

# **ZONING ORDINANCE**

**FOR**

# **CODINGTON COUNTY**

(As Amended as of April 23, 2019)

**PREPARED BY  
THE CODINGTON COUNTY PLANNING COMMISSION**

**WITH ASSISTANCE FROM  
THE FIRST DISTRICT ASSOCIATION OF LOCAL GOVERNMENTS**

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#### **DISCLAIMER:**

The Zoning Ordinances that appear in this document are meant to reflect the most current zoning regulations adopted by Codrington County. This document is provided for informational purposes only and should not be relied upon as the definitive authority for local legislation. The official printed copies of the various zoning ordinances may be reviewed in the Office of the County Auditor.

#### **SOURCE:**

The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section was adopted with the adoption of Ordinance 65.

**ARTICLE I  
GENERAL PROVISIONS**

**CHAPTER 1.01 TITLE AND APPLICATION.**

**Section 1.01.01 Title.**

This Ordinance may be known and may be cited and referred to as the "Codington County Zoning Ordinance" to the same effect as if the full title were stated.

**Section 1.01.02 Jurisdiction.**

Pursuant to SDCL 11-2, 1967, as amended, the provisions of this Ordinance shall apply within the unincorporated areas of Codington County, South Dakota, as established on the map entitled "The Official Zoning Map of Codington County, South Dakota."

**Section 1.01.03 Purpose.**

The Zoning Ordinance is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

1. To assist in the implementation of Codington County's Comprehensive Land Use Plan, which in its entirety represents the foundation upon which this Ordinance is based.
2. To foster a harmonious, convenient, workable relationship among land uses.
3. To promote the stability of existing land uses that conforms with the Comprehensive Land Use Plan and to protect them from inharmonious influences and harmful intrusions.
4. To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the "county community" as a whole.
5. To prevent excessive population densities and overcrowding of the land with structures.
6. To protect and enhance real estate values.
7. To facilitate the adequate provision of transportation, water and sewerage, schools, parks, and other public requirements;
8. To regulate and restrict the height, number of stories, and bulk of building and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; and the location and use of other purposes;
9. To regulate and restrict the erection, construction, reconstruction, alteration, repairs, and use of building, structures, and land.
10. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the Comprehensive Land Use Plan.

## **CHAPTER 1.02 ORDINANCE PROVISIONS.**

### **Section 1.02.01 Provisions of Ordinance Declared to be Minimum Requirements.**

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule, ordinance, or Board of Adjustment decision, the most restrictive or that imposing the higher standards, shall govern.

### **Section 1.02.02 Purpose of Catch Heads.**

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of an index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.

### **Section 1.02.03 Violation and Penalty.**

1. Violations of the ordinance shall be treated in the manner specified below.

- a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this Zoning Ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All fees assessed there under shall be rounded to the nearest whole dollar.
  - i. Upon finding such violation, Codington County Planning and Zoning Staff shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the normal fee for the associated building permit, variance, conditional use, and/or rezoning plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars (\$5.00), including the postage costs.
  - ii. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the normal fee for the associated building permit, variance, conditional use, and/or rezoning building permit fee plus the cost of the postage for mailing the aforementioned notice. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.
  - iii. Any administrative fee or penalty imposed under the provisions of this Zoning Ordinance shall be in addition to any other fees or charges required under this Zoning Ordinance.
- b. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Board of County Commissioners pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to



comply with or resists the enforcement of any provision of this Zoning Ordinance may be subject to a civil or criminal penalty. The penalty for violation of this Zoning Ordinance shall be two hundred dollars (\$200.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the County Auditor and shall be credited to the General Fund of the County.

- c. In the event, any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Codington County in addition to other remedies, may institute injunction, mandamus or other appropriate actions or proceedings in a court of competent jurisdiction to prevent, restrain, correct or abate such violation or threatened violation
- d. Any taxpayer of the County may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

#### **Section 1.02.04 Separability Clause.**

Should any article, chapter, section, or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

#### **Section 1.02.05 Repeal of Conflicting Ordinances.**

All ordinances or resolutions or part of ordinances or resolutions in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are repealed entirely.

#### **Section 1.02.06 Effective Date.**

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

### **CHAPTER 1.03 OFFICIAL ZONING MAP.**

#### **Section 1.03.01 Official Zoning Map.**

1. The unincorporated area of the County is hereby divided into zones, or districts, as shown on the Official Zoning Map and Official Map of the Rural Residential District which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairperson of the Board of County Commissioners attested by the County Auditor and bearing the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number 65 of Codington County, State of South Dakota," together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the County Auditor. Further, the Official Map of the Rural Residential District shall be identified by the signature of the Chairperson of the Board of County Commissioners attested by the County Auditor and bearing the seal of the County under the following words: "This is to certify that this is the Official Map of the Rural Residential District referred to in Chapter 1.03 of Ordinance

Number 65, an Amendment to Ordinance Number 15 of Codington County, State of South Dakota," together with the date of the adoption of this Ordinance."

2. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the office of the County Auditor, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the County.

#### **Section 1.03.02 Amendment of the Official Zoning Map.**

1. If, in accordance with the provisions of this Ordinance changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of County Commissioners, with an entry on the Official Zoning Map as follows: "On (date of adoption) by official action of the Board of County Commissioners, the following change(s) were made on the Official Zoning Map:" (brief description of nature of change), which entry shall be signed by the Chairman of the Board of County Commissioners and attested by the County Auditor.
2. No amendment of this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on the Official Zoning Map.
3. No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except with conformity with the procedure set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance.

#### **Section 1.03.03 Interpretation of District Boundaries.**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. A district name or letter symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or symbol extend throughout the whole area in the unincorporated portions of the County bounded by the district boundary lines.
2. Boundaries indicated at approximately following the center lines of streets, highways, or alleys, shall be construed to follow such center lines;
3. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
4. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
6. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center lines of streams,



rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

7. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map; and
8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 7 above, the Board of Adjustment shall interpret the district boundaries.

#### **Section 1.03.04 Changes and/or Replacement of Official Zoning Map.**

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

The new Official Zoning Map shall be identified by the signature of the Chairperson attested by the County Auditor, and bearing the seal of the County under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of Codington County, State of South Dakota."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

## ARTICLE II DEFINITIONS

For the purpose of this Ordinance, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure", the word "shall" is mandatory and not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied. Any word not herein defined shall be as defined in any recognized Standard English dictionary.

**Accessory Buildings and Uses.** A subordinate building or portion of the principal building, the use of which is incidental to and customary in connection with the principal building or the main use of the premises and which is located on the same lot with such principal building or use. An accessory use is a use which is incidental to the main use of the premises.

**Accessory Uses/buildings:** Accessory uses and/or buildings are those buildings and uses customarily incident to any permitted use in the district.

**Adult.** A person, one who has reached the age of eighteen (18).

**Adult Amusement or Entertainment.** Amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing or relating to 'specified sexual activities' or 'specified anatomical areas' or which features topless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment.

**Adult Bookstores.** An establishment having, as a substantial portion of its stock in trade, books, magazines, films or videotapes for sale or viewing on the premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished by their emphasis on matter depicting, describing or relating to specified Sexual Activities or Specified Anatomical Areas as such terms are defined in this section, or an establishment with a segment or section devoted to the sale or display of such material. Adult bookstores may alternatively or in conjunction with the above stock in trade sell undergarments and other clothing designed for the display of Specified Anatomical Areas or for the enhancement of Specified Sexual Activities. Further, an adult bookstore may alternatively or in conjunction with the above stock in trade sell prosthetic devices, dolls, candles, vibrators and other objects for sexual gratification which take the form of Specified Anatomical Areas and for the purpose of enhancing Specified Sexual Activities.

**Adult Entertainment Cabaret.** Means an establishment offering to its patrons, as entertainment, any exhibition or display or any theatrical or other live performances which include topless or go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any persons singing, reading, posing, modeling, or serving food or beverages, where the exhibition, performance, display or dance is intended to sexually arouse the entertainer or the patrons, or where the attire of persons involved is such as to expose specified anatomical areas, as defined in this section.

**Adult Motion Picture Theater.** An enclosed building, regardless of its seating capacity, which is used to present for public view on the premises, films, movies, previews, trailers or advertisements which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

**Adult Photo Studio.** An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas", as herein defined.

**Adult Use.** The term "adult use" shall include adult entertainment cabaret, adult bookstores, adult motion picture theaters, and adult photo studios as defined in this section.

**Agriculture.** The use of land for agricultural purposes including farming, dairying, raising, breeding, or management of livestock, poultry, or honey bees, truck gardening, forestry, horticulture, floriculture, viticulture, and the necessary accessory uses for packaging, treating or storing the produce providing that the operation of any such accessory use shall be secondary to the normal agricultural activities. This definition shall not include intensive agricultural activities such as concentrated animal feeding operations and agribusiness activities.

**Airport.** A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

**Animal Manure.** Poultry, livestock, or other animal excreta or mixture of excreta with feed, bedding or other materials.

**Animal Unit.** See Section 5. 21.

**Animal Waste, Incorporated.** Animal waste applied to the land surface and mechanically mixed into the soil within 24 hours.

**Animal Waste, Injected.** Animal waste injected or tilled into the soil at the time of application.

**Animal Waste, Surface Applied.** Animal waste applied to the land surface without benefit of incorporation or injection. This shall not include the use of animal waste in irrigation waters.

**Animal Husbandry.** The dairying, raising of livestock, breeding or keeping of animals, fowl or birds as a business for gainful occupation.

**Applicant** (when used in regard to concentrated animal feeding operations). An individual, a corporation, a group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more concentrated animal feeding operations.

**Area of Special Flood Hazard.** Means the land in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. The area of a special flood hazard refers to the area subject to inundation during the base 100-year flood.

**Bar/Tavern.** An establishment that is licensed to sell alcoholic beverages by the drink.

**Base Flood.** Base Flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.



**Basement.** A basement has more than one-half (½) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes.

**Bed and Breakfast (B & B's).** A private single-family residence, which is used to provide, limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding properties and should comply with the following conditions:

1. B & B's shall be limited to residential structures with an overall minimum of one thousand eight hundred (1,800) square feet of floor. Preference will be given to structures with historic or other unique qualities.
2. They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
3. Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than sixteen (16) square foot in area.
4. Such uses shall be an incidental use with an owner occupied principal dwelling structure provided that not more than four (4) bedrooms in such dwelling structure shall be used for such purpose.
5. Off-street parking requirements shall be one (1) space per guestroom and shall be in addition to parking requirements for the principal use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.
6. The length of stay shall not exceed fourteen (14) days during any one hundred twenty (120) day consecutive period.
7. Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.
8. The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

**Best Management Practices.** Measures contained in Soil Conservation Service South Dakota Technical Guide, either managerial or structural, that are determined to be the most effective, practical means of preventing or reducing pollution inputs from non-point sources to water bodies.

**Board of County Commissioners.** The Governing Body of Codington County.

**Buildable Area.** That portion of the lot that can be occupied by the principal use, thus excluding the front, rear, and side yards.

**Building.** The word "building" includes the word "structure" and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating

doors, windows, or similar openings and is designed for the support, shelter and protection of persons, animals, or property.

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

**Campground.** Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters. Campgrounds for tent trailers and recreational vehicles should be sited with consideration for access to the property. The campground should be designed to minimize the impact from adjacent major thoroughfares.

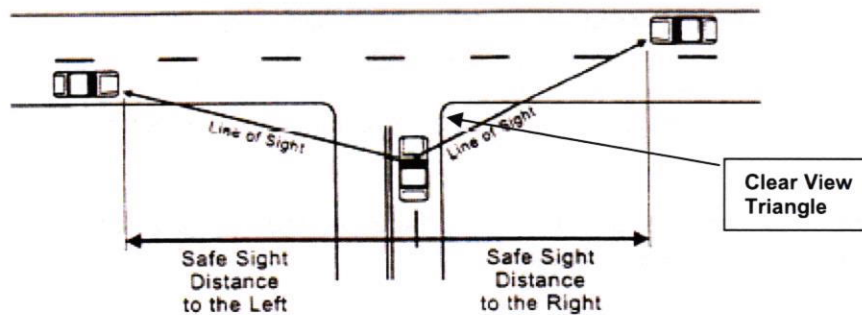
**Change in Operation.** Change in operation means a cumulative increase of more than three hundred (300) animal units, or change in animal species, after July 1, 1997, which are confined at an unpermitted concentrated animal feeding operation.

**Chemigation.** The process of applying agricultural chemicals (fertilizer or pesticides) through an irrigation system by injecting the chemicals into the water.

**Church.** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities

**Class V Injection Well.** A conduit through which potentially contaminated but generally non-hazardous fluids can move below land surface into or above an aquifer. The types of primary concern in Codington County are 5W20-industrial process water and waste disposal wells and 5X28-automobile service station disposal wells. Typically, 5W20 types are commercial/ industrial facility septic tanks used to dispose of more than domestic wastewater. 5X28 types are dry wells for wastes from repair bay drains at facilities servicing internal combustion vehicles and equipment.

**Clear View Triangle.** A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection (see illustration below).





**Closed Zoning District.** A zoning district for which amendment to the district boundaries may only be initiated by the Planning Commission.

**Club, Private.** Building and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit and not primarily to render a service which is customarily carried on as a business. The structure is not available for public use or participation.

**Commercial Vehicles.** Any motor vehicle licensed by the state as a commercial vehicle.

**Comprehensive Plan.** The adopted long-range plan intended to guide the growth and development of Codrington County.

**Concentrated Animal Feeding Operation.** A Concentrated Animal Feeding Operation is defined as a lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of forty-five (45) days or more during any twelve (12) month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility. Two (2) or more animal feeding operations under common ownership are single animal operation if they adjoin each other, or if they use a common area, or if they use a common area or system for disposal of manure.

**Conditional Use.** A conditional use is any use that, owing to certain special characteristics attendant to its operation, may be permitted in a zoning district subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district. Conditional uses are subject to the evaluation and approval by the Board of Adjustment and are administrative in nature

**Contamination.** The process of making impure, unclean, inferior or unfit for use by introduction of undesirable elements.

**Contingency Plans.** Detailed plans for control, containment, recovery and cleanup of hazardous materials released during floods, fires, equipment failures, leaks and spills.

**Contractor Shops and Yards.** Those facilities to include structures and land areas where the indoor or outdoor storage of equipment and supplies used for various types of construction are stored. Examples of equipment and supplies include but are not limited to the following – road construction, building construction, gravel operations, and general contracting services.

**Convenience Store.** Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit.

**Density.** The number of families, individuals, dwelling units, or housing structures per unit of land.

**Development.** The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

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

**Domestic Sanitary Sewage Treatment Facility.** Shall mean the structures equipment and processes required to collect, carry away, and treat and dispose of domestic wastewater, industrial wastes, and or sludge.

**Dwelling.** Any building, including seasonal housing structures, or a portion thereof, which is designed and used exclusively for residential purposes. This definition does not include a mobile home or manufactured home.

**Dwelling, Farm.** Any dwelling owned or occupied by the farm owners, operators, tenants, or seasonal or year-around hired workers.

**Dwelling, Multiple-family.** A building occupied by two (2) or more families.

**Dwelling, Non-Farm.** Any occupied dwelling which is not a farm dwelling.

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

**Dwelling.** One (1) or more rooms, containing sleeping quarters, in a dwelling occupied as separate living quarters by a single-family.

**Electrical Substation.** A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.

**Eligible Building Site (Building Eligibility).** A site which fulfills the requirements for the construction or placement of a building.

**Engineer.** Means any engineer licensed by the State of South Dakota.

**Essential Public Services.** Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures used by public for protection of the public health, safety or general welfare, including towers, poles, wires, mains drains, sewers, pipes, conduits, cables satellite dishes, and accessories in connection therewith.

**Established Residence.** A dwelling established before June 30, 1997 or a dwelling located greater than one-half (1/2) mile from any existing concentrated animal feeding operation at the time of the dwelling's construction.

**Existing Farmstead.** An existing farmstead shall include a livable house occupied by the owner or tenant within the last three (3) years and shall have been existing on the site for at least five (5) years and the site shall have been used in the past as a farmstead for normal farming operation. In addition the Board of Adjustment may consider defining an identifiable parcel as an existing farmstead if the proposed site meets the following criterion:

1. Evidence that the proposed site was once used for human habitation within the last fifty (50) years. This may be determined by existence of buildings/foundations.



2. Evidence that the proposed site was used as a farmstead supporting normal farming operations prior to October 26, 1976.
3. Information regarding the location of flood plain, access to roads and utilities, and other appropriate site information may be considered by the Board of Adjustment in determining the suitability of the parcel for development.

**Extended Home Occupation.** A home occupation conducted outside of the residence and/or in an accessory building

**Facility.** Something built, installed or established for a particular purpose.

**Family.** One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law. This definition shall not include foster families as regulated by the State of South Dakota.

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

**Fence.** A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar materials and is used as a barrier of some sort.

**Firearm.** A gun that discharges shot, bullet or other projectile by means of an explosive, gas, compressed air, or other propellant.

**Five-Year Time of Travel Distance.** The distance that ground water will travel in five (5) years. This distance is a function of aquifer permeability and water table slope.

**Flood or Flooding.** Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Insurance Rate Map (FIRM).** Means an official map of a community on which the Federal Emergency Management Agency has delineated areas of special flood hazard designated as Zone A.

**Floodway.** The channel and the adjacent areas that must be reserved in order to meet the minimum requirement of the National Flood Insurance Program of providing for the discharge of the base flood without cumulatively increasing the water surface elevation more than one (1) foot. However if there are identifiable flood impacts either upstream or downstream, based upon a scientific engineering study, a more stringent definition of floodway may be justified. That



definition would include the channel and the adjacent areas that must be reserved in order to provide for the discharge of the base flood without cumulatively increasing the water surface elevation to a point which may result in additional damages to upstream/downstream properties.

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

**Game Lodge.** A building or group of two (2) or more detached, or semi-detached, or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and fishermen, who are lodged with or without meals, and in which there are sleeping quarters.

**Garage, Private.** An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, trailers, and boats.

**Governmental Agency.** An organized entity which, in addition to having governmental character, has sufficient discretion in the management of its own affairs to distinguish it as separate from the administrative structure of any other governmental unit. This definition shall be deemed to include, but is not limited to Codington County, the State of South Dakota, and any School District or Municipality located in Codington County.

**Grade.** The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

**Greenhouse.** A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

**Grey Water.** All domestic wastewater except toilet discharge water.

**Ground Water.** Subsurface water that fills available openings in rock or soil materials such that it may be considered water saturated.

**Group Home.** A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

**Hazardous Materials.** A material which is defined in one or more of the following categories:

- A. Ignitable: A gas, liquid or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.
- B. Carcinogenic: A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: PCBs in some waste oils.
- C. Explosive: A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.
- D. Highly Toxic: A gas, liquid or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.
- E. Moderately Toxic: A gas, liquid or solid which through repeated exposure or in a single large

does can be hazardous to man. Example: atrazine.

- F. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

**Home Occupation.** An occupation engaged in by the occupants of a dwelling provided that:

- A. No person other than members of the family residing on the premises shall be engaged in such occupation;
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use of residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) on-premise sign, not to exceed sixteen (16) square feet in area, non-illuminated.
- D. Off premise signage for home occupations shall be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as "Blue Signs". These signs, with SDDOT approval, may be located adjacent to State and Federal Highways.
- E. No home occupation shall be conducted in any accessory building.
- F. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such home occupation shall be provided off the street and other than in a required front yard;
- G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- H. The only retail sales allowed shall consist of the sale of commodities/products prepared on the premises in connection with such occupation or activity.

**Horticultural services.** Commercial services which are oriented to support the science or practical application of the cultivation of fruits, vegetables, flowers, and plants.

**Junk Yard.** An area of land with or without buildings used for, or occupied by, a deposit, collection, or the storage outside of a completely enclosed building, or used and/or discarded materials such as waste paper, rags or scrap metal, used building materials, home furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale, or other use or disposition of the same.

**Kennel.** Any premise or portion thereon where more than five (5) dogs, cats, or other household pets are bred, raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

**Leaks and Spills.** Any unplanned or improper discharge of a potential containment including any discharge of a hazardous material.

**Light Manufacturing.** Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

**Lot.** A lot is any lot, plot, or parcel of land under one ownership, occupied, and the accessory building or buildings customarily incident to such principal building or buildings or intended for occupancy by a use permitted in this Ordinance including one (1) principal building together with its accessory buildings, open spaces and parking spaces required by this ordinance.

**Lot Area.** The lot area is the land in square feet or acres within the lot line.

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

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

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

**Lot of Record.** A subdivision, the plat of which has been recorded in the office of the Register of Deeds, or a parcel of land the deed or agreement to convey to which was recorded in the office of the Register of Deeds. For the minimum lot area requirement (35 acres) not to apply in the "A" Agriculture Zoning District, such lot of record had to be recorded prior to October 26, 1976. For the minimum lot area requirement (10 acres) not to apply in the "C" Commercial Zoning District or "I" Industrial District, such lot of record had to be recorded prior to July 31, 2001. For the minimum lot area requirement (2 acres) not to apply in the "LP" Lake Park Zoning District, such lot of record had to be recorded prior to June 18, 1974.

**Lot Width.** The width of a lot is the mean distance between straight side lot lines measured at a point fifty (50) feet back from the front line thereof.

**Manufactured Home.** See Chapter 5.11

**Manufactured Home Park.** Any manufactured home court, camp, park, site, lot, parcel or tract of land intended for the purpose of supplying a location, or accommodations, for manufactured homes and upon which manufactured homes are parked and shall include all buildings used or intended for use as part of the equipment thereof whether a charge is made for the use of the manufactured home park and its facilities or not. "Manufactured Home Park" shall not include automobile or manufactured home sales lots on which unoccupied manufactured homes are parked for the purposes of inspection and sale.

**Manure Storage Area.** An area for the containment of animal manure.

**Mineral.** An inanimate constituent of the earth in a solid, liquid or gaseous state which, when extracted from the earth, is useable in its natural form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For



the purpose of these regulations, this definition does not include surface or subsurface water, geothermal resources, or sand, gravel and quarry rock.

**Mineral Extraction.** The removal of a mineral from its natural occurrence on affected land. The term includes, but is not limited to, underground and surface mining.

**Modular Home.**

1. Modular homes shall meet the following regulations.
  - a. Modular homes shall meet or exceed Uniform Building Codes.
  - b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.
  - c. Modular homes shall have more than one thousand (1,000) square feet in ranch style and 850 square feet split and be placed on a permanent foundation.
  - d. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.
  - e. Modular homes shall have a minimum of a 4/12-roof pitch.
  - f. Have siding material of a type customarily used on site-constructed residences.
  - g. Have roofing material of a type customarily used on site-constructed residences.

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

**Nonconforming Building or Structure or Use.** Any building or use of land, land lawfully occupied by a use at the time of passage of this regulation or amendment thereto, which does not conform after the passage of this regulation or amendment.

**Nonstandard Use.** The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.

**Occupied Residence** (in reference to Chapter 5.22). A dwelling, mobile home, or manufactured home which has been occupied for the two (2) years immediately preceding an application for a wind energy system. (*Amended: Ord. 68; June 7, 2018*)

**Outdoor Storage.** The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

**Owner (when relating to Wireless Communication Towers).** Means any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within the County who desires to develop, or construct, build, modify, or erect a Tower upon such parcel of land.

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

**Parks and Recreation Areas.** Public, non-commercial recreation facilities open to the general public and requiring minimal structural development, including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, public campgrounds swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities, but not including private, commercial campgrounds, commercial recreation and/or amusement centers.

**Participating** (in reference to Chapter 5.22). Any landowner or person who receives direct or indirect compensation for allowing a wind energy system to utilize or have an access/easement to utilize their property. (*Amended: Ord. 68; June 7, 2018*)

**Pasture.** A field providing continuous forage to animals and where the concentration of animals is such that a vegetative cover is maintained during the growing season.

**Permit.** A permit required by these regulations unless stated otherwise.

**Permitted Use.** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**Plat.** The maps, drawing, or chart on which a sub divider's plan of subdivision is legally recorded.

**Potential Pollution Hazard.** A concentrated animal feeding operation of ten (10) to three hundred (300) animal units may be classified as a Class 4 Operation by the County Zoning Officer when a potential pollution hazard exists. Factors to be considered by the Zoning Officer in determining a potential pollution hazard include the following:

- A. The concentrated animal feeding operation does not meet the minimum setback and separation distances of these regulations.
- B. A potential water pollution hazard exists due to siting over a shallow aquifer or drainage which contributes to the waters of the State.

**Primary Containment Facility.** A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.

**Principal Building.** The structure in which the principal use of the lot is conducted. For example a dwelling on a residential lot.

**Principal Use.** The primary use to which the premises are devoted.



**Private Shooting Preserves.** An acreage of at least one hundred and sixty (160) acres and not exceeding one thousand two hundred and eighty (1,280) acres either privately owned or leased on which hatchery raised game is released for the purpose of hunting, for a fee, over an extended season.

**Private Wind Energy Conversion System (PWECS).** Any mechanism or device, not owned by a public or private utility company, designed for the purpose of converting wind energy into electrical or mechanical power to be used on the site where said power is generated.

**Process Generated Wastewater.** Water directly or indirectly used in the operation of an animal feeding operation. The term includes spillage or overflow from watering systems; water and manure collected while washing, cleaning or flushing pens, barns, manure pits or other areas; water and manure collected during direct contact swimming, washing or spray cooling of animals; and water used in dust control.

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

**Quarter-Quarter Section.** The Northeast, Northwest, Southwest, or Southeast quarter (1/4) of a quarter section delineated by the United States Public Land Survey or a government lot per such survey, if such lot contains a minimum of thirty-five (35) acres.

**Range (Target/Shooting).** Shall be defined as an area for the discharge of weapons for sport under controlled conditions where the object of the shooting is an inanimate object such as, but not limited to, paper, metal or wooden targets. A Range Officer shall be present on site at any Range when the range is in use. The term range includes archery ranges.

**Range Officer.** Means the person designated to be responsible at a Range at any given time during any activity.

**Religious Conference Facility.** One or more buildings or structures whose primary purpose is to provide religious training/service and other associated activities. Such facilities may include but are not limited to recreational facilities; chapels/churches; incidental retail sales; food service; indoor and outdoor recreation – to include including therapeutic horse riding, group assembly, campgrounds; administrative offices; and on-site employee residences.

**Religious Farming Community.** A corporation formed primarily for religious purposes whose principle income is derived from agriculture and/or a farm which may or may not be held in collective ownership, in which multiple families reside on-site and use or conduct activities upon the property which are participated in, shared, or used in common by the members of the group residing thereon.

**Resort.** This category provides commercial hospitality lodgings in spacious settings that are principally intended for vacationing, relaxation and conference activities for visitors to the community.

**Retail Sales and Trade.** Establishments engaged in selling products, goods or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating and drinking establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services.

**Rubble Site.** A site for the disposition of refuse as defined by the South Dakota Department of Environment and Natural Resources.

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

**Sanitary Landfill.** A government-owned site for the disposal of garbage and other refuse material.

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

**Secondary Containment Facility.** A second tank, catchment pit, pipe or vessel that limits and contains a liquid or chemical leaking or leaching from a primary containment area; monitoring and recovery systems are required.

**Service Station, Automobile.** Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

**Setback.** The setback of a building is the minimum horizontal distance between the street or property line and the front line of the building or any projection thereof, except cornices, unenclosed porches, and entrance vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and having no more than fifty (50) square feet area and not extending above the first story of the building.

**Setback Between Uses.** Unless specifically mentioned within this ordinance, the setback or separation distance between uses is the minimum horizontal distance measured from the wall line of a neighboring principal building to the wall line of the proposed building/structure/use.

**Shall.** Means that the condition is an enforceable requirement of this regulation.

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

**Shallow Well.** A well which is located in a shallow aquifer.



**Shelterbelt.** For the purposes of this ordinance a shelterbelt shall include ten (10) or more trees planted in a line, with each trees separated by a distance of forty (40) feet or less. Ornamental and/or shade trees, generally used in front yards and spaced further than thirteen (13) feet apart and further do extend lineally for a distance of over one hundred fifty (150) feet, are not considered shelterbelts.

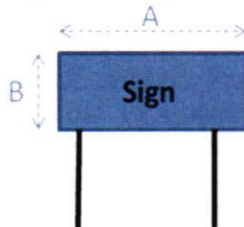
**Should.** Means that the condition is a recommendation. If violations of this regulation occur, the County will evaluate whether the party implemented the recommendations contained in this regulation that may have helped the party to avoid the violation.

**Sign.** Any device or structure, permanent or temporary, which directs attention to business, commodity, service or entertainment but excluding any flag, badge or insignia of any government agency, or any civic, charitable, religious, patriotic or similar organizations.

**Sign, Abandoned.** A sign or sign structure which contains no sign copy, contains obliterated or obsolete sign copy, or is maintained in an unsafe or unsightly condition for a period of three (3) months shall be considered an abandoned sign.

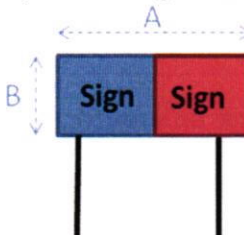
**Sign Area.** The total area or areas of all signs within the outer edges of the sign or advertising message. Sign area may be calculated in the following manners:

- A. A single message on a single sign face:



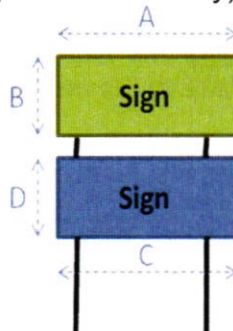
$$\text{Area} = A \times B$$

- B. Multiple messages on a single sign face:



$$\text{Area} = A \times B$$

- C. (Adjacent to I-29 only) Multiple messages on stacked signs:



$$\text{Area} = (A \times B) + (C \times D)$$



**Sign, Off-premises.** Any sign identifying or advertising a business, person, activity, goods, products or services at a location other than where such sign has been erected.

**Sign, On-premises.** Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign has been erected.

**Sign Structure.** Any structure which supports, has supported, or is capable of supporting a sign, including decorative cover.

**Significant Contributor of Pollution.** To determine if a concentrated animal feeding operation meets this definition, the following factors are considered:

1. Size of feeding operation and amount of manure reaching waters of the state.
2. Location of the feeding operation in relation to waters of the state.
3. Means of conveyance of manure and process wastewater into waters of the state; and
4. The slope, vegetation, rainfall and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewater into waters of the state.

**Sleeping Quarters.** A room or an area contained within a dwelling unit utilized for the purpose of sleep.

**Solution mining.** The mining of an ore body with circulation of chemicals through injection and recovery wells. Solution Mining for minerals is prohibited.

**Specified Anatomical Areas.** Means (1) Less than completely and opaquely covered human or animal genitals, pubic region, or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and (2) Genitals of humans or animals in a discernible turgid state, even if completely or opaquely covered.

**Specified Sexual Activities.** Means (1) Human genitals in a state of sexual stimulation or arousal; (2) Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation; (3) Fondling or erotic touching of human or animal genitals, pubic region, buttock or female breast; and (4) Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or "Adult Entertainment Cabaret".

**Stable.** A building for the shelter and feeding of domestic animals, especially horses and cattle.

**Stable, Commercial.** A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

**Stacked Signs.** Two or more signs stacked vertically on a single sign structure.

**Stealth.** Means any Tower or Telecommunications Facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and Towers designed to look other than like a Tower such as light poles, power poles, and trees. The term Stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole Tower designs.

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

- A. **Street, Arterial.** A street designated as such on the Major /Street Plan of the Comprehensive Plan of Codington County, South Dakota.
- B. **Street, Collector.** A street designated as such upon the Major /Street Plan of the Comprehensive Plan of Codington County, South Dakota.
- C. **Street, Local.** Any street which is not an arterial street or collector street.

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

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

**Structure, Temporary.** Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on or below the ground.

**Substantial improvement.** Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

- 1. Before the improvement or repair is started, or
- 2. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this designation, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- a. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- b. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Telecommunications Facilities.** Means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a Person seeks to locate or has installed upon or near a Tower or Antenna Support Structure. However, Telecommunications Facilities shall not include:

- 1. Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or

2. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.

**Temporary Fireworks Sales Stand.** A structure utilized for the licensed resale of fireworks during the time period allowed by South Dakota State Law.

**Ten Year Time of Travel Distance.** The distance that ground water will travel in ten years. This distance is a function of aquifer permeability and water table slope.

**Tower.** Means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports Telecommunications Facilities. The term Tower shall not include amateur radio operators' equipment, as licensed by the FCC.

**Tree, Ornamental.** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of about twenty-five (25) feet or less.

**Tree, Shade.** For the purposes of this Ordinance, a shade tree is a deciduous tree which has a mature crown spread of fifteen (15) feet or greater, and having a trunk with at least five (5) feet of clear stem at maturity.

**Twin Homes.** A two-family dwelling which has a common wall and is platted into two (2) separate lots.

**Variance.** A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming in the zoning district or uses in an adjoining zoning district.

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

**Yard.** An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and bearing wall of the main building shall be used.

**Yard, Front.** A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the road right-of-way line and the main bearing wall of the main building or any projections thereof other than the projections of the usual steps, unenclosed balconies or open porch.

**Yard, Rear.** A yard across the whole width of a lot, extending from the rear line of the building to the rear line of the lot.

**Yard, Side.** A yard between the building and the adjacent side line of the lot which separates it from another lot, extending from the front lot line to the rear yard.

**Zoning Officer.** The individual(s) appointed by the Board of County Commissioners and designated to administer and enforce the zoning ordinance.

**Zone of Contribution.** The entire area around a well or well field that contributes water to the well or well field.

## **ARTICLE III DISTRICT REGULATIONS**

### **CHAPTER 3.01 APPLICATION OF DISTRICT REGULATIONS.**

#### **Section 3.01.01 Application of District Regulations.**

The regulations set by this Ordinance within each District shall be minimum regulations and shall apply uniformly to each class or kind of structure of land, and particularly, except as hereinafter provided:

1. No structure, permanent or temporary, shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit, area and parking requirements of the district in which the building is located. Further, no building or use of land shall be used except for a purpose permitted in the district in which the building or land is located.

### **CHAPTER 3.02 NONCONFORMING USES.**

**Section 3.02.01 Purpose and Intent.** The purpose of this article is to provide for the regulation of nonconforming uses, buildings, and structures, and to specify those circumstances under which they shall be permitted to continue. Further, it is intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

**Section 3.02.02 Continuation of Nonconforming Uses.** Subject to the provisions of this article, the lawful use of a premise existing immediately prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof.

**Section 3.02.03 Use Becoming Nonconforming by Change in Law or Boundaries.** Whenever the use of a premises becomes a nonconforming use through a change in zoning ordinance or district boundaries, such use may be continued, although the use does not conform to the provisions thereof.

**Section 3.02.04 Extension or Enlargement.** A nonconforming use shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the premise is located.

**Section 3.02.05 Restoration After Damage.** When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty (60) percent of its fair market value, it shall not be restored except in conformity with the provisions of the district in which the building is located.

**Section 3.02.06 Repairs and Maintenance.** On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the nonconformity of the structure shall not be increased.

**Section 3.02.07 Unsafe Nonconforming Use.** If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe, or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.



**Section 3.02.08 Discontinuance of Nonconforming Use.** In the event that a nonconforming use is discontinued for more than one (1) year, any subsequent use shall thereafter be in conformity with the regulations of the district in which it is located.

**Section 3.02.09 Effect on Use Which is Illegal Under Prior Law.** Nothing in this ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a premises in violation of zoning regulations in effect immediately prior to the effective date of this ordinance.

**Section 3.02.10 Powers of the Planning Commission/Board of Adjustment.** Nothing contained in this Section shall be so construed as to abridge or curtail the powers of the County Planning Commission or Board of Adjustment as set forth elsewhere in this Ordinance.

**Section 3.02.11 Continuation of Nonstandard Uses.** Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

1. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.
2. Structural alteration of buildings or structures may otherwise be made if such changes do not encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located.
3. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.

**Section 3.02.12 Nonconforming Lots of Record.**

1. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.
2. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot width or area below the requirements stated in this Ordinance.
3. Any area proposed or being developed for residential use in the "A" Agricultural Land

District must provide for a minimum of thirty-five (35) acres per lot, unless platted prior to the adoption of Codington County Resolution 1167 (Adopted October 26, 1976). Exception to the lot size may be made according to Codington County Zoning Ordinance Section 3.04.03.

## **CHAPTER 3.03 ZONING DISTRICTS.**

### **Section 3.03.01 Districts.**

1. For the purpose of this Ordinance, the unincorporated areas of the County may be divided into any of the following zoning districts: A-Agricultural; C-Commercial; I- Industrial; LP-Lake Park; NR-Natural Resource; PR-Planned Residential; TD-Town District and RR-Rural Residential District. In addition to zoning districts, the FP-Flood Protection and AP-Aquifer Protection zoning overlay districts impose special regulations on the property that may fall within these districts without abrogating the requirements imposed by the underlying land use district regulations.
2. The requirements as set forth below for each of the use districts listed as part of this Ordinance shall govern the development within the said districts as outlined on the map entitled "Official Zoning Map, Codington County, South Dakota;" and "Official Map of the Rural Residential District."
3. **"A" AGRICULTURAL LAND DISTRICT** - This district is established to preserve open space and maintain and promote farming and related activities within an environment which is generally free of other land use activities. Residential development will be discouraged to minimize conflicts with farming activities and reduce the demand for expanded public services and facilities.
4. **"AP" AQUIFER PROTECTION OVERLAY DISTRICT** - The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow aquifers of Codington County.
5. **"C" COMMERCIAL DISTRICT** - The Commercial District is intended to provide areas for commercial activities oriented primarily to, and supportive of, farming and other activities which are determined to be appropriate in the rural area.
6. **"FP" FLOOD PROTECTION OVERLAY DISTRICT** - The Flood Protection Overlay District is established to protect the natural environment and resources from destructive land uses and to protect lives and property along and adjacent to streams and rivers.
7. **"I" INDUSTRIAL DISTRICT** - The Industrial District is established primarily for warehousing and light manufacturing. Heavy industrial uses such as manufacturing which produces smoke, noise, dust, odor, and/or heavy traffic; also for storage areas for inflammable or otherwise dangerous materials shall require special review and consideration.
8. **"LP" LAKE-PARK DISTRICT** - Lake Park District is to provide for orderly low residential and recreational development, together with certain public facilities, customary home occupations, and certain commercial establishments, along lakeshores.
9. **"NR" NATURAL RESOURCE DISTRICT** - The Natural Resource District is to provide for the retaining of natural vegetation of a particular area, to preserve the natural environment and resources from destructive land uses, and to protect wildlife habitat. Such areas may

include, but are not limited to, flood plains of rivers, streams, and lakes, abandoned quarries, certain wetlands and natural prairies, and historical sites.

10. "PR" PLANNED RESIDENTIAL DISTRICT - The Planned Residential District is to provide for residential subdivisions which, through their design and development, will limit the amount of agricultural land that is taken out of production, will not require excessive public expenditures for roads or other improvements and services, and which will minimize the conflict between farm and non-farm uses.
11. "TD" TOWN DISTRICT - The Town District is established to provide for orderly low density residential development, together with certain public facilities, and commercial/industrial uses which are not detrimental in the unincorporated towns of Codrington County.
12. "RR" RURAL RESIDENTIAL DISTRICT – See Section 3.13.01.

**Section 3.03.02 Prohibited Uses.**

All uses and structures not specifically listed as a permitted use or as a conditional use in a particular zoning district or overlay district shall be prohibited in said district.



## **CHAPTER 3.04 "A" AGRICULTURAL LAND DISTRICT.**

### **Section 3.04.01 Permitted Uses.**

1. Agricultural activities and farm related buildings, including Class 4 Concentrated Animal Feeding Operations. (*Amended: Ord. 69; April 23, 2019*)
2. One (1) single-family non-farm dwelling, including site-built homes, modular homes, and Type A manufactured homes for each quarter-quarter section not already containing a farm dwelling or a non-farm dwelling.
3. Farm dwellings and farm buildings.
4. Fisheries services and Game propagation areas.
5. Public park and recreation areas.
6. Field crops and grasslands.
7. On-premise signs.
8. Accessory uses and buildings.
9. Orchards and tree farms.
10. Temporary roadside stands for sales of agricultural products grown or produced on the premises.
11. Home occupation.
12. Botanical gardens (nurseries and greenhouses) – without retail sales.
13. Stables.
14. Private Wind Energy Conversion System (PWECS).

### **Section 3.04.02 Conditional Uses.**

1. Airports and airstrips.
2. Churches and Cemeteries.
3. Commercial public entertainment enterprises not normally accommodated in commercial areas including, but not limited to, the following: music concerts, rodeos, tractor pulls, and animal and vehicle races.
4. Sand, gravel or quarry operation; mineral exploration and extraction; rock crushers; and concrete and asphalt mixing plants provided:
  - a. The site meets the requirements of the State Department of Environment and Natural Resources.
  - b. A site plan is provided indicating the following information:

- i. Present topography, soil types, and depth to groundwater.
- ii. Location of existing water drainage, existing buildings, existing shelterbelts.
- iii. Identification of roads leading to the site.
- iv. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
- v. Proposed monitoring wells, etc.
- vi. A requirement for receiving a permit for extractive/mining operations shall include a haul-road agreement between the applicant and appropriate governmental entity (Federal, State, County, Township, or Municipality).
- vii. The applicant may be required to provide information regarding how potential air, noise, and water pollution would be minimized.
- viii. The applicant shall provide for a plan for land 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 lands. The reclamation plan shall include:
  - a. A reclamation schedule.
  - b. Methods of plugging drill holes.
  - b. Methods of severing and returning topsoil and subsoil.
  - c. Methods of grading, backfilling and contouring of exploration sites, access roads, and mining sites.
  - d. Methods of waste management and disposal, including liquid and solid wastes.
  - e. Method of revegetation.
- ix. The applicant may be required to post a surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground and surface waters. The amount shall be set by the County Commission based on an estimate of the cost of reclamation and decontamination. The bond shall be released five (5) years after mining and milling has ceased unless the Commissioners find, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the surety bond may be reduced by the Commissioners if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.
- x. Sand, gravel or quarry operation; Mineral exploration and extraction operations; rock crushers; and concrete/ asphalt mixing plants will not be allowed within one thousand (1,000) feet of a residence. The setback will be measured from the mineral exploration and extraction operations; rock crushers; and/or concrete and asphalt

mixing plant's property line to the nearest residence. The exception to this standard would apply to residences owned and lived in by the operator of the mineral exploration and extraction operations; rock crushers, and/or concrete/asphalt mixing plants.

- xi. Sand, gravel or quarry operation; Mineral exploration and extraction; rock crushers; and/or concrete and asphalt mixing plants shall be set back at least sixty-five (65) feet from any public right-of-way.

5. Private club.

6. Sanitary landfills provided:

- a. The site meets the requirements of the State Department of Environment and Natural Resources.
- b. A site plan is provided indicating the following information:
  - i. Present topography, soil types, and depth to groundwater.
  - ii. Location of existing water drainage, existing buildings, existing shelterbelts.
  - iii. Identification of roads leading to the site.
  - iv. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
  - v. Proposed monitoring wells, etc.
  - vi. No sanitary landfill will be allowed within two thousand six hundred forty (2,640) feet from the landfill property line to the nearest residence or commercial use; excluding: the residence of the landfill operator.

7. Domestic sanitary sewer treatment plant/facility.

- a. The site meets the requirements of the State Department of Environment and Natural Resources.
- b. A site plan is provided indicating the following information:
  - i. Present topography, soil types, and depth to groundwater.
  - ii. Location of existing water drainage, existing buildings, existing shelterbelts.
  - iii. Identification of roads leading to the site.
  - iv. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
  - v. Proposed monitoring wells, etc.
  - vi. No sewage treatment plant/facility will be allowed within one thousand three hundred twenty (1,320) feet from the sewage treatment plant/facility property line to the

nearest residence; excluding: the residence of the landfill operator.

8. Class 1, Class 2, and Class 3 concentrated animal feeding operations. See Concentrated Animal Feeding Operation, Section 5. 21. (*Amended: Ord. 69; April 23, 2019*)
9. Commercial Stables.
10. Junkyards/salvage yards, provided that they meet the following minimum requirements and other restrictions that the Board of Adjustment may deem appropriate:
  - a. Junkyards/salvage yards shall be set back a minimum of one thousand three hundred twenty feet (1,320) feet from any adjoining road right-of-way.
  - b. No junkyards will be allowed within three hundred thirty (330) feet from any adjoining property line.
  - c. Junkyards shall be screened on all sides by a solid wall, with construction materials and design to be approved by the Board of Adjustment, at least two (2) feet above the highest stock pile or by a shelterbelt of shrubs and trees as approved by the Board of Adjustment; screening must be maintained in good repair.
  - d. No junkyards will be allowed within one thousand (1,000) feet from the junkyard property line to the nearest residence; excluding: the residence of the junkyard operator.
  - e. All junkyards must have a minimum lot area of ten (10) acres.
11. Public utility and public service structure including transmission lines, substations, gas regulator stations, pipelines, community equipment buildings, pumping stations, and reservoirs.
12. Land application of petroleum-contaminated soils.
13. Institution farms, including religious farming communities.
14. Bed and breakfast.
15. Wireless Telecommunications Towers and Facilities.
16. Extended home occupation (See Section 5.12).
17. Type B manufactured home not connected to an existing farmstead.
18. Game Lodge.
19. Group Homes.
20. Kennels.
21. Wind Energy System (WES). (See Section 5. 22).
22. Public or private motorcycle recreation facilities.

23. Target/Shooting Range.
24. Veterinarian's offices and animal hospitals.
25. Golf course, golf driving range, clubhouse.
26. Seasonal retail stands – including produce and fireworks - utilizing a permanent structure.
27. Livestock sales barns.
28. Fur farms.
29. Rubble sites, composting sites, waste tire sites, restricted use sites, and other sites governed by the South Dakota Department of Environment and Natural Resources permits for solid waste.
30. Government grain storage sites.
31. Horticultural services.
32. Orchards and tree farms with retail sales.
33. Truck gardening.
34. Botanical gardens (nurseries and greenhouses) with retail sales.
35. Schools.
36. Private shooting preserve.
37. Temporary roadside stands not utilizing a permanent structure for sales of fireworks.
38. Religious Conference Facility.
39. Storage of Fireworks in temporary structures.
40. Public building or facilities erected or established and operated by any governmental agency.
41. Single family dwelling (farm or non-farm) constructed less than one-half (1/2) mile from an existing concentrated animal feeding operation. See Chapter 5.29

#### **Section 3.04.03 Area Regulations/Easement/Waivers**

All buildings shall be set back from street right-of-way lines and lot lines to comply with the following yard requirements:

1. Lot Size: All eligible building lots for permitted uses shall be a minimum of thirty-five (35) acres, except as provided in 7.a and 7.b of this Section.
2. Lot Width: The lot width shall be a minimum of thirteen hundred (1,300) feet.



EXCEPTION: A residential dwelling may have a minimum lot width of six hundred fifty (650) feet if the depth of the lot is at least two thousand three hundred and forty-five (2,345) feet. This exception shall require Board of Adjustment approval.

3. Front Yard: The minimum depth of the front yard shall be sixty-five (65) feet and in no case shall an accessory building be located or extend into the front yard. In the case of a corner lot, front yards shall be provided on both streets.
4. Conditional uses shall have minimum lot area and setback regulations determined by the Board of Adjustment.

a. EXCEPTIONS:

- i. A structure with the floor space of less than two hundred (200) square feet shall have a front yard minimum depth of one hundred sixty-five (165) feet.
  - ii. Existing nonconforming residential structures, constructed prior to January 1, 2006, on a lot of record or on a lot containing at least thirty-five (35) acres although considered nonconforming, are eligible to be expanded or added onto, without Board of Adjustment Approval, as long as the existing front, side or rear yard setback(s) is not further encroached upon.
4. Side Yard: The minimum width of a side yard shall be twenty-five (25) feet.
  5. Rear Yard: The minimum depth of a rear yard shall be twenty-five (25) feet.
  6. Maximum Lot Coverage: Dwellings and buildings accessory thereto shall cover not more than twenty-five (25) percent of the lot area.
  7. The Board of Adjustment may allow a smaller minimum lot requirement for the "A" Agricultural District under the following conditions:
    - a. Where a permit for an additional single-family farm dwelling is requested on an existing farmstead, provided:
      1. The dwelling is located on the same legal description as the existing farmstead.
      2. The maximum number of dwelling units within the existing farmstead will not exceed two (2).
      3. The dwelling is occupied by employees or relatives of the farm owner.
      4. The additional single-family farm dwelling shall be removed in the event the structure becomes a non-farm dwelling.
    - b. Where an existing farmstead is to be divided from adjacent farmland into a single separate parcel of five (5) acres or more.

8. Height Regulations:

No principal building shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height. Exceptions include the following structures:

1. Agricultural buildings.
2. Chimneys, smokestacks, cooling towers.
3. Radio and TV towers.
4. Water tanks.
5. Others, as determined by the Board of Adjustment, providing that they are not used for human occupancy.
6. Wind Energy System (WES).
7. Wireless Telecommunications Towers and Facilities.

#### 9. Agriculture Easement

- a. All new residential development (farm and non-farm) shall be required to file an "Agricultural Easement" with the Register of Deeds before the issuance of a building permit. (See Chapter 5.27)

#### 10. Access

- a. The drive-way serving the parcel shall be separated from adjacent driveways on the same side of the road by the following distances depending upon road types:
  - i. Local road: 100 feet.
  - ii. Collector road: 300 feet.
  - iii. Arterial road: 500 feet.
  - iv. Minimum distance from intersection of two (2) or more of the above: 100 feet.
- b. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit



## **CHAPTER 3.05 "C" COMMERCIAL DISTRICT.**

### **Section 3.05.01 Permitted Uses.**

1. Field crops and grasslands.
2. On-premise signs.
3. Accessory uses and buildings.
4. Orchards and tree farms.
5. Temporary roadside stands for sales of agricultural products grown or produced on the premises.

### **Section 3.05.02 Conditional Uses.**

1. Wholesale warehouse and distributing.
2. Welding and machine shops.
3. Gas, oil, liquid propane and liquid hydrogen stations including bulk stations.
4. Public and private utilities.
5. Livestock sales.
6. Contractors' shops and yards including offices when in conjunction with a shop or yard.
7. Government-owned highway and street maintenance shops.
8. Implement sales and service.
9. Truck terminals and freight warehouses.
10. Seed sales and grain storage, fertilizer and chemical storage and sales.
11. Recreation vehicle sales and park.
12. Bar/Tavern.
13. Commercial stables.
14. Kennel with or without animal grooming.
15. Veterinary clinics.
16. Wireless telecommunication towers and facilities.
17. Convenience store/service station.
18. Seasonal retail stands utilizing a structure (temporary or permanent).

19. Commercial orchards, tree farms, truck gardening, and greenhouses – with retail sales.
20. Motel/hotel.
21. Off-premise Signs.
22. Light manufacturing.
23. Commercial animal husbandry service.
24. Manufactured Home Park existing prior to June 18, 1974.

**Section 3.05.03 Area Regulations.**

1. Lot Size. Each lot shall contain a minimum of ten (10) acres and shall provide off-street parking at a ratio of three (3) square feet of parking area for each square foot of building area used as retail sales area; provided there shall be a minimum of fifteen hundred (1,500) square feet of space for off-street parking.
2. Front Yard: The minimum depth of the front yard shall be one hundred (100) feet and in no case shall an accessory building be located or extend into the front yard. In the case of a corner lot, front yards shall be provided on both streets. Exception: The minimum front yard setback for off-premise signs, where the face of the sign is perpendicular to the Interstate 29 right-of-way, shall be ten (10) feet.
3. Building Height. No building shall exceed four (4) stories or fifty (50) feet in height.
4. Side and Rear Yard: The minimum side yard and rear yards shall be fifty (50) feet.
5. Access. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit.
6. Storage. All outdoor storage within five hundred (500) feet of a residential dwelling must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stock pile which fence shall be maintained in safe and good repair. The County may require hard surfacing of parking lots.

## **CHAPTER 3.06 "I" INDUSTRIAL DISTRICT.**

### **Section 3.06.01 Permitted Uses.**

1. On-premise signs.
2. Field crops and grasslands.
3. Accessory uses and buildings.

### **Section 3.06.02 Conditional Uses.**

1. Uses permitted by conditional use in the "C" Commercial District, except implement sales and service; recreation vehicle sales and parks, bar/tavern, commercial stables, veterinary clinics convenience store/service station, Seasonal retail stands utilizing a permanent structure, commercial orchards, tree farms, truck gardening, and greenhouses; and Motel/hotel.
2. Agricultural product processing facilities such as ethanol plants and corn/soybean processing.
3. Crematory.
4. Explosive manufacture or storage.
5. Fertilizer manufacture.
6. Incineration or reduction of garbage, dead animals, fat or refuse.
7. Soap manufacture.
8. Tanning of leather, rawhide, or skins.
9. Off-premise signs.
10. Adult uses. (See Chapter 5.30).
11. Any permitted residential use in the "A" Agricultural District, where such use existed prior to June 18, 1974, and where such conditional use, if granted, will be limited to rebuilding, remodeling, of such pre-existing residence or construction of a new residence on the site of the pre-existing residence.
12. Other industrial or commercial uses determined by the Board of Adjustment to be consistent with the intent of this District that can meet the performance standards listed in section 3.06.04.

### **Section 3.06.03 Area Regulations.**

1. Lot Area. Lot area shall be determined by need, setback, side yards, rear yards, parking requirements, freight handling requirements, building site and future expansion; however, in no case shall a lot have less than ten (10) acres. An applicant for a conditional use shall provide a proposed site plan which can be reviewed by the Board of Adjustment.

2. Front Yard: The minimum depth of the front yard shall be one hundred (100) feet and in no case shall an accessory building be located or extend into the front yard. In the case of a corner lot, front yards shall be provided on both streets. Exception: The front yard setback for off-premise signs, where the face of the sign is perpendicular to the Interstate 29 right-of-way, shall be ten (10) feet.
3. Side Yards. On lots adjacent to a residential area, all buildings and incidental areas shall be located so as to provide a minimum side yard of one hundred (100) feet, which shall be landscaped on the side adjacent to the residential area. All other side yards shall be a minimum of fifty (50) feet.
4. Rear Yards. No building shall be constructed within fifty (50) feet of the rear lot line. The rear yard shall be one hundred (100) feet if the lot abuts a major highway.
5. Height Regulations. None.
6. Storage. All outdoor storage within five hundred (500) feet of a residential dwelling shall be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stock pile which fence shall be maintained in safe and good repair. The County may require hard surfacing of parking lots.
7. Access. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit.

#### **Section 3.06.04 Performance Standards.**

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



conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the County Commissioners

8. Physical Appearance. All operations shall be carried on within an enclosed building except that new or operable equipment may be displayed or stored in the open and waste materials stored in enclosed containers not readily visible from the street.

## **CHAPTER 3.07 "LP" LAKE PARK DISTRICT.**

### **Section 3.07.01 Areas Contained in Lake Park District.**

All land unless otherwise zoned, within one thousand (1,000) feet of the State Established normal high water elevation of Lake Pelican, Punished Woman Lake or a designated lake, as identified on the Official Zoning Map, shall be contained in the Lake Park District and usage shall conform to the regulations for this district.

### **Section 3.07.02 Permitted Uses.**

1. Site-built single-family dwelling.
2. Public parks and recreation areas.
3. Agricultural or horticulture uses excluding concentrated animal feeding operations.
4. Modular home.
5. Type A manufactured home.
6. Attached garages and unattached private garages with sidewalls less than ten (10) feet and conform to the design of the house.
7. Essential public services.
8. Accessory uses to include but not limited to boathouses further than fifty (50') feet from the high-water mark, or sheds, piers and docks.

### **Section 3.07.03 Conditional Uses.**

1. Twin homes.
2. Private parks and campgrounds.
3. Boathouses within fifty (50) feet of high water mark.
4. Multiple family dwellings, including condominiums.
5. Unattached garages with sidewalls greater than ten (10) feet or do not conform to the design of the house.
6. Type B manufactured home.
7. Commercial storage garages.
8. Home occupation.
9. Extended home occupation.

## Section 3.07.04 Area Regulations

**Table 3.07.04.1 Lots Adjacent to Lake**

	Minimum Lot Area (Sq. Ft)	Minimum Lot Width	Minimum Lot Depth	Minimum Side Yard	Minimum Front Yard (1)	Minimum Rear Yard (Lake Front)	Maximum Height
Central Sewer or Holding Tank and Rural or Municipal Water							
Single Family Dwelling	15,000	75'	200'	8'	30'	65'	30'
Multiple Family Dwelling	20,000	100'	200'	10'	30'	65'	45'
Septic Tank with Drain Field or Mound system combined with Private Well, Rural or Municipal Water							
Single Family Dwelling	87,120 (2 acres)	100'	200'	15'	30'	65'	30'

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

**Table 3.07.04.2 Lots Not Adjacent to Lake**

	Minimum Lot Area (Sq. Ft)	Minimum Lot Width	Minimum Lot Depth	Minimum Side Yard	Minimum Front Yard (1)	Minimum Rear Yard	Maximum Height
Central Sewer/Holding Tank and Rural or Municipal Water							
Single Family Dwelling	15,000	75'	200'	8'	30'	50'	30'
Multiple Family Dwelling	20,000	100'	200'	10'	30'	50'	45'
Septic Tank with Drain Field and Private Well, Rural or Municipal Water							
Single Family Dwelling	87,120 (2 acres)	100'	200'	25'	65'	50'	30'

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

### 1. Regulations applicable to all lots in the Lake Park District:

- a. On those lots platted prior to June 18, 1974 which have a lot width of less than seventy-five (75) feet, each building shall have a side yard of not less than a distance equal to ten (10) percent of the lot width. Under no circumstances shall a building have a side yard of less than five (5) feet. Roof overhangs may infringe upon the side yard requirements no more than one and one-half (1.5) feet.

- b. Regarding Lake Pelican, no structure except piers and docks shall be placed at an elevation such that the lowest floor, including basement or crawl space, is less than one (1) foot above the base flood elevation of 1716.3' NGVD 1929 or 1717' NAVD 1988. In those instances where sufficient data on known high water levels are not available, the elevation line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be required to stabilize or be tamped down before construction is begun.
- c. Regarding other Lake Park Districts, no structure except piers and docks shall be placed at an elevation such that the lowest floor, including basement or crawl space, is less than one (1) foot above the base flood elevation. In those instances where sufficient data on known high water levels are not available, the elevation line of permanent terrestrial vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be required to stabilize or be tamped down before construction is begun.
- d. Sealed holding tanks for dwellings are required for all lots of record containing less than twenty thousand (20,000) square feet and not connected to a central sewer system. Existing septic tanks and drainfields (as of January 1, 2006) on lots with an area of less than twenty thousand (20,000) square feet are considered nonconforming uses and shall not be allowed to be replaced after the adoption of this ordinance.
- e. There shall be no more than one (1) principal residential building on any parcel of land.
- f. Where two (2) parcels of land are purchased and joined together by one (1) common boundary, the setbacks established above shall pertain to the perimeter of the combined lots.
- g. The maximum size of attached and unattached garages shall be a function of the size of the lot area. The size of garages, attached and unattached, located on nonconforming lots of record shall conform to the following requirements Table 3.07.04.3:

**Table 3.07.04.3**

Lot Area	Maximum Size
1 to 10,000 Square Feet	Seven (7) percent of the lot area
10,001 to 20,000 Square Feet	Seven hundred (700) square feet or six (6) percent of the lot area – whichever is greater
20,0001 to 43,560 Square Feet	One thousand two hundred (1,200) square feet or five (5) percent of the lot area – whichever is greater
43,561 to 87,119 Square Feet	Two thousand one hundred seventy eight (2,178) square feet or four (4) percent of the lot area – whichever is greater
Over 87,120 Square Feet	Three thousand four hundred eighty five (3,485) square feet or three (3) percent of the lot area – whichever is greater

#### **Section 3.07.05 Shoreland Alterations.**

1. These regulations are deemed necessary along the shores of natural waters to protect scenic beauty, control erosion, and reduce effluent and nutrient flow from the shoreline.
2. Removal of Shore Cover. Tree and shrub cutting in a strip paralleling the shoreline and extending a minimum of thirty-five (35) feet inland from all points along the normal high water mark of the shoreline shall be limited in accordance with the following provisions.