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CHAPTER 4.08 RESIDENTIAL DISTRICT (R-1)

- 4.0801 Intent. The intent of Residential District (R-1) is to provide for residential uses of varying types and other compatible uses in a pleasant and stable environment.
- 4.0802 Permitted Principal Uses and Structures.
1. Single-family/two family dwellings; and
 2. Noncommercial horticulture uses.
- 4.0803 Permitted Accessory Uses and Structures.
1. Home occupations and professional offices; and
 2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.
- 4.0804 Special Exceptions. After the provisions of this Title relating to special exceptions have been fulfilled, the Board of Adjustment may permit as special exceptions in Residential District (R-1):
1. Multiple-family dwellings;
 2. Churches, synagogues, and temples;
 3. Nursery, primary, intermediate, and secondary schools;
 4. Public recreational and park facilities;
 5. Utility substations;
 6. Convalescent, nursing, and rest homes;
 7. Medical and other health facilities;
 8. Mobile homes with a minimum width of twenty (20) feet and on a permanent foundation;
 9. Bed and Breakfast.
- 4.0805 Minimum Lot Requirements. The minimum lot area shall be seven thousand two hundred (7,200) square feet for single/two family dwellings. The minimum lot area for multi-family dwellings in excess of two units shall be seven thousand two hundred (7,200) square feet and an additional one thousand eight hundred (1,800) square feet for each unit in excess of the first two. The minimum lot width shall be sixty (60) feet and the minimum lot depth shall be one hundred twenty (120) feet.
- 4.0806 Minimum Yard Requirements. There shall be a front yard of not less than a depth of twenty-five (25) feet. There shall be a rear yard of not less than a depth of twenty (20) feet. There shall be a side-street setback of not less than fifteen (15) feet on corner lots. Each side yard shall not be less than seven (7) feet as measured from the outermost edge of structure. All distances are measured from the lot line. (Ordinance 089 amendment)
- 4.0807 Maximum Height. The height of all buildings and structures shall not exceed thirty-five (35) feet.
- 4.0808 Rezoning of Property.

1. That the portion within the limits of Brown County, hereto fore zoned, Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **137" South of North 548' of East 318' NE1/4 of SE ¼ of Section 20-T123N-R63W of 5th P.M., Brown County, South Dakota. (1424 S Melgaard Rd)** be and the same is hereby changed to Residential District (R-1) to be in accordance with Title 4, Chapter 4.08 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 146, effective 10/29/2019).

CHAPTER 4.09 PLANNED MOBILE HOME PARK DISTRICT (R-2)

- 4.0901 Intent. This district is created to preserve and enhance property values in the County by providing designated, distinctive areas of not less than two (2) acres having a minimum of three hundred (300) feet in width in which mobile homes may be situated for residential dwelling purposes. It is the intent that this district be a desirable, prominent area providing adequate open space and essentially the same considerations given to citizens of other residential districts.
- 4.0902 Permitted Principal Uses and Structures. The following principal uses and structures shall be permitted in Planned Mobile Home Park Districts(s) (R-2):
1. Mobile home dwellings;
 2. Laundromats including facilities for coin operated washing and drying machines designed for mobile home residents; and
 3. Parks and playgrounds.
- 4.0903 Permitted Accessory Uses and Structures. Only those accessory uses and structures customarily incidental to principal uses and structures.
- 4.0904 Minimum Lot Requirements. The minimum lot area for individual mobile homes shall be four thousand (4,000) square feet. The overall density of any mobile home park shall not exceed eight (8) units per gross acre, and the net density of any particular acre shall not exceed ten (10) units per acre.
- 4.0905 Minimum Yard Requirements. The minimum distance required for the separation of a mobile home from any other mobile home shall be twenty-five (25) feet from side to side, twenty-five (25) from side to rear, and twenty (20) from rear to rear; front setback from private drive of twenty (20) feet.
- 4.0906 Mobile Home Parks. A mobile home park may be established by following the rezoning process for the Planned Mobile Home Park District (R-2) provided:
1. A request for a change in zoning districts to Planned Mobile Home Park (R-2) shall set forth the location and legal description of the proposed mobile home park property, and sketch of the proposed mobile home park, showing dimensions, driveways, proposed location of sanitary conveniences and other buildings and improvements.
 2. Certification of compliance with all ordinances and regulations regarding mobile home park licensing and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations shall be a prior requirement for granting said Planned Mobile Home Park District (R-2).
- 4.0907 Mobile Home Regulations Within a Mobile Home Park.
1. Planned Mobile Home Developments (R-2)

a. Planned mobile home developments are permitted as a matter of right in districts zoned as planned Mobile Home Park Districts (R-2). However, to implement the Statement of Intent for this district, the following standards shall be met by any applicant;

1. The proposed property shall be located so that it shall not be necessary excessive traffic movement from the park to pass through an existing single-family residential area or area suitable for future single-family residential development.
2. The property shall be convenient to schools, parks, and shopping facilities.
3. The property is not within an area used nor planned for industrial development, nor will the occupants of the proposed park be in any way adversely affected by nearby existing or planned industrial uses.

b. Access and Street Requirements:

1. All mobile home spaces must be served from internal private streets within the mobile home park and there shall be no direct access from a mobile home space to a public street or alley. These streets must be at least graveled.
2. A minimum of two (2) off-street parking spaces shall be provided for each mobile home space; guest parking in the ratio of one parking space per five (5) mobile home spaces shall be interspersed throughout the mobile home park.
3. No internal private street access to public streets shall be located closer than one hundred (100) feet to any public street intersection.
4. All streets shall be lighted in accordance to the standards of the City-County.
5. Stop signs shall be placed at all public street intersections. Yield signs placed appropriately on internal private streets.
6. Entrance to mobile home parks shall have direct connections to a public road and shall be designed to allow free movement of traffic on such adjacent public roads.
7. Streets should be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of street with ten (10) feet minimum moving lanes for collector streets, nine (9) feet minimum moving lanes for minor streets, and seven (7) feet minimum lanes for parallel parking.

c. Other Requirements:

1. Applicants shall comply with appropriate requirements of the Subdivision Regulations as contained in Title 5.
2. Each mobile home park shall provide screened areas or enclosed containers that are accessible for refuse collection of an adequate size for the number of

units served, and shall provide for the disposal of such refuse on a regularly scheduled basis.

3. Additional development requirements may be prescribed as conditions when such requirements are determined to be necessary to ensure the protection of the character of the neighboring properties, the compatibility of land uses, and the health and safety of mobile home park occupants.

4. All electric service will be underground.

CHAPTER 4.10 LAKE FRONT RESIDENTIAL (R-3)

4.1001 Intent. The intent of the Lake Front Residential District (R-3) is to provide for residential uses of shoreline land without altering natural surroundings of the district.

4.1002 Permitted Principal Uses and Structures.

1. Single-family residential usage including mobile homes but excluding mobile home parks.

4.1003 Permitted Accessory Uses and Structures.

1. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district; and
2. Home occupations.

4.1004 Special Exceptions. After the provisions of this Title relating to special exceptions have been fulfilled, the Board of Adjustment may permit as special exceptions in Lake Front Residential District (R-3);

1. Clubs and campgrounds;
2. Resorts;
3. Grocery stores;
4. Sporting goods stores;
5. Publicly owned and operated facilities;
6. Bed and Breakfast.

4.1005 Minimum Lot Requirements. Each lot shall have a depth of not less than one hundred sixty-two (162) feet and shall have a shoreline frontage width of not less than fifty (50) feet. All lots without shoreline frontage shall have a minimum width of fifty (50) feet and a minimum depth of one hundred fifty (150) feet.

4.1006 Minimum Setback Requirements. Each building shall be set back not less than fifty (50) feet from the normal high watermark. The road setback shall be fifty (50) feet from Federal and State highways and thirty (30) feet from other roads. There shall be a side-street setback of not less than fifteen (15) feet on corner lots. Each side yard shall not be less than seven (7) feet as measured from the outermost edge of structures. All distances are measured from the lot line. Boat houses, piers, and docks are exempted from yard requirements. (Ordinance 090 amendment)

4.1007 Service or Access Roads. Service or access roads may be required at the discretion of the Planning Commission.

4.1008 Sewage Disposal Regulations. It is the responsibility of the landowner to conform with State and Federal sewage disposal regulations.

4.1009 Rezoning of Property.

1. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Thorpe's First Elm Lake Subdivision in NE ¼ Sec 17-T128N-R65W of 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 9/6/2000).
2. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Thorpe's Second Elm Lake Subdivision in NE ¼ Sec 17-T128N-R65W of 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 6/12/2002).
3. That the portion within the limits of Brown County, heretofore zoned Conservation District (CN) by Title 4, Chapter 4.05 of the Second Revision Brown County Ordinances, as amended, to-wit: **The South ½ of SE ¼, East of the River, Section 8, Township 128 North, Range 65 West, Brown County, South Dakota** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances.
4. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 1-31, Thorpe's 4th Elm Lake Subdivision in E ½ Sec 17-T128N-R65W, Brown County, South Dakota** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 8/16/2005).
5. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 1 and 2 Prairie Lake Second Subdivision in E ½ W ½ Sec 23-T124N-R65W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above

change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 9/20/2005).

6. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 1-6 Keatts Fourth Subdivision in the W ½ of the NW ¼ of Sec 23-T124N-R65W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 1/3/2006).
7. That the portion within the limits of Brown County, heretofore zoned Lake Front Residential District (R-3) and Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Keatts Fifth Subdivision in the W ½ of the NW ¼ of Sec 23-T124N-R65W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 2/19/2008).
8. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 1-3 First Subdivision of Bauer's Outlot, Lots 5-9 First Subdivision of Bauer's Outlot, Lots 1-6 Second Subdivision of Bauer's Outlot and Lot 3 of Bauer's Third Addition in the SW ¼ of Sec 7-T123N-R65W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 4/8/2008).
9. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Playa Casa Preliminary Subdivision and final plat of Playa Casa Subdivision Lots 3A thru 8A and Lots 3B thru 8B, in the W ½ of Sec 12-T124N-R65W of the 5th P.M., Brown County, SD** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 8/12/2008).
10. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Thorpe's Third Elm Lake Subdivision in the NE ¼ of Sec**

17-T128N-R65W of the 5th P.M., Brown County, SD be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 11/23/2010).

11. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Thorpe's Fifth Elm Lake Subdivision in the NE ¼ and SE ¼ of Sec 17-T128N-R65W of the 5th P.M., Brown County, SD** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 9/30/2011).
12. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Flying T Elm Lake Subdivision in the NE ¼ of Sec 17-T128N-R65W of the 5th P.M., Brown County, SD (West Elm Lake Road south of Brown County 3A/102nd Street)** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 9/30/2011).
13. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 1 and 2, RO-JU-OS Park Second Subdivision in the SE ¼ of Sec 8-T128N-R65W of the 5th P.M., Brown County, SD (10188 and 10192 RO-JU-OS Place)** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances. (Ordinance 096 effective 10/27/2015)
14. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 7 and 8, Block 1, RO-JU-OS Park; Lots 12 & 13, Block 1 RO-JU-OS Park; Lots 1-5, Block 1 RO-JU-OS Park; Lot 6, Block 1 RO-JU-OS Park; Lot 2 Block 1 Graham Oster Addition to RO-JU-OS Park; Lot 3, Block 1 Graham Oster Addition to RO-JU-OS Park; Holty Outlot A to RO-JU-OS Park; and a tract 60' N & S by 175' E & W adjacent to Lot 1 Hart Family Subdivision to RO-JU-OS Park located in the S ½ SE ¼ of Sec 8-T128N-R65W, Brown County, SD (10186, 10194, 10176, 10184, 10172, 10174, 10160 and 10164 RO-JU-OS Place)** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown,

South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances. (Ordinance 097 effective 10/27/2015)

15. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 1 – 3 Peaceful Pines Addition in the SE ¼ of Sec 24-T124N-R65W of the 5th P.M., Brown County, SD (379501, 379511 and 379519 North Shore Drive)** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances. (Ordinance 102 effective 8/23/2016)
16. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lot 2 Klipfel Subdivision in the N ½ SE ¼ of Sec 8-T123N-R61W, Brown County, SD (10858 RO-JU-OS Place)** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances. (Ordinance 103 effective 10/25/2016) **Note: Ordinance 106 effective January 17, 2017 Corrected Legal Description.**
17. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lot 2 Klipfel Subdivision in the N ½ SE ¼ of Sec 8-T123N-R65W, Brown County, SD (10858 RO-JU-OS Place)** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances. (Ordinance 106 effective 1/17/2017)
18. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lot 1 Keatts Subdivision in the N ½ NW ¼ of Sec 23-T124N-R65W of the 5th P.M., Brown County, SD (37832 Richmond Drive)** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances. (Ordinance 109, effective 9/19/2017).

19. That the portion within the limits of Brown County, hereto fore zoned, Conservation District (CN) by Title 4, Chapter 4.17 of the Second Revision Brown County Ordinances, as amended, to-wit: **W ½ SE ¼ of Sec 20-T128N-R65W of the 5th P.M., Brown County, SD. (37574 104th Street)** be and the same is hereby changed to Lake Front Residential District (R-3) to be in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 134, effective 4/23/2019).
20. That the portion within the limits of Brown County, hereto fore zoned, Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lot 19 & west 60' of Lot 18, "Lutgen's South Shore Addition" in the NW1/4 of Section 25-T124N-R65W of the 5th P.M., Brown County, South Dakota (379252 South Shore Dr.)** be and the same is hereby changed to Lake Front Residential District (R-3) to be in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 143, effective 9/17/2019).
21. That the portion within the limits of Brown County, hereto fore zoned, Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 1-3, "Prairie Hill Farm's Subdivision" in the SW1/4 of Section 11-T124N-R62W of the 5th P.M., Brown County, South Dakota, SD (39816 126th St)** be and the same is hereby changed to Lake Front Residential District (R-3) to be in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 144, effective 9/17/2019).
22. That the portion within the limits of Brown County, hereto fore zoned, Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 16-18 except the west 60' of 18, all in the NW1/4 of Section 25-T124N-R65W of the 5th P.M., Brown County, South Dakota. (379268 & 379290 South Shore Dr.)** be and the same is hereby changed to Lake Front Residential District (R-3) to be in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 148, effective 11/19/2019).
23. That the portion within the limits of Brown County, hereto fore zoned, Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 1&2, "BNB Richmond Lake Subdivision" in the NW1/4 of Section 25-T124N-R65W of the 5th P.M., Brown County, South Dakota. (379224 & 379252 South Shore Dr)** be and the same is hereby changed to Lake Front Residential District (R-3) to be in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended,

and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 149, effective 11/19/2019).

24. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lot 2C of Lot 2, "Schaeffer Richmond Lake Subdivision" in the NW ¼ of Section 25-T124N-R65W of the 5th P.M., Brown County, South Dakota.** be and the same is hereby changed to Lake Front Residential District (R-3) to be used in accordance with Title 4, Chapter 4.10 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 153, effective 01/28/2020).

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CHAPTER 4.11 RURAL-URBAN (RU)

4.1101 Intent. The intent is to provide an environment in small communities where strict application of specified uses and activities are not practical; an intermixing of activities is allowed provided that totally incompatible uses to those already present are not undertaken or those which produce excessive odor, smoke, toxic matter or vibration.

4.1102 Permitted Principal Uses and Structures.

1. Single-family dwellings;
2. Multi-family dwellings;
3. Mobile homes; and
4. Noncommercial horticulture.

4.1103 Permitted Accessory Uses and Structures.

1. Home occupations and professional offices; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

4.1104 Special Exceptions. After the provisions of this Ordinance relating to special exceptions have been fulfilled, the Board of Adjustment may permit as a special exception any use which is consistent with the intent of this district. The Planning Commission, may as a condition to approval, require certain additional requirements to ensure compatibility.

4.1105 Minimum Lot Requirements. The minimum lot area shall be seven thousand two hundred (7,200) square feet for single/two-family dwellings. The minimum lot areas for multi-family dwellings in excess of two units shall be seven thousand two hundred (7,200) square feet and an additional one thousand eight hundred (1,800) square feet for each unit in excess of the first two. The minimum lot width shall be sixty (60) feet and the minimum lot depth shall be one hundred twenty (120) feet.

4.1106 Minimum Yard Requirements. For all principal permitted uses and structures, there shall be a front yard of not less than a depth of twenty-five (25) feet. There shall be a rear yard of not less than a depth of twenty (20) feet. There shall be a side-street setback of not less than fifteen (15) feet on corner lots. Each side yard shall not be less than seven (7) feet as measured from the outermost edge of structures. All distances are measured from the lot line. Yard requirements for special exceptions shall be determined by the Planning Commission. (Ordinance 091 amendment)

4.1107 Rezoning of Property.

1. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **The East 400 feet of the 1000 feet South of Brown County Highway 23, located in the S ½ of the NW ¼ of Sec 2-T121N,-R64W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Rural Urban District

(RU) to be used in accordance with Title 4, Chapter 4.11 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances.

CHAPTER 4.12 PLANNED DEVELOPMENT DISTRICT (P-1)

4.1201 Intent. The intent of the Planned Development District (P-1) is to provide for the development of large tracts of land as integrated and harmonious units, and to provide certain modifications in the standards of this resolution to promote such development. To be eligible for consideration under the provisions of this district, the proposed planned development must be:

1. In accordance with the County Comprehensive Plan;
2. Composed of such uses, to such a degree, as are necessary for the integrated functioning of the planned development unit and the County;
3. So designed as to produce an attractive and desirable environment complimenting the surrounding neighborhood; and
4. A minimum of the (10) acres in land area.

4.1201 Application Procedure.

1. An applicant for consideration under the terms of this district, who must be owner, lessee, or the holder of a written purchase option of the tract of land under consideration, shall submit to the County Planning Commission a plan for the proposed planned development unit. The plan shall indicate:

- a. The location and extent of the proposed planned development unit, including its relationship to surrounding properties;
- b. The exact nature and extent of improvements to be developed or erected upon the tract, including contoured site plans, building plans and elevations, and plans for landscaping and paved areas, transportation patterns, and water and sewer services;
- c. Such other information as may be required by the County Planning Commission to determine if the proposed planned development unit is consistent with the intent of the district.

2. The County Planning Commission shall, within sixty (60) days of receiving the plan for the proposed development unit, consider such plan at a minimum of one regular County Planning Commission meeting. Upon consideration, the County Planning Commission shall inform the applicant in writing of its approval or denial of the plan. In the event of denial, the Commission shall inform the applicant of the reason(s) for denial including any recommended modifications in the plan, which would cause the Commission to reconsider.

3. Upon approval of the plan by the County Planning Commission, it shall forward its written recommendations to the Board of County Commissioners along with a copy of the approved plan, that the tract be designated a Planned Development District (P-1) by amendment of the Official Zoning Map.

4. Upon receiving the County Planning Commissioner's written recommendation, the Board of County Commissioners shall consider the amendment of the Official Zoning Map as provided elsewhere in this Title.

5. Following the amendment of the Official Zoning Map by the Board of County Commissioners, the County Zoning Officer may, upon proper application, issue a building permit for construction of the planned development unit in accordance with the approved plan.

- 4.1203 Subsequent Performance. Following issuance of a building permit for the planned development unit by the zoning administrator, the applicant shall begin construction within a period of six (6) months. Failure to do so shall invalidate the building permit. Construction shall follow precisely the plan approved by the County Planning Commission to which modifications may be granted only by the County Planning Commission upon the filing of an amended plan. Failure to follow the approved plan on the part of the applicant or his agent shall be considered a violation of this resolution punishable as herein prescribed.

CHAPTER 4.13 COMMERCIAL DISTRICT (C)

4.1301 Intent. The intent of the Commercial District (C) is to provide a commercial area for those establishments serving the general shopping needs of the trade area, and in particular, those establishments customarily oriented to the pedestrian shopper. The grouping of uses is intended to strengthen the central business area as the urban center of trade, service, governmental and cultural activities, and to provide neighborhood commercial convenience areas.

4.1302 Permitted Principal Uses and Structures. The following principal uses and structures shall be permitted in the Commercial District (C):

1. Retail sale of: groceries, fruits, vegetables, dairy products, meats, poultry products, fish and seafoods; baked goods, candies, nuts, confectionery items, beer, wine, and distilled alcoholic beverages; heating and plumbing equipment; paint, glass and wallpaper; electrical supplies; hardware; dry goods and general merchandise; tires, batteries and accessories; marine and aircraft accessories; wearing apparel and accessories; furniture, home furnishings and equipment; household appliances; radios, televisions, and music supplies; drugs and proprietary medicines; antiques and second hand merchandise; books and stationery; sporting goods and bicycles; jewelry; flowers and other plant materials; cigars and cigarettes; newspapers and magazines; cameras and photographic supplies; gifts, novelties, and souvenirs; optical goods;
2. Finance, insurance and real estate services;
3. Laundering, dry cleaning and dyeing services; photographic services including commercial services; beauty and barber services; apparel repair and alteration, and cleaning pickup service; shoe repair services;
4. Business services;
5. Automobile washing; electrical repair; radio and television repair, and watch, clock and jewelry repair;
6. Professional services;
7. Governmental services;
8. Educational services;
9. Passenger Bus and Taxi Terminals;
10. Churches, synagogues, and temples; welfare and charitable services; business associations, professional membership organizations; labor unions and similar labor organizations; and civic, social and fraternal associations.
11. Eating and drinking places;
12. Communication and utility uses;
13. Public buildings and grounds;

14. On-site signs;
15. Automobile service stations;
16. Hotels and motels;
17. Automobile parking;
18. Libraries, museums, art galleries, planetaria, aquariums; historic and monument sites; motion picture theaters, legitimate theaters; auditoriums; exhibition halls, penny arcades; gymnasiums and athletic clubs; ice skating, roller skating; and bowling; and
19. Parks.

4.1303 Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in the Commercial District (C):

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

4.1304 Special Exceptions. After the provisions relating to special exceptions have been fulfilled, the Board of Adjustment may permit as special exceptions in the Commercial District (C):

1. Grain elevators;
2. Other trade and service uses which are similar to the permitted principal uses and which are harmony with the intent of this district;
3. Structures containing both commercial and residential uses;
4. Implement and automobile sales and services, and
5. General warehousing and storage.

4.1305 Minimum Lot Requirements. The minimum lot area shall be two thousand five hundred (2,500) square feet. The minimum lot width shall be twenty-five (25) feet. The minimum lot depth shall be one hundred (100) feet.

4.1306 Minimum Yard Requirements. All buildings located on lots adjacent to a Residential District shall be located so as to conform on the adjacent side with the side yard requirements for the adjacent Residential District. There shall be a front yard of not less than a depth of ten (10) feet. There shall be a rear yard of not less than ten (10) feet. Each side yard shall not be less than five (5) feet as measured from the outermost edge of structures. All distances are measured from the lot lines.

4.1307 Maximum Lot Coverage. The maximum lot coverage for all buildings shall be not more than ninety (90) percent of the total lot area. Minimum off-street parking and loading requirements shall also be considered for lot coverage based on use.

4.1308 Maximum Height. The maximum height of structures shall be forty-five (45) feet.

4.1309 Rezoning of Property.

1. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Richmond Resort Outlot 2 located in the NE ¼ Sec 25-T124N-R65W of 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Commercial District (C) to be used in accordance with Title 4, Chapter 4.13 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 12/6/2000).
2. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lots 3 and 4 in the SW ¼, except lake, T128N-R65W of the 5th P.M., Brown County, South Dakota, subject to Lake Easement Contract of record** be and the same is hereby changed to Commercial District (C) to be used in accordance with Title 4, Chapter 4.13 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 7/12/2005).
3. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lot 4 Schaeffer Richmond Lake 2nd Addition in NW ¼ and NE ¼ Sec 25-T124N-R65W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Commercial District (C) to be used in accordance with Title 4, Chapter 4.13 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 10/5/2005).
4. That the portion within the limits of Brown County, heretofore zoned Residential District (R-1) by Title 4, Chapter 4.08 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lot 1 Palmer's Richmond Lake Resort Subdivision, being a subdivision of Outlot 1 of Richmond Resort Outlots 1 and 2 in SW ¼ Sec 30-T124N-R64W and NE ¼ Sec 25-T124N-R65W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Commercial District (C) to be used in accordance with Title 4, Chapter 4.13 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 11/15/2005).

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CHAPTER 4.14

HIGHWAY COMMERCIAL DISTRICT (HC)

4.1401 Intent. The intent of the Highway Commercial District (HC) is to provide commercial areas for those establishments which can function most satisfactorily in an area directly related to a major vehicular circulation route due to the nature of the merchandise handled and the display space required, particularly items requiring expansive display area such as motor vehicles, trailers, and farm implements; the method of transport required of the purchaser for the merchandise handled, particularly goods customarily traded in bulk such as lumber or feed requiring access for the customer to the sales area; primary dependence upon vehicular, as opposed to pedestrian, access such as drive-in facilities and all types of automotive and farm implement services; or the clientele toward which the establishments are primarily oriented, particularly travelers on the highway.

4.1402 Permitted Principal Uses and Structures. The following principal uses and structures shall be permitted in Highway Commercial Districts (HC):

1. Retail sale of: lumber and other building materials, farm equipment, motor vehicles, recreational vehicles, marine craft, aircraft, mobile homes, trailers, farm and garden supplies, fuel and ice;
2. Wholesale sales of: motor vehicles and automotive equipment; drugs, chemicals, and allied products; dry goods and apparel; groceries and related products; electrical goods; hardware, plumbing, heating equipment, and supplies; machinery, equipment and supplies; beer, wine, and distilled alcoholic beverages; paper and paper products, furniture and home furnishings, lumber and construction materials.
3. Funeral and crematory services and supplies;
4. Farm products warehousing and storage;
5. Refrigerated warehousing;
6. Food lockers, provided, that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors;
7. Household goods warehousing and storage;
8. General warehousing and storage;
9. Automobile repair and services;
10. Upholster and furniture repair services;
11. Contract construction services;
12. Bus garaging and equipment maintenance;
13. Motor freight terminals;
14. Motor freight garaging and equipment maintenance;

15. Automobile parking;
16. Libraries; museums; art galleries; planetaria; aquariums; historic and monument sites; auditoriums; exhibition halls; and penny arcades;
17. Miniature golf, gymnasiums and athletic clubs, swimming pools, tennis courts, ice skating, roller skating;
18. Parks;
19. Theaters; stadiums; drive-in movies; arenas and field houses; race tracks; fairgrounds; amusement parks; golf driving ranges; go-cart tracks; golf courses and country clubs; riding stables; play fields and athletic fields; bowling; and swimming pools;
20. Communication and utility uses;
21. Drive-in eating and drinking places; restaurants;
22. Automobile service stations;
23. Motels; and
24. Livestock sales establishments, buying stations.

4.1403 Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in Highway Commercial District (HC):

1. Accessory uses normally appurtenant to the permitted principal uses and structures when established in conformance within the space limits of this district.

4.1404 Minimum Lot Requirements. The minimum lot area shall be ten thousand (10,000) square feet. The minimum lot width shall be one hundred (100) feet.

4.1405 Minimum Yard Requirements. There shall be a front yard of not less than a depth of one hundred (100) feet. Each side yard and rear yard shall be no less than twenty-five (25) feet as measured from the outermost edge of the structure.

4.1406 Maximum Lot Coverage. The maximum lot coverage for all buildings shall not be more than fifty (50) percent of the total area.

4.1407 Maximum Height. The height of all buildings and structures shall not exceed forty-five (45) feet.

4.1408 Service or Access Roads. Service or access roads may be required at the discretion of the Planning Commission.

4.1409 Rezoning of Property.

1. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.03 of the Revised Brown County

Ordinances, as amended, to-wit: **West 198' of the North 990' of the Northwest Quarter (NW 1/4) of Section 4, Township One Hundred Twenty-One (121), Range Sixty-one (61), Brown County, South Dakota**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Revised Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Revised Brown County Ordinances (effective 6/18/1986).

2. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Ellis Outlot 1 in the NW 1/4 of Section 20-T123N-R62W, Brown County, South Dakota**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 6/10/1998).
3. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Lot 1, R & F Walker Addition in the NE ¼ of Sec 15-T126N-R64W of the 5th P.M., Brown County, South Dakota**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 12/21/2010).
4. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Lot 2 Don and Eunice Weismantel First Addition in the NE ¼ of Sec 19-T123N-R62W of the 5th P.M., Brown County, South Dakota**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 2/22/2011).
5. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **David and Sheryl Evelo Addition in the NW ¼ of Sec 26-T122N-R64W of the 5th P.M., Brown County, South Dakota (14048 386th Ave)**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 6/19/2012).

6. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Schaunaman's Outlot 1 and 2 in the SE ¼ of Sec 24-T124N-R65W of the 5th P.M., Brown County, SD, subject to easements, reservations and restrictions of record, if any (382008 and 382016 Shore Drive N)**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective July 23, 2013).
7. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **South Dakota Wheat Growers Tract 1 in the S ½ SW ¼ of Sec 2-T127N-R64W of the 5th P.M., Brown County, SD (10684 386th Ave)**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective October 29, 2013).
8. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Wollman Third Subdivision in the SW ¼ of Sec 29-T124N-R62W of the 5th P.M., Brown County, SD (12890 395th Ave)**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective June 17, 2014).
9. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Lots 3 and 4 Schlosser-Sumpton Addition in the W ½ NW ¼ of Sec 11-T127N-R64W of the 5th P.M., Brown County, SD (38604 Brown County #10A and 38609 107th Street, Frederick)**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective November 1, 2016).
10. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Rix Outlot 2 in the SW ¼ of Sec 6-T124N-R60W of the 5th P.M., Brown County, SD (12484 406th Ave)**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map

on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 121, effective August 21, 2018).

11. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Levey's Outlot 4 in the SE ¼ of Sec 24-T123N-R65W of the 5th P.M., Brown County, SD (13397 382nd Ave)**, be and the same is hereby changed to Highway Commercial (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 131, effective February 19, 2019).
12. That the portion within the limits of Brown County, heretofore zoned, Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Second Revision Brown County Ordinances, as amended, to-wit: **Lot 1, SCHB Addition in the W ½ N ½ SW ¼ of Sec 21-T127N-R64W of the 5th P.M., except highway, Brown County, SD (10666 386th Ave, Frederick)** be and the same is hereby changed to Highway Commercial District (HC) to be used in accordance with Title 4, Chapter 4.14 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (Ordinance 133, effective 3/26/2019).

CHAPTER 4.15 LIGHT INDUSTRIAL DISTRICT (L-I)

4.1501 Intent. The intent of the Light Industrial District (L-I) is to provide space for certain types of industrial and/or manufacturing and/or warehousing or storage operations which are compatible to adjoining districts. Such uses generally require open storage of materials or goods either before, during, or after the manufacturing process, but are of a low noise or nuisance level. Land designated for this district should be located in relation to the thoroughfare network of the community as well as rail and air if required, and designated so as to not disrupt normal traffic flow. Planned Industrial Parks are encouraged in this district.

4.1502 Permitted Principal Uses and Structures. The following principal uses and structures shall be permitted in the Light Industrial District (L-I):

1. Building materials sales;
2. Cartage and express facilities;
3. Contractor's offices, shops and yards - such as building, cement, electrical, heating, ventilation and air conditioning, masonry, painting, plumbing and heating, refrigeration and roofing;
4. Fuel and bulk sales;
5. Greenhouses, wholesales;
6. Highway maintenance shops and yards;
7. Packing and crating;
8. Printing and publishing;
9. Public utility and service uses;
10. Accessory uses, incidental to and on the same zoning lot as principal uses;
11. Wholesaling of all commodities, except commercial explosives, automobile and other mechanical equipment salvage;
12. Offices;
13. Fruit and vegetable concentration, preservation, and preparation;
14. Grain elevators, grain and mill products;
15. Poultry and small game dressing and packing;
16. Blacksmith shop; body and fender works; bottling works; wholesale establishments; bus terminal;
17. Cabinet shop; carpenter shop; carpet cleaning; clothes cleaning and dyeing;

- 18. Auto and truck rentals;
- 19. Public garage;
- 20. Machine shops, metal processing and fabrication;
- 21. Parking lot; public buildings; public transit yard;
- 22. Sand blasting; service stations; signs, outdoor advertising; sign painting; stone monument works; stone masonry shop;
- 23. Veterinary;
- 24. Novelties;
- 25. Optical goods;
- 26. Photographic equipment;
- 27. Rubber and/or metal stamps;
- 28. Venetian blinds, window shades and awnings;
- 29. Food and kindred processing, wholesale; confections, honey extractions;
- 30. Dairy products;
- 31. Toiletries;
- 32. Manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: canvas, cellophane, cloth, and cork;
- 33. Feathers, felt, fiber, fir;
- 34. Glass and plastics; and
- 35. Leather.

4.1503 Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in Light Industrial District (L-I):

- 1. Caretaker and watchmen quarters; and
- 2. Medical facilities accessories to an industrial use.

4.1504 Special Exceptions. After the provisions of this Title relating to special exceptions have been fulfilled, the Board of Adjustment may permit as special exceptions in Light Industrial Districts any use, which is consistent with the intent of this district.

- 4.1505 Performance Standards. All uses and structures in a Light Industrial District should use the performance standards in Chapter 4.30 as guidelines.
- 4.1506 Minimum Lot Requirements. The minimum lot area shall be twenty-five thousand (25,000) square feet. The minimum lot width shall be one hundred twenty-five (125) feet.
- 4.1507 Minimum Yard Requirements. There shall be a front yard of not less than a depth of one hundred (100) feet. Each side yard and backyard shall not be less than twenty-five (25) feet as measured from the outermost edge of structures.
- 4.1508 Maximum Lot Coverage. The maximum lot coverage for all buildings shall not be more than fifty (50) percent of the total lot area.
- 4.1509 Service or Access Roads. Service or access roads may be required at the discretion of the Planning Commission.
- 4.1510 Rezoning of Property.
1. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation (AG-P) by Title 4, Chapter 4.06 of the Revised Brown County Ordinances, as amended, to-wit: **Wright's Outlot 1 in the West 1/2 of Section 8, Township 123N, Range 62W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Light Industrial District (L-I) to be used in accordance with Title 4, Chapter 4.15 of the Revised Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Revised Brown County Ordinances (effective 12/18/1990).
 2. That the portion within the limits of Brown County, heretofore zoned Rural Urban District (RU) and Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Revised Brown County Ordinances, as amended, to-wit: **Lot 1, 4-Seasons Claremont Site Subdivision in the NW ¼ and SW ¼ of Sec 2-T125N-R60W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Light Industrial District (L-I) to be used in accordance with Title 4, Chapter 4.15 of the Revised Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Revised Brown County Ordinances (effective 1/18/2008).
 3. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Revised Brown County Ordinances, as amended, to-wit: **Rieck Lot 1, Rieck-WEB Subdivision in the NE ¼ of Sec 3-T121N-R64W of the 5th P.M., Brown County, South Dakota** be and the same is hereby changed to Light Industrial District (L-I) to be used in accordance with Title 4, Chapter 4.15 of the Revised Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Revised Brown County Ordinances (effective 5/20/2008).

4. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06 of the Revised Brown County Ordinances, as amended, to-wit: **The NW ¼ of Sec 24-T123N-R65W of the 5th P.M., except Froehlich Outlot 1 thereof and except Lot H-1 thereof, Brown County, SD and the SW ¼ of Sec 24-T123N-R65W of the 5th P.M., except railroad right-of-way, except Lot H-1 thereof, and except Lots 1 and 2, MDU-NBPL Subdivision thereof, Brown County, SD (E. side of Brown County 12WA/379th Ave, N side of State Highway 12)** be and the same is hereby changed to Light Industrial District (L-I) to be used in accordance with Title 4, Chapter 4.15 of the Revised Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Revised Brown County Ordinances (effective 11/22/2011).

CHAPTER 4.16 HEAVY INDUSTRIAL DISTRICT (H-I)

- 4.1601 Intent. This district is established to provide space for land uses, which are generally incompatible to any adjoining land uses, but which are necessary to the economy of the community. Only those uses will be permitted in this district which cannot realistically and economically meet the performance standards specified in L-I. It is not intended that this district be an easy "catchall" for entrepreneurs to utilize rather than meeting community obligations for being compatible neighbors in the community. In establishing the location of this district (and if possible, only one such contiguous area of the community shall be created), prevailing wind, existing and anticipated adjoining developments, and public interest of the community should be taken into consideration. Every effort shall be made by permitted uses to minimize the causes for incompatibility and every use shall also meet performance standards indicated herein. Location of this district should be the thoroughfare system of the community and be so designed as to not wholly disrupt normal traffic flow.
- 4.1602 Permitted Principal Uses and Structures. In the Heavy Industrial District (H-I), there shall be no permitted principal uses and structures.
- 4.1603 Permitted Accessory Uses and Structures. There shall be no accessory uses and structures permitted in a Heavy Industrial District (H-I).
- 4.1604 Special Exceptions. After the provisions of this Title have been fulfilled, the Board of Adjustment may permit as special exceptions in the Heavy Industrial District, the manufacturing, assembling, compounding, packaging, processing, or treatment of products or raw materials conducted within a structure or enclosed within a metal container, except those industries which are injurious, noxious, or hazardous by reasons of emission of odors, dust, fumes, smoke, noise, or vibrations, including but not limited to the following:
1. Those uses found in L-I;
 2. Foundry casting;
 3. Acid manufacturing;
 4. Salvage yards;
 5. Junkyards;
 6. Boiler works, blast furnace;
 7. Brick manufacturing;
 8. Cement manufacturing;
 9. Chemical manufacturing;
 10. Fertilizer manufacturing;
 11. Glue manufacturing;

12. Meat packing plants or slaughterhouses;
13. Paint manufacturing and related operations;
14. Railroad repair shop and similar railroad operations;
15. Soap manufacturing;
16. Stockyards, livestock sale barns;
17. Tannery;
18. Tar or asphalt plants;
19. Bulk fuel plants;
20. Motor power tools and trailers;
21. Assembly of appliances;
22. Laboratories;
23. Paper, plastics, precious or semi-precious metals or stones;
24. Battery manufacturing;
25. Caretaker and watchmen quarters;
26. Medical facilities and accessories to an industrial use;
27. Mineral extraction or milling, providing the following minimal conditions are met;
 1. The applicant shall provide;
 - a. A description of the mineral or minerals to be mined or milled;
 - b. Maps showing the area within which the mining or milling operations shall be conducted;
 - c. A description of the surface, land use, and vegetation, as well as a description of nature and depth of the topsoil and subsoil;
 - d. An environmental assessment which establishes baseline conditions for radioactive and toxic materials in air, ground and surface waters, soils, vegetation, and animals;
 - e. A description of the overburden, mineral seams, and other geologic formations; their conductivity and hydraulic gradients known to exist above the deepest projected depth of mining operation; and

f. A description of the hydrology to the deepest projected depth of the mining operation, including mapping of the depth, water table level, extent, and flow characteristics of ground water and aquifers for the hydrologic regime of the ground water and drainage basins affected by the mining or milling operation.

2. The applicant shall provide;

A technical description of the mining or milling; types of equipment to be used; detailed site plan of all anticipated construction; an estimated timetable for each phase of work and for final completion of the program; a statement of source, quality, and quantity of water to be used in the mining and milling operations, as well as the chemical and radioactive characteristics of all mined or milled products, waste products, and emissions to the environment.

3. The applicant shall provide:

a. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the mining or milling operation; and

b. A description of the proposed plan to address the identified environmental impacts to include:

(1) Methods of separating the topsoil, subsoil, and spoil piles, protecting them from erosion before reclamation begins, and keeping the topsoil free from acid or toxic materials;

(2) Plan for ensuring that acid-forming or toxic materials constituting a hazard uncovered or created during mining or milling are promptly treated in a manner to prevent water and air contamination;

(3) Measures to maintain the quantity and quality of ground and surface water, hydrologic balance, productivity of farmland, and soil and water recharge capacity; and

(4) Procedures to prevent water and air contamination through radioactive or toxic seepage of runoff from tailings ponds, mine wastes, mine dewatering discharge, or other mining and milling related operations.

4. The applicant shall provide a plan for the reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent land and shall include:

a. A reclamation schedule;

b. Methods of grading, backfilling, and contouring of disturbed areas and access roads;

c. Methods of waste management and disposal, including liquid and solid waste; and

d. Methods of revegetation.

The applicant shall identify specific phases when monitoring; and inspection of the mining and milling process shall be conducted by County, State, Federal, or independent personnel to assure compliance with all applicable rules and regulations. If the conditional use permit is granted, the permit shall identify the inspection agency, and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Commissioners.

A conditional use permit shall be issued only after all conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of the mining and milling.

- 4.1605 Performance Standards. All uses and structures in Heavy Industrial Districts should use the performance standards in Chapter 4.31 as guidelines.
- 4.1606 Minimum Lot Requirements. The minimum lot area shall be forty-three thousand five hundred sixty (43,560) square feet. The minimum lot width shall be one hundred fifty (150) feet.
- 4.1607 Minimum Yard Requirements. There shall be a front yard of not less than a depth of one hundred (100) feet. Each side yard and rear yard shall be no less than twenty five (25) feet as measured from the outermost edge of the structure.
- 4.1608 Maximum Height. The height of all buildings and structures shall not exceed sixty (60) feet.
- 4.1609 Service or Access Roads. Service or access roads may be required at the discretion of the Planning Commission.
- 4.1610 Rezoning of Property.
1. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **That portion of the NW ¼ 23-T123N-R61W lying north of railroad tracks, Brown County, South Dakota and approximately 3.17 acres in the SW corner of the NE ¼ Sec 23-T123N-R61W, lying north of the railroad tracks, Brown County, South Dakota. (Property to be platted as James Valley Ethanol Outlot 1 in the N ½ of Sec 23-T123N-R61W, Brown County, South Dakota)**, be and the same is hereby changed to Heavy Industrial District (H-I) to be used in accordance with Title 4, Chapter 4.16 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 6/26/2002).
 2. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **The West 654' of the North 517' of the NE ¼ of Sec 20-**

T123N-R62W of the 5th P.M., Brown County, South Dakota, to be known as Sperry Outlot 1 in the NE ¼ of Sec 20-T123N-R62W of the 5th P.M., Brown County, South Dakota, be and the same is hereby changed to Heavy Industrial District (H-I) to be used in accordance with Title 4, Chapter 4.16 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 8/26/2003).

3. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **The NW ¼ of the NW ¼ of Sec 28-T124N-R63W of the 5th P.M., Brown County, South Dakota,** be and the same is hereby changed to Heavy Industrial District (H-I) to be used in accordance with Title 4, Chapter 4.16 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances.
4. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Meyers Outlot 1 in the SW ¼ of Sec 21-T124N-R63W of the 5th P.M., Brown County, South Dakota,** be and the same is hereby changed to Heavy Industrial District (H-I) to be used in accordance with Title 4, Chapter 4.16 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances.
5. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **Meyers Outlot 2 in the SW ¼ of Sec 21-T124N-R63W of the 5th P.M., Brown County, South Dakota,** be and the same is hereby changed to Heavy Industrial District (H-I) to be used in accordance with Title 4, Chapter 4.16 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 6/11/2006)..
6. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation District (AG-P) by Title 4, Chapter 4.06, Second Revision Brown County Ordinances, as amended, to-wit: **SE ¼ of Sec 23-T123N-R65W, except highway, and Lot 1 Didreckson Subdivision in the NW ¼ of Sec 26-T123N-R65W of the 5th P.M., Brown County, South Dakota,** be and the same is hereby changed to Heavy Industrial District (H-I) to be used in accordance with Title 4, Chapter 4.16 of the Second Revision Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Second Revision Brown County Ordinances (effective 6/11/2006).

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CHAPTER 4.17 CONSERVATION DISTRICT (CN)

4.1701 Intent. The intent and purpose of the Conservation District (CN) is to provide for the retaining of natural growth of a particular area, to preserve the natural environment and resources from destructive land uses, to preserve certain locations which have a historic value and to protect natural spawning grounds, feeding grounds, and wildlife habitats.

4.1702 Permitted Principal Uses and Structures. The following principal uses and structures shall be permitted in Conservation Districts (CN):

1. Wildlife propagation and game management;
2. Forest preserves and public access areas;
3. Utility lines within right-of-ways and within ten (10) feet of public and road right-of-ways;
4. Caretaker's residences; and
5. Agriculture and agricultural activities (except commercial feedlots).

4.1703 Permitted Accessory Uses and Structures. The following accessory uses and structures shall be permitted in Conservation Districts (CN):

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

4.1704 Special Exceptions. After the provisions of this Title relating to special exceptions have been fulfilled, the Board of Adjustment may permit as special exceptions in Conservation District (CN):

1. Utility substations;
2. Public parks; and
3. Summer camps.

4.1705 Special Conditions. The use of property or the construction of any building for any purpose permitted in the Conservation District (CN) shall be subject to the following conditions and limitations:

1. No land or water area shall be filled, dredged, or drained nor shall any natural stream or floodway be encroached upon or polluted.
2. Provided, however, that exceptions to the foregoing conditions may be authorized by the County Planning Commission for navigation channels, drainage channels, roads, clearings, or other improvements necessary for the protection of existing uses or the proper development of adjacent properties, provided that such works or improvements shall be so limited that they will not tend to destroy or materially change the natural conditions of rivers, woodlands, swamps, marshes, shallows, or other wetlands.

- 4.1706 Minimum Yard Requirements. Any building shall have a front yard of not less than a depth of one hundred (100) feet and a rear yard of not less than a depth of fifty (50) feet. There shall be two (2) side yards, each of which shall not be less than thirty (30) feet as measured from the outermost edge of structures.
- 4.1707 Minimum Shelterbelt Setback. Shelterbelts consisting of one or more rows when parallel to the right-of-way shall be set back a minimum of one hundred fifty (150) feet from the right-of-way line. Field belts consisting of one or two rows perpendicular to the right-of-way shall be set back a minimum of one hundred (100) feet from the right-of-way line.

CHAPTER 4.18 RECREATION DISTRICT (RC)

- 4.1801 Intent. The intent of the Recreation District (RC) is to provide suitable areas for varying types of recreational activities, in particular, those customarily located near lakes and rivers. The grouping of recreational uses will provide for convenient public access.
- 4.1802 Permitted Principal Uses and Structures. The principal public or private uses and structures permitted in the Recreation District (RC) may include but shall not be limited to the following:
1. Swimming areas;
 2. Archery Ranges;
 3. Instructional camps;
 4. Golf courses, driving ranges;
 5. Skating rinks;
 6. Sporting fields and stadiums, tennis courts;
 7. Parks and recreational areas;
 8. Riding Stables;
 9. Access areas and facilities; and
 10. Agriculture and related-agricultural uses.
- 4.1803 Permitted Accessory Uses and Structures. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within the space limits of this district.
- 4.1804 Special Exceptions. After the provisions of this Ordinance relating to special exceptions have been fulfilled, the Board of Adjustment may permit as special exceptions in the Recreation District (RC):
1. Utility substations;
 2. Shooting ranges;
 3. Concessions; and
 4. Marinas.
- 4.1805 Minimum Lot Requirements. The minimum lot area shall be one (1) acre. The minimum lot width shall be one hundred fifty (150) feet.
- 4.1806 Minimum Yard Requirements. Any building shall have a front yard and rear yard of fifty (50) feet. There shall be two (2) side yards each of which shall not be less than twenty-five (25) feet as measured from the outermost edge of the structures.

4.1807 Minimum Shelterbelts Setback. Shelterbelts consisting of one or more rows when parallel to the right-of-way shall be set back a minimum of one hundred fifty (150) feet from the right-of-way line. Field belts consisting of one or two rows perpendicular to the right-of-way shall be set back a minimum of one hundred (100) feet from the right-of-way line.

4.1808 Rezoning of Property.

1. That the portion within the limits of Brown County, heretofore zoned Agricultural Preservation (AG-P) by Title 4, Chapter 4.06 of the Revised Brown County Ordinances, as amended, to-wit: **The North eight hundred twenty feet (N 820') of that portion of the Southeast Quarter of Section Fifteen, Township One Hundred Twenty-two, Range Sixty-four (SE 1/4 15-122-64), lying east of the Chicago & North Western Railway Company right-of-way and West of U.S. Highway #281 located in Brown County, South Dakota** be and the same is hereby changed to Recreational District (RC) to be used in accordance with Title 4, Chapter 4.18 of the Revised Brown County Ordinances, of the County of Brown, South Dakota, as amended, and the Zoning Official is hereby directed to designate the above change on the Zoning Map on file in the office of said Official, and by reference be made a part of the Revised Brown County Ordinances (effective 2/1/1995).

CHAPTER 4.19 FLOODPLAIN DISTRICT (FP)

- 4.1901 Statutory Authorization. The Legislature of the State of South Dakota has in SDCL 9-36 and 7-18-14 (State Statute delegating authority) delegated the responsibility to local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Brown County Commission of Brown County, South Dakota does ordain as follows:
- 4.1902 Findings Of Fact. 1) The flood hazard areas of Brown 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. 2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.
- 4.1903 Intent. The intent of the Floodplain District (FP) is to delineate reasonable high watermarks within the jurisdiction of this Title. For the reasons of health, safety, and the general welfare, certain safeguards are needed to: 1) protect human life and life; 2) minimize the expenditure of public money for costly flood control projects; 3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; 4) to minimize prolonged business interruptions; 5) 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; 6) 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; 7) to ensure that potential buyers are notified that property is in an area of special flood hazard; and 8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
- 4.1904 Methods Of Reducing Flood Losses. In order to accomplish its purposes, this ordinance includes 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.
- 4.1905 Lands To Which This Ordinance Applies. This ordinance shall apply to all areas of special hazard within the jurisdiction of Brown County, South Dakota.
- 4.1906 Basis For Establishing The Areas Of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Brown County, South Dakota dated September 29, 2010, with an accompanying Flood Insurance Rate Map (FIRM), is hereby adopted by reference and declared to be a part of this ordinance. The FIRM panel numbers are 25, 50, 75, 100, 125,

150, 200, 209, 217, 225, 250, 275, 300, 325, 350, 375, 400, 425, 450, 475, 500, 550, 575, 590, 595, 600, 602, 606, 610, 625, 675, 700, 725, 734, 742, 750, 751, 752, 753, 754, 756, 760, 761, 765, 770, 800, 825, 828, 829, 850, 875, 900, 925, 950, 975, 1000, 1025, 1050, 1075, 1100, 1125, 1150, 1175, 1200, & 1225. The Flood Insurance Study and FIRM are on file at the Brown County Courthouse, 25 Market Street, Aberdeen, South Dakota.

- 4.1907 Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations.
- 4.1908 Abrogation and Greater Restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenants, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- 4.1910 Interpretation. In the interpretation and application of this ordinance, all provisions shall be: 1) Considered as minimum requirements; 2) Liberally construed in favor of the governing body; and, 3) Deemed neither to limit nor repeal any other powers granted under State statutes.
- 4.1911 Dual Districts. FP Districts (zones) will be found in conjunction with another district. Within these dual districts, the permitted uses, special exceptions, yard and lot requirements, etc., will be the same as those in the district found jointly with the FP district. The FP designation requires additional standards/requirements because of their proximity in and to flood prone areas.
- 4.1912 Flood Insurance Rate Map Utilized as Basis for FP District Designation. The FIRM is the basis for the FP zone designation. Any shaded areas on the FIRM constitutes a FP District which must be cross-checked with the Zoning Map to determine its joint district. This chapter shall apply to all areas of special flood hazards within the jurisdiction of this Title. The areas of special flood hazards identified in a scientific and engineering report entitled, "The Flood Insurance Study for the County of Brown", dated September 29, 2010, with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this Title.
- 4.1913 Permitted Principal Uses and Structures. Only those permitted uses and structures allowed in the district listed jointly with the FP District.
- 4.1914 Special Exceptions. Only those special exceptions that are allowed in the district listed jointly with FP designation.
- 4.1915 Yard, Lot, and Area Requirements. Yard, lot, and area requirements shall be those that are required in the districts that are listed with the FP designation.
- 4.1916 Establishment of Development Permit. A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Chapter 4.1912. A property receiving a Letter of Map Amendment or Letter of Map based upon fill must also obtain a development permit. Application for a Development Permit shall be made on forms furnished by the Zoning Administrator. The administrator shall require, review, and record information that may include, but not be limited to, plans in duplication 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 foregoing. Where base flood elevations are utilized, all new construction, substantial improvements and other

development must comply with requirements of Section 4.1922, Use of Other Base Flood Data. Specifically, the following information is required.

1. 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.
2. Elevation in relation to mean sea level to which any new or substantially improved structure has been flood proofed;
3. Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria in Chapter 4.1912; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

The administrator shall review all development permit applications to determine: 1. that the requirements of this Title have been satisfied; 2. that all necessary permits have been obtained from those Federal, State, or local agencies from which prior approval is required; 3. if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purpose of this Chapter "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. If it is determined that there is no adverse effect and the development is not a building, the permit shall be granted. If it is determined that there could be an adverse effect, then technical justification (i.e., a registered professional engineer) for the proposed development shall be required. If the proposed development is a building, the provisions of this Title shall apply. All information obtained pertaining to the provisions of this Chapter shall be maintained for public inspection. When base flood elevation data has been provided in accordance with Chapter 4.1906, the administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available in order to administer Chapter 4.1912. Alterations of watercourses require the notification of adjacent communities and the State Dept. of Disaster and Emergency Services. Evidence of such notification must additionally be submitted to the Federal Emergency Management Agency. Maintenance within the altered or relocated watercourse so that flood carrying capacity is not diminished is also required.

4.1917 General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring.
 - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads.
 - b. All manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement and be 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 points, with manufactured homes less than 50 feet long requiring one additional tie per side.

(2) Frame ties be provided at each corner with five additional ties per side at intermediate points, with 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 home be similarly anchored.

2. Construction Materials and Methods.

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. 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.

3. Utilities.

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system, and,

b. 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 the flood waters, and,

c. On-site water disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. Subdivision Proposals.

a. All subdivision proposals shall conform to Title 5, Chapter 5.0305 of the First Revision of the Brown County Ordinances.

4.1918 Specific Standards. In all areas of special flood hazards, where base flood elevation data has been provided as set forth in Section 4.1906, Basis for Establishing the Areas of Special Flood Hazard or Section 4.1922 Use of Other Base Flood Data, the following standards are required:

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

2. New construction and substantial improvements of any commercial, industrial, or other non-residential 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 utilities and sanitary facilities, shall:

- a. Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
- c. Be certified by a registered 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 4.1916.
- d. Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must still have their lowest floor elevated or floodproofed to one foot above the base flood elevation.

3. Manufactured Homes.

- a. Manufactured homes shall be anchored in accordance with 4.1917.
- b. All manufactured homes or those to be substantially improved shall conform to the following requirements:
 - 1) Require that manufactured homes that are placed or substantially improved on a site a) outside of a manufactured home park or subdivision, b) in a new manufactured home park or subdivision, or c) in an expansion to an existing manufactured home park or subdivision, or d) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage: as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - 2) Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in b-1) above be elevated so that either a) the lowest floor of the manufactured home is at or above the base flood elevation, or b) the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. Recreational Vehicles

- 1) Require that recreational vehicles either a) be on site for fewer than 180 consecutive days, b) be fully licensed and ready for highway use, or c) meet the permit requirements and elevation and anchoring requirements for manufactured homes.

4.1919 Encroachment. The cumulative effect of any proposed development, shall not increase the water surface elevation of the base flood more than one foot at any point.

4.1920 The Designation Of The Zoning Administrator. The Zoning Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.1921 Duties And Responsibilities Of The Zoning Administrator. Duties of the Zoning Administrator shall include, but not be limited to:

1) Permit Review

- a. Review of all development permits to determine that the permit requirements of this ordinance have been satisfied;
- b. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of 4.1928-1 are met.

4.1922 Use Of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 4.1906, Basis For Establishing The Areas Of Special Flood Hazard, the Zoning Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any Federal, State, or other source. Where base flood elevation data are utilized, all new construction, substantial improvements, or other development in Zone A are administered in accordance with Sections 4.1923, Information To Be Obtained And Maintained and 4.1918, Specific Standards.

4.1923 Information To Be Obtained And Maintained.

- 1) 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.
- 2) For all new or substantially improved floodproofed structures:
 - (i) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - (ii) Maintain the floodproofing certifications required in Section 4.1921.

3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.1924 Alteration Of Watercourses.

- 1) Notify adjacent communities and the State Department of Public Safety Emergency Management prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- 2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

- 4.1925 Interpretation Of FIRM Boundaries. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 4.1930.
- 4.1926 Openings In Enclosures Below The Lowest Floor. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall 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 must meet or exceed the following minimum criteria:
- 1) 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.
 - 2) The bottom of all openings shall be no higher than one foot above grade.
 - 3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- 4.1927 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.
 - 4) Meet the provisions of Section 4.1917-1, Anchoring; Section 4.1917-2, Construction Materials and Methods; and 4.1926, Openings in Enclosures Below the Lowest Floor.
- 4.1928 Floodways. Located within areas of special flood hazard established in Section 4.1906 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- 1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - 2) If Section 4.1928-1 is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Chapter 4.19.
- 4.1929 Warning and Disclaimer of Liability. The degree of flood protection required by this Chapter 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. This Title does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Title shall not create liability on the part of Brown County, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Title or any administrative decision lawfully made thereunder.

4.1930 Variance Procedures. The Brown County Zoning Board of Adjustment shall hear and decide on appeals and requests for variances from the requirements of this Chapter. The Zoning Board of Adjustment shall consider:

1. The danger that materials may be swept onto other lands to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a waterfront location.
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
7. The compatibility of the proposed use with the existing and anticipated development.
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
10. The expected heights, velocities, rate of rise, and sediment transport of the flood waters and the effects of wave action expected at the site.
11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as gas, electrical, and water systems, streets and bridges.

The Zoning Board of Adjustment may attach conditions to the granting of variances as it deems necessary to further the purposes of this Chapter. Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items 1-11 above have been considered. As the lot size increases beyond one-half acre, the technical justifications required for issuance of a variance increases.

Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this Chapter. Variances shall not be issued within any designated floodway if any increase in flood levels during the base discharge would

result. Variances shall only be issued upon a determination that the variance is the minimum necessary to afford relief. Variances shall only be issued upon:

1. A showing of good and sufficient cause.
2. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and,
3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation. All variances shall be reported to the Federal Emergency Management Agency.

CHAPTER 4.20

SUPPLEMENTARY DISTRICT REGULATIONS

- 4.2001 Visibility at Intersections. On a corner lot in all Residential Districts, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets in the area formed by a radius of twenty (20) feet from the intersection of street curbs or street edges.
- 4.2002 Erection of More Than One Principal Structure on a Lot. In any district, no more than one main structure shall be located on a tract or lot when used for residential purposes. Where a lot or tract is used for an agricultural farm operation, commercial or industrial purpose, more than one main building may be located upon the lot or tract, but only when such buildings conform to all other yard requirements or any other requirements of this Title and are treated as though it were on an individual lot.
- 4.2003 Exceptions to Height Regulations. The height limitations contained in this Title shall not apply to spires, belfries, cupolas, antennas, ventilators, domes, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy; provided, that the Federal Aviation Administration (FAA) and the Federal Communications Commission (FCC) regulations are met.
- 4.2004 Structures to Have Access. Every building hereafter erected or moved shall be on a lot adjacent to public access and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
- 4.2005 Parking and Storage of Certain Vehicles. Not more than five (5) automobile vehicles of any kind or type without current license plates and inoperable shall be parked in any zoning district; except those licensed dealers permitted by special exception in the Heavy Industrial District (H-I).
- 4.2006 Minimum Off-Street Parking and Loading Requirements. Off-Street motor vehicle parking and loading space shall be provided on any lot on which any of the indicated structures and uses are hereafter established. Such space shall be provided with vehicular access to a street or alley. For the purpose of computing the number of parking spaces available in a given area, the formula of two hundred fifty (250) square feet per parking space shall be required. Minimum off-street parking and loading requirements, which shall be applicable in all zoning districts except Commercial (C) to the structures and uses indicated, shall be set forth in the Schedule of Minimum Off-Street Parking and Loading Requirements, hereby adopted by reference and declared to be a part of this Title. If minimum off-street and loading space, required in said schedule, cannot be reasonably provided on the same lot on which the principal structure or use is conducted in the opinion of the County Planning Commission, the Commission may permit such space to be provided on other off-street property, provided, that such space lies within four hundred (400) feet of the entrance to such principal structure or use.