/industrial facility septic tanks when they are used to dispose of more than domestic wastewater and (2) dry wells for repair/service bay drains at facilities servicing motorized vehicles/ equipment.
6. Concentrated Animal Feeding Operation See Chapter 5.22
7. Contamination. The process of making impure, unclean, inferior, or unfit for use by introduction of undesirable elements.

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8. Contingency Plans. Detailed plans for control, re-containment, recovery and clean up of hazardous materials released during fires, equipment failures, leaks and spills or other similar events.
9. Corner Lot is a lot with two front yards.
10. Development. The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.
11. Facility. Something that is built, installed or established for a particular purpose.
12. Grey Water. All domestic wastewater except toilet discharge water.
13. Hazardous Materials. A material which is defined in one or more of the following categories.
 - a. Ignitable: A gas, liquid or solid which may cause fires through friction, absorption of moisture or which has low flash points. Examples: white phosphorous and gasoline.
 - b. Carcinogenic: A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: Polychlorinated Biphenyls (PCBs) in some waste oils.
 - c. Explosive: A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.
 - d. Highly Toxic: A gas, liquid or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.
 - e. Moderately Toxic: A gas, liquid or solid, which through repeated exposure or in a single large dose can be hazardous to man. Example: atrazine.
 - f. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.
14. Manure Storage Area. An area for the containment of animal manure in excess of 8,000 pounds or 1,000 gallons.
15. Leaks and Spills. Any unplanned or improper discharge of a potential contaminant including any discharge of a hazardous material.
16. Pasture. A field that provides continuous forage to animals without depletion of forage matter.
17. Primary Containment Facility. A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

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18. Secondary Containment Facility. A second tank, catchments pit, pipe or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Monitoring and recovery are required.
19. Shallow/Surficial Aquifer. An aquifer in which the permeable media (sand and gravel) starts at the land surface or immediately below the soil profile. The main shallow/surficial aquifer in Brookings County is the Big Sioux Aquifer.
20. Ten Year Time of Travel Distance. The distance that ground water will travel in ten years. This distance is a function of the permeability and slope of the aquifer.
21. Zone of Contribution. The entire area around a well or well field that is recharging or contributing water to the well or well field.
22. Zoning Complaints. All zoning complaints must be in writing and signed.

Section 4.06.03. Establishment and Delineation of Aquifer Protection Overlay Zones.

1. Boundaries for the aquifer protection zones for the Aquifer Protection Overlay District are shown on published maps entitled "Well head Protection Area Maps, Brookings County Shallow Aquifer Map" dated May, 1988, with pages 5 and 9 amended in January of 1999, as drawn by Banner Associates. Said maps are hereby adopted by reference as part of this ordinance as if the maps were fully described herein. In addition to the before mentioned maps the South Dakota Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Geological Survey Aquifer Materials Map 19 dated 2004, for areas designated 0-50 feet on map, will be used to further identify aquifer boundaries. In the event of a conflict between such maps as to the area covered by the aquifer at a given location, then the map showing the larger aquifer area shall be followed. (Ord. 2006-02, 3-28-2006).
2. The shallow/surficial aquifer boundary was mapped using data from the South Dakota Geological Survey and United States Geological Survey. This map only serves as a general guide to the location of these aquifers. County studies and other information shall be used, where available, to better determine more precise aquifer locations. Aquifer boundaries are drawn at the discretion of geologists and hydrologists based on best available information. Therefore, actual site specific aquifer boundaries may differ from the attached map and other information. Hydrogeologic information is necessary to verify the location of a concentrated animal feeding operation in relation to an underlying shallow aquifer.

Section 4.06.04. Zone A - Aquifer Critical Impact Zone.

Zone A, the well head protection area, is the zone of contribution mapped around all public water supply wells or well fields and includes land upgradient to the ten year time of travel boundary plus contributing drainage areas, as delineated on the official copy of published maps representing sloping, adjacent lands not underlain by the aquifer from which surface water can flow directly onto Zone A.

Section 4.06.04.01. Permitted uses in Zone A:

The following uses are permitted provided they meet appropriate performance standards outlined for aquifer protection overlay zones:

1. Agriculture;
 - a. Application of manure is permitted with an approved nutrient management plan.
2. Horticulture.
3. Park, greenways or publicly owned recreational areas.
4. Necessary public utilities/facilities designed so as to prevent contamination of ground water.
5. Best Management Practices are encouraged, particularly in Zone A.

Section 4.06.04.02. Conditional Uses in Zone A:

The following uses are permitted only under the terms of a Conditional Use and must conform to provisions of the underlying zoning district and meet the Performance Standards outlined for the Aquifer Protection Overlay Zones.

1. Expansion of existing conforming and non-conforming uses to the extent allowed by the underlying district. The County Zoning Commission shall not grant approval unless it finds such expansion does not pose greater potential contamination to ground water than the existing use.
2. Sediment basins will be allowed on a case-by-case basis and must be constructed to current NRCS standards and specifications.
3. Expansion of existing Class "D" Concentrated Animal Feeding Operations (CAFOs) to 499 animal units, that were in continuous existence at the time of adoption of Brookings County Zoning Ordinance May 1976.

Section 4.06.04.03. Prohibited Uses in Zone A:

The following uses are expressly prohibited in Zone A:

1. New Class A, B, C and D Concentrated Animal Feeding Operations after adoption of this ordinance, May, 1976
2. Existing Concentrated Animal Feeding Operations in continuous operation since the adoption of the Brookings County Zoning Ordinance May, 1976 will not be able to expand beyond a total of 500 animal units (Class D).
3. Earthen storage basins and lagoons.
4. Disposal of or stockpiling of solid waste.

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5. Post-harvest application of nitrogen fertilizer prior to October 15th except for the spreading of manure.
6. Storage of road salt or disposal of snow containing deicing chemicals.
7. Processing and storage of Polychlorinated Biphenyls (PCB) containing oils;
8. Car washes;
9. Auto service, repair or painting facilities and junk or salvage yards;
10. Disposal of radioactive waste;
11. Graveyards or animal burial sites;
12. Open burning and detonation sites;
13. All other facilities involving the collection, handling, manufacture, use storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on ground water quality;
14. Land spreading or dumping of petroleum-contaminated soil, waste oil or industrial wastes.
15. Class V injection wells.
16. All uses not permitted or not permitted as Conditional Uses in Zone A.
17. Transmission facilities designated to transport liquid hydrocarbons or liquid hydrocarbon products.

Section 4.06.05. Zone B - Aquifer Secondary Impact Zones.

Zone B is established as the remainder of the mapped shallow/ surficial aquifer not included in Zone A.

This portion of the aquifer is being protected because (1) it is a valuable natural resource for future development, (2) it provides drinking water supply for individual households, (3) contamination is not justified, even though this area is not a public water supply wellhead and (4) contaminants could eventually reach Zone A.

Section 4.06.05.01. Permitted Uses in Zone B:

1. All uses permitted in the underlying zoning districts provided that they can meet the Performance standards as outlined for the Aquifer Protection Overlay Zones.
2. Best Management Practices are encouraged, particularly in Zone B.

Section 4.06.05.02. Conditional Uses in Zone B:

1. New Class D and accumulative expansion of 250 animal units of existing Class C and D CAFO's in continuous operation since the adoption of Brookings County Zoning Ordinance on May 1976 not to exceed 750 total animal units. (Class C).
2. Sediment basins will be allowed on a case-by-case basis and must be constructed to current NRCS standards and specifications.
3. All Conditional Uses allowed in underlying districts may be approved by the County Zoning Commission provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

Section 4.06.05.03. Prohibited Use in Zone B:

The following use is expressly prohibited in Zone B:

1. New and expansion of Class A, B and C Concentrated Animal Feeding Operations.
2. Earthen storage basins and lagoons.
3. Post-harvest application of nitrogen fertilizer prior to October 15th except for the spreading of manure.
4. Land spreading or dumping of petroleum-contaminated soil, waste oil or industrial wastes.
5. Class V injection wells.
6. Transmission facilities designated to transport liquid hydrocarbons or liquid hydrocarbon products.

Section 4.06.06. Performance Standards:

The following standards shall apply to land uses in Zones A and B of the Aquifer Protection Overlay Districts:

1. New or replacement septic tanks and associated drain fields for containment of human or animal wastes must conform with regulations established by the State Department of Environment and Natural Resources.
2. Any facility involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or wastes, except for spreading of manure, in excess of 1000 pounds and/or 100 gallons which has the potential to contaminate ground water must have a secondary containment system which are easily inspected and whose purpose is to intercept any leak or discharge from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and inspectable sumps. Pipes installed to carry diluted chemicals for chemigation are exempted and storage of liquid fertilizer for chemigation is allowed as long as a secondary containment system is used. Secondary containment for tanks used for chemigation must be in place by April 1, 1991.

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3. Open liquid waste ponds containing materials referred to in (2) above will not be permitted without a secondary containment system except for community wastewater lagoons. Agricultural waste storage ponds are permitted but must be constructed in conformance with Natural Resource Conservation Service South Dakota Engineering Standard, Waste Storage Ponds 425. (See Appendix 1).
4. Storage of petroleum products in quantities exceeding fifty-five (55) gallons at one locality in one tank or series of tanks must be in elevated tanks; such tanks must have a secondary containment system noted in (2) above where it is deemed necessary by the County Zoning office.
5. Discharge of industrial process water on site is prohibited without County Zoning office approval. County approval contingent on state permit from South Dakota Department Environment and Natural Resources.
6. Auto service, repair or painting facilities and junk or salvage yards in Zone B shall meet all State and Federal standards for storage, handling and disposal of petroleum products and shall properly dispose of all other potentially hazardous waste materials.
7. An acceptable contingency plan for all permitted facilities must be prepared and on file in the County Zoning Office for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire and other natural catastrophes or equipment failure occur:
 - a. For flood control, all underground facilities shall include but not be limited to a monitoring system and secondary standpipe above the 100-year flood control level, for monitoring and recovery. For above ground facilities, an impervious dike, above the 100 year flood level and capable of containing 100 percent of the largest volume of storage, will be provided with an overflow recovery catchments area (sump).
 - b. For fire control, plans shall include but not be limited to a safe firefighting procedure, a fire retardant system and provide for dealing safely with both health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are overhead and buried electrical lines, pipes, other buried objects and other hazardous liquids, chemicals or open flames in the immediate vicinity.
 - c. For equipment failures, plans shall include but not be limited to:

Below ground level, removal and replacement of leaking parts, a leak detection system with monitoring and an overfill protection system. Above ground level, liquid and leaching monitoring of primary containment systems, their replacement or repair and cleanup and/or repair of the impervious surface.
 - d. For any other natural or man-caused disasters occurring, the owner and/or operator shall report all incidents involving liquid or chemical material in an endangerment of the health and /or safety of either disaster personnel and/or the public in general.

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Agricultural operations are exempted from this section unless they store chemicals that are on the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) extremely hazardous substance list over the threshold planning quantity at any one time. (See Appendix 3)

The County Zoning Office, DENR and public water supply officials shall be informed within 24 hours of all leaks and spills of materials that might potentially contaminate ground water.

8. Since it is known that improperly abandoned wells can become a direct conduit for contamination of ground water by surface water, all abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:04:67-70.

Section 4.06.07. Grant of Permit, Alteration of Use.

A permit will be granted when the County Zoning officer has examined the application and determined that the proposed use, activity or development meets the performance standards.

In securing a use permit, the owner/developer must make future improvements which may become necessary to prevent contamination of shallow/surficial aquifers and the owner/developer must allow County personnel to inspect any improvements to verify they meet the performance standards.

Whenever any person has obtained a permit and thereafter desires alteration of the authorized use, such persons shall apply for a new permit. The owner may appeal a County Zoning officer's decision to modify or deny a requested permit to the County Planning Commission/County Zoning Commission.

Section 4.06.08. Exceptions.

1. Any lawful use in existence on the effective date of this ordinance shall be permitted to continue provided it can be shown such use does not threaten public health and safety by potential contamination of water in the shallow/surficial aquifers. Any proposed additions, changes or improvements will require a permit.
2. Storage of liquids and chemicals used in agricultural operations during spring/fall planting and crop cultivation are exempt from the requirements of this ordinance April 1 to October 1. Tanks used for chemigation are not exempt. Best Management Practices are encouraged, particularly in Zone A.
3. Storage of liquid or dry fertilizer in amounts equal to or less than 1,000 pounds or 100 gallons, stored indoors by each farm operator is exempt from the requirements of this ordinance.

Section 4.06.09. Limitation of County Liability.