

- a. Cutting shall, at a minimum, leave sufficient cover to screen cars, buildings, except boathouses, as seen from the water; to preserve natural beauty and to control erosion.
 - b. Natural shrubbery shall, at a minimum, be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding run-off, preventing erosion, and preserving natural beauty.
 - c. The removal of natural shrubbery and its replacement shall require the granting of a permit by the County Zoning Officer. Application for such permit shall be accompanied by a plan showing the work to be accomplished.
3. Shoreline Stabilization. Shoreline stabilization, including but not limited to riprapping and retaining walls, shall require the granting of a permit by the Zoning Officer.

Section 3.07.06 Filling, Grading, Lagooning, and Dredging.

1. Filling, grading, lagooning, and dredging which would result in substantial detriment to natural waters by reason of erosion, sedimentation, or impairment of fish and aquatic life is prohibited within an "LP" District.
2. A permit shall be required for any filling or grading.
 - a. This does not apply to soil conservation practices such as terraces, run-off diversions and grassed waterways which are used for sediment retardation.
 - b. Issuance of the permit shall include review from the Corps of Engineers and/or other appropriate State and/or Federal agencies
3. A permit shall be required before constructing, dredging, or commencing work on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway.
 - a. This requirement does not apply to soil conservation practices such as terraces, run-off diversions, and grassed waterways which are used for sediment retardation.
 - b. Issuance of the permit shall include review from the Corps of Engineers and/or other appropriate State and/or Federal agencies.

Section 3.07.07 Sewage Systems.

1. The developer of any plat shall provide for County approved sewage systems and provide provisions that are binding on the developer before such plat is approved. At a minimum, the installation and utilization of individual on-site wastewater systems shall meet state regulations, Chapter 74:53:01.
1. The developer of any plat shall be liable for the execution of the provisions required above to protect waters of the state from pollution and shall be liable for any pollution that occurs for failure to execute such provisions.

Section 3.07.08 Agricultural Easement.

1. All new residential development (farm and non-farm) in the Lake Park District shall be required to file an "Agricultural Easement" before the issuance of a building permit.

CHAPTER 3.08 "NR" NATURAL RESOURCE DISTRICT.

Section 3.08.01 Permitted Uses.

1. Wildlife production areas.
2. Game refuges.
3. Historic sites and/or monuments.
4. Designated natural prairies.
5. Public hunting and fishing access areas.

Section 3.08.02 Conditional Uses.

1. Transportation and utility easements and rights-of-way.
2. Utility substations.
3. Public parks and/or playgrounds.
4. Horticulture uses and livestock grazing.
5. Essential services,
6. Mineral exploration and development, sand, gravel, or quarry operation.

Section 3.08.03 Shoreline Alterations, Filling, Grading, Dredging, and Lagooning.

1. Shoreline stabilization, filling, grading, dredging, and lagooning projects in the "NR" District shall be governed by Sections 3.07.05 and 3.07.06 of this ordinance.

CHAPTER 3.09 "PR" PLANNED RESIDENTIAL DISTRICT.

Section 3.09.01 Planned Residential District Standards and Requirements.

1. The use of land in the Planned Residential District shall be limited to non-farm single-family dwelling units and their supporting services. However, the Board of Adjustment may consider commercial and/or public uses supportive of the proposed Planned Residential District.
2. The Planned Residential District shall not be permitted on a parcel of land less than thirty-five (35) acres in area.
3. All roads, common facilities, and open spaces within the Planned Residential District shall be maintained by a homeowner's association.
4. Planned Residential Districts within two miles of Watertown and one (1) mile of any other incorporated community will be submitted to the community governing body for review and comment.
5. Where a proposed Planned Residential District is within two (2) miles of Watertown or one (1) mile of any other incorporated area, the Codington County Planning Commission may require the developer to construct proposed improvements to specifications approved by the community's governing body.
6. Strip or linear development proposals along a road or highway will not qualify as a Planned Residential District.
7. The overall density of a Planned Residential District shall not be less than one (1) housing unit per three (3) acres of land.
8. Minimum lot size shall not be less than that required by the South Dakota Department of Environment and Natural Resources regulations on Private Sewage Disposal Systems (Chapter 34:04:01).
9. In addition to the Codington County Zoning Regulations, any proposed Planned Residential Districts are subject to platting and subdivision regulations of the county.
10. Access to public dedicated streets and roads shall be limited. Dwelling units shall not access public road right-of-ways. Dwelling unit access shall be provided through the interior street/road system.
11. Planned Residential Districts must have access to a concrete or bituminous-asphalt street. Further all interior streets constructed within the Planned Residential District shall be either concrete or asphalt with the design to be approved by the County Highway Superintendent.
12. Planned Residential Districts are not allowed over the shallow aquifer or wellhead protection areas.

EXCEPTION: A Planned Residential District may be allowed over a shallow aquifer if the proposed Planned Residential District utilizes a Board of Adjustment approved central sanitary sewer collection system, which may consist of holding tanks, trunk lines, lift stations, and treatment facilities.

13. Easements per 3.04.03.9 of this ordinance shall be required to be placed on any lot in a Planned Residential District in order to protect agricultural operations or practices in the adjoining areas.

Section 3.09.02 Procedure for Planned Residential District.

The following shall be observed when a Planned Residential District proposal is submitted for consideration:

1. An applicant for consideration under the terms of this district, who must be owner, lessee, or the holder of a written purchase option of the tract of land under consideration, shall submit three (3) copies of a preliminary development plan to the commission for study at least seven (7) days prior to the commission meeting at which it is to be considered. The preliminary plan shall include the following information.
 - a. Location map showing the relationship of the proposed district to existing roads and property lines;
 - b. Proposed land uses, building locations, and housing unit densities;
 - c. Proposed circulation pattern indicating the status of street ownership;
 - d. Proposed open space uses;
 - e. Proposed grading and drainage pattern;
 - f. Proposed method of water supply and sewage disposal;
 - g. Relation of the proposed development to the surrounding area and comprehensive plan.
2. Copies of the proposed water and sanitary sewer system may be submitted to the South Dakota Department of Environment and Natural Resources for study and comment.
3. A list and schedule of improvements to be completed by the developer must be submitted.
4. In reviewing the plan, the Commission shall need to determine that:
 - a. Resulting development will not be inconsistent with the Comprehensive Plan objectives or zoning provisions of the area.
 - b. The plan can be completed within a reasonable period of time.
 - c. The streets are adequate to support the anticipated traffic and the development will not overload the roads outside the planned area.
 - d. Proposed utility and drainage facilities are adequate for the population densities proposed.
5. In addition to the requirements of this section, the Planning Commission may attach conditions it finds are necessary to carry out the purpose of this ordinance.

6. Before approving a Planned Residential District, the Planning Commission must have copies of proposed deed restrictions, agreements for maintenance by the homeowners' association of common facilities and open spaces, guarantees (surety bonds, etc.) by the developer for the completion of the development in accordance with the approved plan, and an agreement binding successors who may take over completion of the development to conditions of the plan approval.
7. The Planning Commission shall follow the procedure for considering an amendment to the Codington County Official Zoning Map before approving a Planned Residential District.
8. Permits for construction in a Planned Residential District shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Commission for processing as an amendment to this ordinance.

CHAPTER 3.10 "TD" TOWN DISTRICT.

Section 3.10.02 Permitted Uses.

1. Single-family residential usage, including Type A manufactured homes permitted; Type B manufactured homes, provided that provisions of Section 5.7 are met.
2. Public parks.
3. Agriculture and horticulture uses, excluding feedlots.

Section 3.10.02 Conditional Uses.

1. Retail and service business.
2. Light manufacturing.
3. Bar or tavern.
4. Warehouse.
5. Multi-family housing
6. Home occupation.
7. Manufactured home park.
8. The Board of Adjustment may permit other uses which in its opinion are not detrimental to other uses. These may include manufacturing and processing uses.

Section 3.10.03 Area Regulations

1. **Residential** Uses/Lots - Structures on all corner lots shall observe two (2) front yards. The depth of the front yard on each street which the lot abuts, shall be as follows.
 - a. Minimum Yard Requirements:

Front -- Twenty-five (25) feet
Side -- Fifteen (15) feet
Rear -- Twenty-five (25) feet
 - b. Minimum Lot Size:

Public Water Supply/Septic Tank -- 20,000 Sq. Ft.
Well/Septic Tank ----- 43,560 Sq. Ft.
Public Water Supply/Public Sewer -- 9,600 Sq. Ft.

2. **Commercial** Uses/Lots - Lot size shall be determined by off-street parking needs; availability of water and sewage disposal systems; adjacent land uses; need for screening; and type of business. Front, side, and rear yards shall be determined by the Board of Adjustment
3. **Industrial** Uses/Lots - Lot size shall be determined by off-street parking needs; impact of adjoining land use and need for screening or buffering from residential areas; availability of water and sewage disposal facilities; type of manufacturing or storage facilities; type of manufacturing or storage facilities. Front, side, and rear yards shall be determined by the Board of Adjustment.

CHAPTER 3.11 FLOOD PROTECTION OVERLAY DISTRICT.

Section 3.11.01 Statutory Authorization, Findings of Fact, Purpose and Methods of Reducing Flood Losses.

1. Statutory Authorization

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

2. Findings of Fact

- a. The flood hazard areas of Codington County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- b. These flood losses are caused by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

3. Statement of Purpose

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

- a. To protect human life and health;
- b. To minimize expenditure of public money for costly flood control projects;
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. To minimize prolonged business interruptions;
- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- h. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

4. Methods of Reducing Flood Losses

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

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

Section 3.11.02 General Provisions.

1. Lands to which this Ordinance Applies

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

2. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Codington County," dated **January 16, 2009**, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

3. Compliance

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

4. Abrogation and Greater Restrictions

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

5. Interpretation

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

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

6. Warning and Disclaimer of Liability

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

Section 3.11.03 Administration.

1. Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.11.02.2. (BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD). Application for a development permit shall be made on forms furnished by the Zoning Officer and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in questions; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in 3.11.04.2.b. (Non-residential Construction); and
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Designation of the Zoning Officer

The Zoning Officer is hereby appointed to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

3. Duties and Responsibilities of the Zoning Officer

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

a. Permit Review

- i. Review of all development permits to determine that the permit requirements of these regulations have been satisfied.
- ii. Review all development permit to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- iii. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of these regulations, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.
- iv. If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further consideration.
- v. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer's certification) for the proposed development shall be required.
- vi. If the proposed development is a building, then the provisions of these regulations shall apply.

b. Uses of Other Base Flood Data

- i. When base flood elevation data has not been provided in accordance with Section 3.11.02.2. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the zoning Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with 3.11.04.2, SPECIFIC STANDARDS.
- ii. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- iii. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

4. Information to be Obtained and Maintained

- a. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b. For all new or substantially improved floodproofed structures:
 - i. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - ii. Maintain the floodproofing certification required in Section 3.11.03.1.c.
- c. Maintain for public inspection all records pertaining to the provisions of these regulations.

5. Alteration of Watercourses

- a. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- b. Notify adjacent communities and State Coordinating Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- c. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

6. Interpretation of FIRM Boundaries

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

7. VARIANCE PROCEDURES

- a. The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
- b. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- c. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- d. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- e. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

- f. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in 3.11.03 (4) (b) (i) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- g. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (3.11.01 (3)).
- h. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- i. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- j. Prerequisites for granting variances:
 - i. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - ii. Variances shall only be issued upon:
 - a. showing a good and sufficient cause;
 - b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - iii. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- k. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - i. the criteria outlined in 3.11.03 (7) (a-j) are met, and
 - ii. the structure or other development is protected by methods that minimize flood
 - iii. damages during the base flood and create no additional threats to public safety.

Section 3.11.04 Provisions for Flood Hazard Reduction

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- g. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

1. Specific Standards

- a. In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) 3.11.02 (2), (ii) 3.11.03 (3) (b), or 3.11.04 (3) (c), the following provisions are required:
- b. Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in 3.11.03 (4) (a), is satisfied.
- c. Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such

certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.

- d. Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - ii. The bottom of all openings shall be no higher than one foot above grade.
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- e. Manufactured Homes
 - i. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - ii. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites
 - a. outside of a manufactured home park or subdivision,
 - b. in a new manufactured home park or subdivision,
 - c. in an expansion to an existing manufactured home park or subdivision, or
 - d. in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - iii. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
 - a. the lowest floor of the manufactured home is at or above the base flood elevation, or

- b. the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- f. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
 - i. be on the site for fewer than 180 consecutive days,
 - ii. be fully licensed and ready for highway use, or
 - iii. meet the permit requirements of 3.11.03 (4) (a), and the elevation and anchoring requirements for "manufactured homes" in this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

3. Standards for Subdivision Proposals

- a. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with 3.11.01 (2), (3), and (4) of this ordinance.
- b. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of 3.11.03 (1), 3.11.03 (3); and the provisions of 3.11.04 of this ordinance.
- c. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to 3.11.02 (2) or 3.11.03 (3) (b) of this ordinance.
- d. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- e. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

4. Standards for Areas of Shallow Flooding (AO/AH Zones)

Located within the areas of special flood hazard established 3.11.02 (2) are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- a. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

- b. All new construction and substantial improvements of non-residential structures;
 - i. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - ii. together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- c. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in 3.11.03 (4) (a), are satisfied.
- d. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

5. Floodways

Floodways - located within areas of special flood hazard established in 3.11.02 (2), are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- a. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b. If 3.11.04 (5) (a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of 3.11.04
- c. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

CHAPTER 3.12 “AP” AQUIFER PROTECTION OVERLAY DISTRICT.

Section 3.12.01 Purpose and Intent.

The Codington County Planning Commission and Board of County Commissioners recognize (1) that residents of Codington County rely on ground water for a safe drinking water supply and (2) that certain land uses in Codington County can contaminate ground water particularly in shallow aquifers.

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.

It is the intent to accomplish aquifer protection, as much as possible, by public education and securing public cooperation. Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations.

Section 3.12.02 Establishment/Delineation/Regulation of Aquifer Protection Overlay Zones.

Boundaries for the aquifer protection zones for the Aquifer Protection Overlay District are shown on the Official Zoning map based upon data prepared by Banner Associates, Brookings, South Dakota.. In addition to the Official Zoning Map, the South Dakota Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Geological Survey created a map entitled First Occurrence of Aquifer Materials Map” dated February 13, 2003. This map will be used to further identify aquifer boundaries. In the event of a conflict between such maps as to the area covered by the aquifer at a given location, then the map showing the larger aquifer area shall be followed.

The Aquifer Protection Overlay District is divided into three zones. The zone of contribution for Zones A and B was mapped by Banner Associates using techniques outlined in the U.S. Environmental Protection Agency publication "Guidelines for Delineation of Wellhead Protection Areas", June, 2000. The shallow/surficial aquifer boundary for Zone C was mapped by the South Dakota Geological Survey.

Section 3.12.03 Zone A – Aquifer Critical Impact Zones.

Zone A, the wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield to the five (5) year time of travel boundary plus any delineated adjacent lands not underlain by the aquifer with sufficient slope that contaminated surface water could flow directly onto Zone A.

Section 3.12.03.01 Permitted Uses in Zone A:

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

1. Agriculture, excluding all classes of new Concentrated Animal Feeding Operations.
2. Horticulture.
3. Parks, greenways or publicly owned recreational areas.

4. Necessary public utilities/facilities designed so as to prevent contamination of groundwater.
5. All uses permitted in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

Section 3.12.03.02 Conditional Use in Zone A.

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

1. Expansion, modification, alteration, or relocation of existing permitted or conditional uses to the extent they remain or become nonconforming and to the extent allowed by the underlying district. The Board of Adjustment shall not grant approval unless it finds the proposed expansion does not pose greater potential for groundwater contamination than the existing use.
2. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) not to exceed a cumulative total of three hundred (300) animal units.
3. All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

Section 3.12.03.03 Prohibited Uses in Zone A.

The following uses are expressly prohibited in Zone A:

1. PR Planned Residential District.
2. New concentrated animal feeding operations of all classes after July 31, 2001.
3. Disposal of solid waste except spreading of manure.
4. Outside unenclosed storage of road salt.
5. Disposal of snow containing de-icing chemicals.
6. Processing and storage of PCB contaminated oil.
7. Car washes.
8. Auto service, repair or painting facilities and junk or salvage yards.
9. Disposal of radioactive waste.
10. Graveyards or animal burial sites.
11. Detonation sites, except blasting of rock for farming purposes.
12. Open burning except ditches, fields and non-hazardous yard and household wastes such as paper, wood and leaves.

13. Public sewer systems and wastewater lagoons.
14. Fall application of nitrogen fertilizer except spreading of manure.
15. Land spreading of petroleum contaminated soil.
16. Land spreading or dumping of waste oil.
17. Industrial process water and waste disposal wells--5W20 type Class V injection wells.
18. Automobile service station disposal wells--5X28 type Class V injection wells.
19. All other facilities, not existing at the time of the adoption of this chapter, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on groundwater quality.
20. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) beyond a cumulative total of three hundred (300) animal units.
21. Earthen storage basins and lagoons.
22. Stockpiling of solid waste.

Section 3.12.04 Zone B - Aquifer Secondary Impact Zones

Zone B, the secondary wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield in the five (5) to ten (10) year time of travel boundary plus any delineated adjacent lands not underlain by the aquifer with sufficient slope that contaminated surface water could flow directly onto Zone B.

Section 3.12.04.01 Permitted Uses in Zone B.

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

1. Agriculture, excluding all new Concentrated Animal Feeding Operations
2. Horticulture.
3. Parks, greenways or publicly owned recreational areas.
4. Necessary public utilities/facilities designed so as to prevent contamination of groundwater.
5. All uses permitted in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.

Section 3.12.04.02 Conditional Uses in Zone B:

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

1. Expansion, modification, alteration, or relocation of existing permitted or conditional uses to the extent they remain or become nonconforming and to the extent allowed by the underlying district. The Board of Adjustment shall not grant approval unless it finds the proposed expansion does not pose greater potential for groundwater contamination than the existing use.
2. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) not to exceed cumulative total of three hundred (300) animal units.
3. Uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use.
4. Earthen storage basins and lagoons.
5. Stockpiling of solid waste.
6. All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

Section 3.12.04.03 Prohibited Uses in Zone B.

The following uses are expressly prohibited in Zone B:

1. PR Planned Residential District.
2. New concentrated animal feeding operations of all classes after June 30, 1997.
3. Disposal of solid waste except spreading of manure.
4. Outside unenclosed storage of road salt.
5. Disposal of snow containing de-icing chemicals;
6. Processing and storage of PCB contaminated oil;
7. Car washes.
8. Auto service, repair or painting facilities and junk or salvage yards.
9. Disposal of radioactive waste.
10. Graveyards or animal burial sites.
11. Detonation sites, except blasting of rock for farming purposes.
12. Open burning except ditches, fields and non-hazardous yard and household wastes such as paper, wood and leaves.
13. Public sewer systems and wastewater lagoons.

14. Fall application of nitrogen fertilizer except spreading of manure.
15. Land spreading of petroleum contaminated soil.
16. Land spreading or dumping of waste oil.
17. Industrial process water and waste disposal wells--5W20 type Class V injection wells.
18. Automobile service station disposal wells--5X28 type Class V injection wells.
19. Expansion of existing Concentrated Animal Feeding Operations (Existing as of June 30, 1997) beyond a cumulative total of three hundred (300) animal units.
20. All other facilities, not existing at the time of the adoption of this chapter, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on groundwater quality.

Section 3.12.05 Zone C -- Aquifer Tertiary Impact Zones.

Zone C is the remainder of the mapped shallow/surficial aquifer in the County not included in Zone A or Zone B. Zone C is being protected because (1) the aquifer is a valuable natural resource for future development, (2) the aquifer provides drinking water supply for individual domestic users, (3) contamination is not justified just because this area is not currently used for public water supply, and (4) contaminants from this area could eventually enter Zone A or Zone B.

Section 3.12.05.01 Permitted Uses in Zone C.

1. All uses permitted in the underlying zoning districts, with the exception of those prohibited, provided that they can meet the Performance Standards as outlined for the Aquifer Protection Overlay Zones.

Section 3.12.05.02 Conditional Use in Zone C.

1. All Conditional Use allowed in underlying districts, with the exception of those prohibited, may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.
2. New Class 4 and expansion of existing Class 4 up to nine hundred ninety-nine (999) animal units (Class 3). The County shall require soil borings to determine impermeable material between land surface and the aquifer.
3. Earthen storage basins and lagoons.

Section 3.12.05.03 Prohibited Uses in Zone C.

The following uses are expressly prohibited in Zone C:

1. Fall application of nitrogen fertilizer on lands before October 20th.
2. Land spreading of petroleum contaminated soil.

3. Land spreading or dumping of waste oil.
4. Automobile service station disposal wells--5X28 type Class V injection wells.
5. New Concentrated Animal Feeding Operations of Class 1, Class 2, and Class 3 or expansions of existing Class 4 concentrated animal feeding operations which cannot meet performance standards.

Section 3.12.06 Performance Standards for Aquifer Protection Overlay Zones.

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

1. New or replacement septic tanks and associated drain fields for containment of human or animal wastes must conform with regulations established by the South Dakota Department of Environment and Natural Resources.
2. Open liquid waste ponds containing any solid or liquid material or waste will not be permitted without a secondary containment system except for community wastewater lagoons.
3. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one (1) locality in one (1) tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Board of Adjustment.
4. Any commercial or industrial facility, not addressed by #2 or #3 above, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste, except for spreading of manure, in excess of one thousand (1,000) pounds and/or one hundred (100) gallons which has the potential to contaminate groundwater must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or discharge from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and accessible sumps.
5. Discharge of industrial processed water on site is prohibited without Board of Adjustment approval.
6. Commercial auto service, repair or painting facilities and junk or salvage yards shall meet all State and Federal standards for storage, handling and disposal of all other potentially hazardous waste materials.
7. Any facility involving collection, handling, manufacture, use, storage, transfer or disposal of hazardous materials must prepare and have on file in the County Zoning Office an acceptable contingency plan for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire, other natural catastrophes or equipment failure occur:
 - a. For flood control, all underground facilities shall include a monitoring system and a secondary standpipe above the one hundred (100)-year frequency flood level. For above ground facilities, an impervious dike, above the one hundred (100)-year year flood level and capable of containing one hundred twenty percent (120%) of the largest

storage volume, will be provided with an overflow recovery catchment area (sump).

- b. For fire control, plans shall include but not be limited to a safe fire fighting procedure, a fire retardant system and provision for dealing safely with both health and technical hazards that may be encountered by disaster control personnel in combating fire. Hazards to be considered are overhead and buried electrical lines, pipes, other buried objects and other hazardous liquids, chemicals or open flames in the immediate vicinity.
 - c. For equipment failures, plans shall include but not be limited to:
 - i. Below ground level, provision for removal and replacement of leaking parts, a leak detection system with monitoring and an overfill protection system.
 - ii. Above ground level, provisions for monitoring, replacement, repair and cleanup of primary containment systems
 - d. For other natural or man-caused disasters, the owner and/or operator shall report all incidents involving liquid or chemical material which may endanger health and/or safety of disaster personnel and/or the general public.
 - e. Agricultural operations are exempted from performance standard #7 unless chemicals are stored which are on the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) extremely hazardous substance list in the quantities exceeding the threshold planning quantity at any one time.
 - d. The County Zoning Office and DENR shall be informed within twenty-four (24) hours of all leaks and spills of materials that might potentially contaminate groundwater.
8. Since it is known that improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:04:67-70.

Section 3.12.07 Grant of Permit, Alteration of Use.

Before a permit is granted, the County Zoning Officer must examine an application and determine that the proposed use, activity or development meets the provisions of this ordinance.

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

Whenever any person has an existing use, activity or development and thereafter desires alteration or expansion of the authorized use, such persons shall apply for a permit. The owner may appeal a County Zoning Officer's decision to modify or deny a requested permit to the Board of Adjustment.

Any lawful use in existence on the effective date of this ordinance shall be permitted to continue provided it can be shown such use does not threaten public health and safety by potential contamination of water in the shallow/surficial aquifer.

Section 3.12.07.01 Exceptions.

1. Storage of liquids, chemicals and fertilizers used in agricultural operations during planting and crop cultivation are exempt from the requirements of this ordinance March 1 to October 1. However, Best Management Practices are encouraged, particularly in Zone A and Zone B.
2. Tanks used for chemigation are exempt from secondary containment regulations but secondary containment is encouraged.
3. Storage of liquid or dry fertilizer in amounts equal to or less than one thousand (1,000) pounds or one hundred (100) gallons, stored indoors by each farm operator is exempt from the requirements of this ordinance.

Section 3.12.08 Limitation Of County Liability.

Nothing in this ordinance shall be construed to imply that Codington County, by issuing a permit, has accepted any of an owner's/developer's liability if a permitted development contaminates water in shallow/surficial aquifers.

Section 3.12.09 Underlying Zones.

Underlying zoning restrictions apply along with restrictions set forth in the Aquifer Protection Overlay District.

Section 3.12.10 Saving Clause.

Should any section or provision of this ordinance be declared invalid, such decision shall not affect the validity of the ordinance as a whole or any other part thereof.

CHAPTER 3.13. "RR" RURAL RESIDENTIAL DISTRICT.

Section 3.13.01 Purpose

The purpose of this district is to protect a vigorous agricultural industry by limiting the areas in which the "RR" Rural Residential District can be used. The "RR" Rural Residential District is intended to allow the continuation of residential uses which developed with residential density of four or more residences per quarter-quarter section prior to October 22, 2012. The "RR" Rural Residential District is a closed zoning district, therefore the existing platted/legally described lots shall not be subdivided unless and until said property is annexed into the corporate limits of a municipality or appropriately zoned for the proposed subdivision.

Section 3.13.02 Permitted Uses.

1. Site-built single-family non-farm dwelling, including modular homes, and Type A manufactured homes.
2. Public building
3. Farm buildings.
4. Public park and recreation areas.
5. Field crops and grasslands.
6. Orchards, tree farms, botanical gardens (nurseries and greenhouses) – without retail sales.
7. Animal Units on Small Acreages. (See Chapter 5.09)
8. Type 5 Concentrated Animal Feeding Operations (See Chapter 5.21)

Section 3.13.03 Permitted Accessory Uses

The following accessory uses and structures shall be permitted in the "RR" Rural Residential District:

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limit of this district.
2. Home occupation.
3. On-premise signs.

Section 3.13.04 Conditional Uses.

1. Private Wind Energy Conversion Systems. (See Chapter 5.31)
2. Kennels.

3. Religious Institutions and Cemeteries.
4. Assisted living facility
5. Group home
6. Public utility facility
7. Public utility and public service structure including transmission lines, substations, gas regulator stations, pipelines, community equipment buildings, pumping stations, and reservoirs.
8. Bed and breakfast.
9. Wireless Telecommunications Towers and Facilities.
10. Extended home occupation (See Section 5.12).
11. Type B manufactured home

Section 3.13.05 Area Regulations/Easement/Waivers

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

1.

	Minimum Lot Area	Maximum Lot Coverage	Maximum Height (A)	Minimum Lot Width
Permitted Uses (lots less than 35 acres on October 22, 2012)	No minimum (B)(C)(D)	25%	35'	125'
Permitted Uses (lots greater than 35 acres on October 22, 2012)	35 Acres	25%	35'	125'
Other Conditional Uses	To be determined by the Board of Adjustment			

- A. *[Exception to maximum height]* The administrative official may allow heights to exceed thirty-five (35) feet for the following:
- i. Agricultural buildings.
 - ii. Water tanks.
 - iii. Private Wind Energy Conversion Systems (PWECS).
 - iv. Wireless Telecommunications Towers and Facilities.
 - v. Others as determined by the Board of Adjustment.

- B. No lot shall be decreased in size after October 22, 2012.
- C. Any lot created prior to October 26, 1976 shall be considered a single lot, regardless of ownership, for the purposes of this ordinance.
- D. Any lot created after October 26, 1976, with less than thirty-five (35) acres as of October 22, 2012 in single ownership with a contiguous lot, 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 with width or area below the total area of the two or more lots on October 22, 2012.

2.

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard	Minimum Side or Rear Yard Adjacent to A – Agricultural Zoning District
Permitted Uses (A)(B)	50'	25'	15'	25'
Conditional Uses	To be determined by the Board of Adjustment			

A. *[Exception to Setbacks for Nonconforming Structures]*

- i. Existing nonconforming residential structures, constructed prior to (Date of Adoption) 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.

B. *[Increased Front Yard Setback on Arterial and Township/Section line roads]*

- i. The front yard setback on all arterial streets or township maintained section line roads shall be sixty-five (65) feet.

- C. Any accessory uses shall be required to comply with the height, front, rear and side yard requirements of the principal building.

3. Agriculture Easement/Waiver:

- 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)
- b. Applicants for residential development (farm and non-farm) are required to obtain a written waiver from the owner/operator of any existing concentrated animal feeding

operation which is closer than one-half (1/2) mile from the proposed residential building site. If the applicant is unable to obtain the written waiver, he/she shall be required to file a waiver with the Register of Deeds waiving any or all common law challenges to future expansions of the said existing concentrated animal feeding operation. The waiver is to be filed with the Register of Deeds. (See Chapter 5.29)

4. 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

ARTICLE IV ADMINISTRATION

CHAPTER 4.01. GENERAL.

Section 4.01.01. Permits Required.

1. No building or other structure shall be erected, moved, added to, structurally altered, or used without a permit issued by the Zoning Officer. The Zoning Officer except in conformity with the provisions of this ordinance shall issue no permit, unless he received a written order from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this ordinance. (*Amended: Ord. 67; April 10, 2018*)
2. It shall be unlawful to commence the excavation for the construction of any building or any accessory building without a permit. A permit is also required for any filling, grading, lagooning, or dredging which is related to site preparation for future construction.

Section 4.01.02. Applications.

1. All applications for permits shall be accompanied by a site plan, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The applicant shall state the existing and intended use of all such buildings, and the location of existing proposed water and sewer facilities. In the case of a change of use, the applicant shall, in writing state the intended change. The application shall include such other information as lawfully may be required by the Zoning Officer to determine conformity with, and provide for the enforcement of, this ordinance. All plans and data accompanying the permit shall be final and conclusive. Deviations shall be deemed a violation of this Ordinance, and punishable as provided in 1.02.03 and shall require a new building and use permit. (*Amended: Ord. 67; April 10, 2018*)

Section 4.01.03. Building/Use Permit.

1. Issuance of a Building/Use Permit. If the proposed excavation, construction, or change of use as set forth in the application are in conformity with the provisions of this Ordinance, and other regulations of the County then in force, the Zoning Officer shall issue a building/use permit for such excavation, construction, or change of use. If a building/use permit is refused, the Zoning Officer shall state such refusal in writing, with the cause, and shall thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Officer shall grant or deny the permit within a reasonable time from the date the application is submitted. (*Amended: Ord. 67; April 10, 2018*)
2. The issuance of a building/use permit shall, in no case, be construed as waiving any provisions of this Ordinance. If the work described in any building permit has not been substantially completed within six (6) months of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Officer and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building/use permit has been issued. A six (6) month extension may be granted one (1) time for a given building/use permit upon request of the applicant. Unless otherwise allowed by this Ordinance, in no instance shall the zoning officer authorize a building/use permit to expire greater than one (1) year from its original issue date. (*Amended: Ord. 67; April 10, 2018*)

Section 4.01.04. Permits Displayed.

1. Permits Displayed. It shall be unlawful to commence work until the building permit is displayed in a conspicuous place. The permit shall be placed upon the premises at all times from the beginning until the completion of such construction, alteration, repair, occupancy or change of use. *(Amended: Ord. 67; April 10, 2018)*

Section 4.01.05. Fees.

1. The Board of County Commissioners shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended only by the Board of County Commissioners.
2. Until all applicable fees, charges, and expenses have been paid in full, no decision shall be made on any application or appeal. *(Amended: Ord. 67; April 10, 2018)*

CHAPTER 4.02. ZONING OFFICER.

Section 4.02.01. Zoning Officer.

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

Section 4.02.02. Duties.

The powers and duties of the Zoning Officer shall be as follows:

1. Issue all building/use permits and make and maintain records thereof.
2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.

7. Prepare documents, easements, letters of assurance, waivers, etc. as required by this Ordinance, or at the direction of the Codrington County Planning Commission and/or the Codrington County Board of Adjustment and/or Codrington County Commissioners.
8. Provide public information relative to all matters arising out of this Ordinance.
9. Forward to the Planning Commission all plats and/or applications for amendments to this Ordinance.
10. Forward to the Board of Adjustment, applications for appeals, conditional uses, variances, or other matters on which the Board of Adjustment is required to pass under this ordinance.
11. Initiate, direct, and review, from time to time, a study of the provisions of this ordinance, and to make such reports available to the Planning Commission.
12. The Zoning Officer shall receive applications required under this ordinance, specifically but not limited to Building Permits, Conditional Uses, Variances, and Zoning Amendments.
 - a. For building/use permits and permitted special use permits, the Zoning Officer shall approve the application only in accordance with the provisions of the County's Zoning Ordinance. *(Amended: Ord. 67; April 10, 2018)*
 - b. For Conditional Uses and Variances, the Zoning Officer shall review the application, and shall make recommendations regarding said application to the Board of Adjustment.
 - c. For Zoning Amendments, the Zoning Officer shall review the application, and shall make recommendations regarding said application to the Planning Commission and Board of County Commissioners.

Section 4.02.03. PROCEDURES FOR APPROVAL OF PERMITTED SPECIAL USE PERMIT
(Amended: Ord. 67; April 10, 2018)

1. The Permitted Special Use procedure is an administrative review process, where the Zoning Officer shall have the power to review an application for conformance with the applicable standards and approval criteria and issue a Permitted Special Use permit. Requests for permitted special uses may be granted if it has been determined that the prescribed conditions for a specific use have been met or assurance has been provided that the conditions will be met. If any of the performance standards cannot be met, the applicant may apply to variance from the specific standard. A Permitted Special Use Permit shall not be granted unless and until: *(Amended: Ord. 67; April 10, 2018)*
 - a. A written application for a permitted special use is submitted, indicating the section of this Ordinance under which the permitted special use is sought and stating the grounds on which it is requested. *(Amended: Ord. 67; April 10, 2018)*
 - b. The Zoning Officer shall review the application for conformance with this ordinance. *(Amended: Ord. 67; April 10, 2018)*

- c. If the application does not meet all of the performance standards for the Permitted Special Use, or the applicant fails to meet any of the prescribed conditions or safeguards; the Zoning Officer shall determine that the application is not in conformance with Section 4.02.03 and appropriate Permitted Special Use Standards. The applicant may then apply for a variance from the applicable requirement as allowed for in Section 4.05.02, or appeal the decision of the Zoning Officer as described in Section 4.04.06 *(Amended: Ord. 67; April 10, 2018)*
- d. If the Zoning Officer determines that the application is in conformance with the prescribed performance standards, the Zoning Officer shall make written findings certifying compliance with the specific standards governing the specific Permitted Special Use Permit and that satisfactory provisions and arrangements have been made concerning the prescribed conditions for the specific Permitted Special Use Permit. The Zoning Officer shall then issue the Permitted Special Use Permit subject to the applicant agreeing to any conditions prescribed by this ordinance or the zoning officer for the Specific Permitted Special Use Permit. *(Amended: Ord. 67; April 10, 2018)*
- e. The Zoning Officer shall notify owners of property adjacent to the site and publish notice in a newspaper of general circulation in the area affected that the Permitted Special Use Permit has been issued prior to the meeting at which the Zoning Officer reports the issuance of the Permitted Special Use Permit to the Board of Adjustment. *(Amended: Ord. 67; April 10, 2018)*
- f. The Zoning Officer shall report the issuance of the Permitted Special Use Permit to the Board of Adjustment at a regularly scheduled meeting where the Board's designee will sign the letter of assurance if applicable. *(Amended: Ord. 67; April 10, 2018)*
- g. The Zoning Officer shall then issue any other associated building/use permits. *(Amended: Ord. 67; April 10, 2018)*

Section 4.02.04. Right of Entry.

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

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

Section 4.02.05. Stop Order

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

Section 4.02.06. Occupancy Violation.

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

CHAPTER 4.03. PLANNING COMMISSION.

Section 4.03.01. Establishment.

1. The Board of County Commissioners shall appoint a Planning Commission of seven (7) members, at least one (1) member but not more than two (2) of which shall be a member of the Board of County Commissioners. *(Amended: Ord. 67; April 10, 2018)*

Section 4.03.02. Term of Office.

1. The term of each of the appointed members of the County Planning Commission shall be for three (3). The terms shall be varied so no more than one-third of terms shall expire in the same year. Any appointed member of the county Planning Commission may be removed for cause, after hearing prior to the expiration of the term by a majority vote of the elected members of the Board of County Commissioners. Zoning Officers of the County may be appointed as ex-officio members of the Commission. *(Amended: Ord. 67; April 10, 2018)*

Section 4.03.03. Meetings of the Planning Commission

1. The Planning Commission shall meet at such times as may be necessary to accomplish the purposes of their duties, but in no event shall they meet less than once every three (3) months.

Section 4.03.04. PerDiem and Expenses of Commission

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

Section 4.03.05 Duties of Planning Commission *(Amended: Ord. 67; April 10, 2018)*

The Planning Commission shall have the following duties: *(Amended: Ord. 67; April 10, 2018)*

1. Comprehensive Land Use Plan: *(Amended: Ord. 67; April 10, 2018)*

The Planning Commission may prepare, or cause to be prepared, a comprehensive plan for the county including those municipalities within the county which are either unincorporated or which have requested by resolution of the governing board of such municipality to be included. Upon preparation the Planning Commission shall make recommendation to the Board of County Commissioners subject to SDCL11-2-18. *(Amended: Ord. 67; April 10, 2018)*

2. Zoning Ordinance: *(Amended: Ord. 67; April 10, 2018)*

To develop and recommend a zoning ordinance, in accordance with the Plan, for the regulation of the height, area, bulk, location, and use of private and public structures and premises, and of population density as may be provided by SDCL 11-2-13 and 11-2-14. Upon preparation the Planning Commission shall make recommendation to the Board of County Commissioners subject to SDCL11-2-18. *(Amended: Ord. 67; April 10, 2018)*

3. Subdivision: *(Amended: Ord. 67; April 10, 2018)*

a. To develop and recommend regulations governing the subdivision of land within Codington County. *(Amended: Ord. 67; April 10, 2018)*

b. To review proposals for subdivision to determine whether such subdivisions comply with the subdivision ordinance of Codington County and make recommendation to the Board of County Commissioners relating to the approval of subdivisions. *(Amended: Ord. 67; April 10, 2018)*

4. Amendments: *(Amended: Ord. 67; April 10, 2018)*

The Planning Commission may from time to time propose and make recommendation on amendments to the comprehensive land use plan, zoning ordinance, and subdivision regulations subject to SDCL 11-2-28. *(Amended: Ord. 67; April 10, 2018)*

Section 4.03.06. Procedures for Meetings. *(Amended: Ord. 67; April 10, 2018)*

1. The members of the Planning Commission shall select one (1) of their members as Chairperson and another as Vice-chairperson, who shall act as Chairperson in the Chairperson's absence. Both shall serve one (1) year and until their successors have been selected. Meetings of the Planning Commission shall be held at the call of the Chairperson and at such times as the Commission shall determine. *(Amended: Ord. 67; April 10, 2018)*

2. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses in order to execute the purposes of this article. *(Amended: Ord. 67; April 10, 2018)*

3. All meetings of the Planning Commission shall be open to the public and conducted in accordance with the rules established by the Planning Commission. The Planning Commission shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Codington County Development Office and shall be public record. The Planning Commission shall keep record in the minutes showing the vote of each member upon each question or if absent or failing to vote, indicating that fact. *(Amended: Ord. 67; April 10, 2018)*
4. A simple majority vote of a quorum of members of the Zoning Board in attendance is required to forward a recommendation, pertaining to its duties described in 4.03.05, on to the Board of County Commissioners. *(Amended: Ord. 67; April 10, 2018)*

CHAPTER 4.04. BOARD OF ADJUSTMENT.

Section 4.04.01 Establishment

Within Codington County outside of incorporated municipalities, the power and jurisdiction related to this article shall be executed by the Board of Adjustment.

1. The Board of Codington County Commissioners shall appoint the Codington County Planning Commission and two (2) County Commissioners to serve as alternates to the Board of Adjustment. If a Planning Commissioner acting as a Board of Adjustment member is unable to attend a meeting, the first alternate, or second alternate, in turn, shall serve in the member's place. Alternates may be appointed for a term of three (3) years. *(Amended: Ord. 67; April 10, 2018)*

Section 4.04.02. Procedures for Meetings.

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

Section 4.04.03. Powers and Duties of the Board.

1. The Board of Adjustment shall have the following powers and duties:
 - a. Administrative Review. To hear and decide where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Zoning Officer or other administrative officers in the carrying out or enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map.

- b. Conditional Uses. To hear and decide applications for conditional uses that are specified in this Ordinance and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.
- c. Variance. To hear and decide applications for variance from the terms of this Ordinance because of unnecessary hardship and to authorize upon appeal in specific cases such variance from the terms of this Ordinance as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

Section 4.04.04. Power and Jurisdiction Relating to Administrative Review.

The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Officer or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location of structures or to interpret any map. (*Amended: Ord. 67; April 10, 2018*)

Section 4.04.05. Board of Adjustment has Powers of Administrative Officer on Appeals: Reversing Decision of Zoning Officer.

1. In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appeal from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Officer from whom the appeal is taken.
2. The concurring vote of two-thirds (2/3) of all members of the Board of Adjustment (five (5) votes) shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

Section 4.04.06. Appeals, Record of Appeal, Hearing and Stays

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Officer, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Officer and that recourse from the decision of the Board of Adjustment shall be to the courts as provided by the laws of the State of South Dakota. (*Amended: Ord. 67; April 10, 2018*)
2. An appeal to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the zoning officer, that is not a ministerial act or other preliminary act to bring an application or matter before the Board of Adjustment for hearing and a final decision. The applicant shall file with the Zoning Officer a notice of appeal specifying the grounds thereof. The Zoning Officer shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. Such appeal shall be taken within thirty (30) days. All appeals relating to a particular action or property shall be consolidated and heard at the time of the initial appeal. (*Amended: Ord. 67; April 10, 2018*)

3. An appeal stays all proceedings in furtherance of the action appealed from, except ministerial or other preliminary acts necessary to allow consolidated appeals on all matters prior to final decision by the Board of Adjustment, unless the Zoning Officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. *(Amended: Ord. 67; April 10, 2018)*
4. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the office from whom the appeal is taken and on due cause shown.
5. The Board of Adjustment shall hear and decide, on not less than ten (10) days public notice prior to an affixed time and place for hearing appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Zoning Officer or other administrative officers in carrying out the enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map. At the hearing, any party may appear in person or by agent or attorney.

Section 4.04.07. Appeals to a Court of Record.

Any person or persons, jointly or severally, or any taxpayer, or any officer, department, board, or bureau of the county, aggrieved by any decision of the Board of Adjustment may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board of Adjustment (office of the Zoning Officer). *(Amended: Ord. 67; April 10, 2018)*

CHAPTER 4.05. PROCEDURES FOR CONDITIONAL USES, VARIANCES, AND ZONING AMENDMENTS.

Section 4.05.01. Powers and Jurisdiction Relating to Conditional Uses.

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

1. A written application for a conditional use is submitted, indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested.
2. Property owners adjacent to the proposed site shall be notified of the conditional use request by certified or registered mail, at the cost of the applicant. *(Amended: Ord. 67; April 10, 2018)*
3. Notice of hearing shall be published once, ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.

4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.
6. The granting of any conditional use, by the Board of Adjustment shall be based upon written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangements have been made concerning the following, where applicable: *(Amended: Ord. 67; April 10, 2018)*
 - a. Access: *(Amended: Ord. 67; April 10, 2018)*
 - i. The roads providing access to the property shall be determined to be adequate to meet the transportation demands of the proposed conditional use. The Board of Adjustment may require the applicant to enter into a written contract with the applicable road authority regarding the upgrading and continued maintenance of any roads used for conditional use requested prior to issuance of a Conditional Use Permit. *(Amended: Ord. 67; April 10, 2018)*
 - ii. Reasonable provisions have been made for safe vehicular and pedestrian entrance and exit of the property for daily and emergency traffic. *(Amended: Ord. 67; April 10, 2018)*
 - b. Parking and internal traffic: *(Amended: Ord. 67; April 10, 2018)*
 - i. The parking areas and driveways will be covered in materials appropriate for the internal traffic generated by the use. *(Amended: Ord. 67; April 10, 2018)*
 - ii. The number of parking spaces is appropriate for the proposed use of the property. *(Amended: Ord. 67; April 10, 2018)*
 - c. Utilities and refuse: *(Amended: Ord. 67; April 10, 2018)*
 - i. The manner by which electricity, water, sewer, natural gas and other utilities will be provided has been described. *(Amended: Ord. 67; April 10, 2018)*
 - ii. Consideration has been given to the location of refuse and service areas and manner for disposing of trash, junk, or other debris. *(Amended: Ord. 67; April 10, 2018)*
 - d. Screening, buffering, and open space: *(Amended: Ord. 67; April 10, 2018)*
 - i. The type, dimensions, and character of any fences, walls, hedges or other materials used for screening; and/or open space is appropriate for the proposed use in reference the specific property. *(Amended: Ord. 67; April 10, 2018)*
 - e. Lighting: *(Amended: Ord. 67; April 10, 2018)*
 - i. Lights associated with the use will not create a nuisance nor distract traffic.
 - ii. Brightness, intensity, glare of lights will be similar to lighting which would be customarily used for permitted uses in the applicable zoning district. *(Amended: Ord. 67; April 10, 2018)*
 - f. General compatibility with adjacent properties and other property in the district. *(Amended: Ord. 67; April 10, 2018)*
 - i. Any use listed as a Conditional Use is generally compatible in the district it is listed in. *(Amended: Ord. 67; April 10, 2018)*
 - ii. General compatibility is used when prescribing conditions for approval of a permit. *(Amended: Ord. 67; April 10, 2018)*

7. In granting any conditional use, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this regulation and punishable under the terms of this regulation
8. The concurring vote of two-thirds (2/3) of the present and voting members of the Board of Adjustment is required to pass any application for a Conditional Use. (*Amended: Ord. 67; April 10, 2018*)
9. Unless otherwise specified by the Board of Adjustment, a conditional use permit shall expire one (1) year from the date upon which it becomes effective if no work has commenced. (*Amended: Ord. 67; April 10, 2018*)

Section 4.05.02. Powers and Jurisdiction Relating to Variances.

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

1. A written application for a variance is submitted, indicating the section of this Ordinance under which the variance is sought and stating the grounds on which it is requested.
2. Property owners adjacent to the proposed site shall be notified of the variance request by certified or registered mail, at the expense of the applicant,. (*Amended: Ord. 67; April 10, 2018*)
3. Notice of hearing shall be published once, ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.
4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the variance, and that the granting of the variance will not adversely affect the public interest. A variance from the terms of this ordinance shall not be granted if the following occur:
 - a. There are no special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are applicable to other land, structures, or buildings in the same district;
 - b. The literal interpretation of the provisions of this ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;

- c. The special conditions and circumstances do result from the actions of the applicant;
 - d. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
 - e. The granting the variance request would confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
 - f. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
6. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this regulation and punishable under the terms of this regulation.
 7. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this regulation in the district involved, or any use expressly or by implication prohibited by the terms of this regulation in said district.
 8. The concurring vote of five (5) members of the Board of Adjustment is required to pass any application for a variance.

Section 4.05.03. Zoning Amendments.

1. Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the Planning Commission, as provided herein, the Board of County Commissioners may change zoning district boundaries, use groups, or the regulations established by this ordinance. A proposed change of zoning district boundaries or regulations may be initiated in the following manners: *(Amended: Ord. 67; April 10, 2018)*
 - a. The Board of County Commissioners may direct the Planning Commission, to consider a change of zoning district boundaries or regulations *(Amended: Ord. 67; April 10, 2018)*
 - b. The Planning Commission may initiate a change of zoning district boundaries or regulations; *(Amended: Ord. 67; April 10, 2018)*
 - c. One (1) or more of the owners of property within the area proposed to be rezoned may present a request to change the zoning district boundaries; *(Amended: Ord. 67; April 10, 2018)*
 - d. Initiated petitions specifying and requesting amendments to the regulations of this ordinance containing signatures of twenty (20) percent of the landowners in the zoning district or districts may be presented to the Zoning Official. *(Amended: Ord. 67; April 10, 2018)*
2. Unless otherwise provided for in these regulations, any change in these regulations, shall require Board of County Commissioners approval of an ordinance describing said changes. The Board of County Commissioners may not consider said ordinance until the Planning

Commission has delivered a recommendation to either approve or not approve said ordinance amendment.

3. The following procedure for requesting a Zoning Amendment or Zoning District Boundary Change shall be followed:
4. The landowner or other person(s) requesting the Amendment/Boundary change shall complete an application, available from the Zoning Officer. Completed applications shall be returned to the Zoning Officer for review. To be considered by the Planning Commission and Board of County Commissioners, the application form shall be completed and shall be accompanied by the following items:
 - a. Any required attachments and fees, including Registered or Certified Mail.
 - b. Any additional information, as requested by the Zoning Officer, as lawfully may be required to determine conformance with and provide for enforcement of this ordinance.
 - c. The Zoning Officer shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.
 - d. The Zoning Officer shall set the date, time, and place for public hearings to be held by the Planning Commission and Board of County Commissioners. The Zoning Officer shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to each board's (Planning and Zoning, Board of County Commissioners) public hearing. If the proposed amendment will change the boundaries of a zoning district, the Zoning Officer shall notify all owners of property within two hundred fifty (250) feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing.
 - e. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.
 - f. The Planning Commission shall either recommend approval or denial of the amendment to the Board of County Commissioners. (*Amended: Ord. 67; April 10, 2018*)
 - g. Adoption. Amendments to the zoning ordinance may be adopted by a majority vote unless the amendment has been denied by the Planning Commission in which case a two-thirds (2/3) vote of the Board of Codrington County Commissioners is required.
 - h. After passage the Ordinance Amendment shall take effect on the 20th day after its publication in an official newspaper of the County.

Section 4.05.04. Reapplication.

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

ARTICLE V GENERAL REQUIREMENTS

Pursuant to the purpose of this Regulation are certain general requirements that are not provided for under Article III District Regulations. These requirements are set forth under this Section.

CHAPTER 5.01 VISION CLEARANCE ON CORNER LOTS.

On any corner lot in any zoning district, no planting, structure, , or obstruction to vision between the range of three (3) and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is one hundred (100) feet distance from the point of intersection (Clear View Triangle). Exception: In the Lake Park District, Town District, and Planned Residential District, the Clear View Triangle shall be formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is fifty (50) feet distance from the point of intersection.

CHAPTER 5.02 REFUSE.

In all Zoning Districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a completely enclosed building or specially designed closed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property free of trash. Normal farming operations excluded.

CHAPTER 5.03 UNLICENSED VEHICLES.

Vehicles not in use and without a current license may not be kept in any uncovered area other than a designated junk or salvage yard or designated collection site.

CHAPTER 5.04 SALE OF PARKING AREAS.

Off-street parking areas required under Article III District Regulations, as part of lot requirements may not be separated from the property of which it was an original part.

CHAPTER 5.05 SCREENING.

Where any commercial or industrial use is adjacent to any residential use, that use (building, parking or storage) shall be appropriately screened from the residential use by a fence or planting, approved by the Board of Adjustment, except where such fence or planting may be in conflict with vision clearance.

CHAPTER 5.06 MOVED IN BUILDINGS

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the County unless and until a permit to do so has been obtained from the Zoning Officer. No permit shall be issued until the following requirements are met.
 - a. The fee for said permit as prescribed in Section 4.01.05 shall have been paid.
 - b. That the work is to be completed within six (6) months after the permit has been issued by the Zoning Officer.
 - c. Must have signatures, by petition, of sixty-six percent (66%) of the adjoining landowners, including land directly across a road or highway, and fifty percent (50%) of landowners within two hundred (200) feet. EXCEPTION: A new residence to be used for first occupancy, constructed off the property and moved to location, shall not require adjoining landowners' approval.

CHAPTER 5.07 MINIMUM WATER AND SEWER REQUIREMENTS.

A water and sewer system cannot be approved until it meets the following standards:

1. All subsurface absorption systems shall be at least one hundred (100) feet from any water supply well, eighty (80) feet from any lake, stream, or water course, and twenty-five (25) feet from property lines.
2. The bottom of the drain area or tile field should be at least four (4) feet above the maximum high ground water level and five (5) feet above rock or impervious soil strata and not more than five (5) feet below ground surface.
3. All structures used for human habitation or commercial or industrial use must be connected to a sewage disposal system which meets South Dakota Department of Environment and Natural Resources Administrative Rules and be approved by the Zoning Officer. If a public sewer is available, all such structures must be connected to said public sewer.

CHAPTER 5.08 SHELTERBELT SETBACK REQUIREMENTS.

1. A shelterbelt, consisting of one (1) or more rows, shall not be established within one hundred fifty (150) feet of a public road right-of-way on the north and west sides of roads and not within one hundred (100) feet of a public road right-of-way on the south and east sides of roads. Exception: A shelterbelt, consisting of one (1) or more rows, may be established on the north and west sides of a road with the north or west windward row to be located at least one hundred fifty (150) feet from a public road right-of-way and the north or west non-windward row to be located no closer than seventy-five (75) feet from a public road right-of-way; or a shelterbelt, consisting of one (1) or more rows, may be established on the south and east sides of a road with the south and east windward row to be located at least one hundred (100) feet from a public road right-of-way and the south and east non-windward row to be located no closer than fifty (50) feet from a public road right-of-way if there is an existing shelterbelt within one-half (1/2) mile and parallel to the north or west of the proposed shelterbelt. The exception(s) is also subject to 5.08.4. The windward row of trees shall consist of shrubbery or tree species, as determined by the State Urban Forester, which aid in the containment of snow. Shelterbelts at right angles to roads shall have a

minimum turnaround of fifty (50) feet measured from the road right-of-way. Shelterbelts shall not be established within one hundred fifty (150) feet of adjoining property lines without written permission of adjoining property owners.

2. Shade Trees, ornamental trees or shrubs generally used in front yards for landscaping and spaced further than fifteen (15) feet apart and further do not extend lineally for a distance of over one hundred fifty (150), are not considered shelterbelts and are allowed in a controlled area. The controlled area is defined as the area within one hundred (100) feet of homes or farm buildings, but not closer to the right-of-way than fifty (50) feet. Except for the following, plantings within the controlled area are exempt from this regulation. Four (4) or more trees planted in a row are not allowed within the controlled area. Deciduous trees which are spotted or staggered within the controlled area can be no closer than twenty (20) feet. Conifer trees which are spotted or staggered within the controlled area can be no closer than twenty-five (25) feet. The distance between trees shall be determined by measuring distance between tree trunks.
3. The shelterbelts setback requirements (paragraph 1) also apply to volunteer trees that the landowner allows to grow.
4. A recommendation from the County Highway Superintendent, Township and/or State Department of Transportation is required prior to the issuance of any variance of the shelterbelt setback from any respective County, Township or State/Federal public right-of-way.

CHAPTER 5.09 ANIMAL UNITS ON SMALL ACREAGES.

On parcels of land of ten (10) acres or less, a maximum of one (1) animal unit per acre will be allowed. Designated concentrated animal feeding operations excluded.

CHAPTER 5.10 MANUFACTURED HOME PARKS.

It shall be unlawful for any person to place or maintain a manufactured home park in the unincorporated area of Codrington County unless said court is connected to an approved public water and sewer system. Exception, A manufactured home park existing prior to June 18, 1974 may be allowed in a commercial zoning district subject to meeting the following requirements:

Section 5.10.01 Manufactured Home Parks Minimum Standards.

1. The existing manufactured home park shall provide a map showing:
 - a. Location and topography of the manufactured home park, including adjacent proximity to Federal and State highways, and County, Township, and City roads/streets.
 - b. Property lines and square footage of the proposed park.
 - c. Location and dimension of all manufactured home rental lots.
 - d. Location of all structures on said manufactured home rental lots with special attention to setback from streets and other structures.
 - e. Age of all manufactured homes on said manufactured home rental lots.
 - f. Location and dimensions of all easements and rights-of-way.
 - g. Proposed general layout, including parking and recreation areas.
 - h. General street and pedestrian walkway plan.
 - i. General utility, water, and sewer plan.
2. The existing manufactured home park shall provide a mitigation plan addressing the following:
 - a. Streets - Each manufactured home lot shall abut or face a public or private roadway or street. The street shall be in good repair and the manufactured home park owner shall present a plan on how and when the roads are to be maintained.
 - b. Lot area - Each lot provided for the occupancy of a single manufactured home unit shall be not less than fifty (50) feet in width and have an area of not less than five thousand five hundred (5,500) square feet, and the same shall be defined by markers at each corner.
 - c. Density – No existing manufactured home park shall be permitted to increase the density of manufactured home lots existing at the time of issuance of conditional use permit.
 - d. Spacing and Yard Requirements - All subsequent manufactured housing units positioned on defined rental lots will comply with the following:

- i. Front Yard - All manufactured homes shall be located at least twenty (20) feet from any road or street. The distance will be measured from the wall of the structure to the street or roadway at the closest point.
- ii. Side and Rear Yards - All manufactured homes shall have minimum side yards of seven (7) feet and a minimum rear yard of ten (10) feet.
- iii. Exceptions to Minimum Yard Requirements - A garage, canopy, or carport may project into a required side or rear yard provided it is located no closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto, and provided further that the maximum depth be twenty-four (24) feet.
A deck may project into a required side or rear yard provided it is located no closer than four (4) feet to any other structures.
An enclosed vestibule containing not more than forty (40) square feet in area may project into a required yard for a distance not to exceed four (4) feet, but in no event closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto.
Detached accessory buildings with a projected room area of not more than one hundred and twenty (120) square feet may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure or right-of-way.
- e. Parking - Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set-aside in a location convenient to the occupants.
- f. Refuse Collection - One refuse collection station shall be provided, with a minimum of one (1) two-yard dumpster situated on a concrete pad, for each twelve (12) families or fractions thereof, conveniently located to serve tenants, not less than one hundred (100) feet from any manufactured home unit served, and to be conveniently located for collection.
- g. On-Site Management - Each manufactured home park shall provide management by the owner or his representative at all times to supervise the management, repairs, maintenance and janitorial work connected therewith and to see that all provisions of this Chapter are complied with.
- h. Tie Down Requirements - All manufactured homes placed after the adoption of this ordinance, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Zoning Officer, shall be anchored to the ground, in accordance with the manufacturer's specifications or as prescribed by the TR-75, issued June 1972 by the U.S. Department of Defense.
- i. Maximum Age Limitation - No manufactured home placed within a manufactured home park may exceed fifteen (15) years from the date of manufacture. The Board of Adjustment may grant a variance from the maximum age requirement subject to the applicant meeting the following requirements:
 - i. The applicant shall provide a photograph of the manufactured home's exterior and interior.

- i. That it shall have been shown to the satisfaction of the Zoning Officer that the said manufactured home complies with the recognized gas, plumbing, electrical, and construction standards.
- iii. A majority of adjoining residences (excluding streets) do no object to the placement of the manufactured home.
- j. Skirting - All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation, approved by the Zoning Officer, shall be skirted within thirty (30) days of placement.
- k. Expansion - Existing manufactured home parks may not be extended or expanded into adjoining property.
- l. Building/Moved-in Building Permit Required. A building permit is required whenever a manufactured home is moved into or removed from the manufactured home park, or if when an accessory structure is to be constructed.
- m. Addresses – Each manufactured home shall have an address number affixed to the manufactured home. Required signage shall consist of a green reflective sign with four (4) inch silver or white reflective numbers.
- n. Street Lighting – On all private streets, street light will be provided per approved site plan.
- o. Septic Tank/Sanitary Sewer – Existing manufactured home park shall meet the requirements of South Dakota Codified Law and associated administrative rules regarding on-site septic tanks and drainage systems. Existing manufactured home parks shall provide documentation, as requested, from the South Dakota Department of Environment and Natural Resources that the septic system identified in the approved site plan meets minimum standards. If said system fails to meet minimum State standards, said system will be abandoned and replaced with connection to a public sanitary sewerage system or redesigned to meet State standards only after receiving a conditional use permit from the Board of Adjustment. In the event a public central sanitary sewerage system is within two hundred fifty (250) feet of the perimeter of the manufactured home park, said manufactured home park shall request connection to said public central sanitary sewerage system.

CHAPTER 5.11 MANUFACTURED HOME REGULATIONS.

1. A manufactured home is an industrialized building unit constructed on a chassis for towing to the point of use and designed to be used for continuous year-round occupancy as a single dwelling. For the purpose of this Ordinance, manufactured homes will be regulated by types. Two (2) types of homes are defined under these regulations.
 - a. Type A manufactured home shall:
 - i. Have more than 1,100 square feet of occupied space in a double-section or larger multi-section unit.
 - ii. Be anchored to a permanent foundation (permanent perimeter enclosure) and permanent footing.

- iii. The age of the manufactured house may not exceed five (5) years from the date of manufacture.
- iv. Have a gabled roof with a pitch of at least 2/12 feet.
- v. Have siding material of a type customarily used on site-constructed residences.
- vi. Have roofing material of a type customarily used on site-constructed residences.

b. Type B manufactured home shall:

- i. Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit. Minimum width for a Type B mobile home is fourteen (14) feet.
- ii. Utilize a perimeter enclosure of metal, vinyl, wood or styrofoam in accordance with manufacturer's specifications.
- iii. The age of the manufactured house may not exceed fifteen (15) years from the date of manufacture.
- iv. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the ANSI/NFPA 501A Standards.
- v. Have siding material of a type customarily used on site-constructed residences.
- vi. Have roofing material of a type customarily used on site-constructed residences.
- vii. Be placed onto a support system, in accordance with approved installation standards, as specified in subsection (2), Installation Standards.

2. Installation Standards.

a. Support System.

- i. All HUD-Code manufactured homes of the Type A classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.
- ii. Type B manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANSI/NFPA 501A installation standards.

b. Foundation/Skirting

- i. Those manufactured homes designated in this Ordinance (Type A), as requiring a permanent foundation and permanent perimeter enclosure must have footings and crawl space or basement walls.
 - a. A crawl space must be constructed of concrete or masonry block grouted solid with one (1) number four or (1/2") horizontal rebar, continuous tied to number four or (1/2") rebar verticals placed in the footing four feet (4') on center.

- b. The foundation shall be (a) an approved wood basement constructed of 2 x 6 frame work and treated with water resistant materials; or (b) a foundation shall be constructed with eight inches poured concrete or concrete block.
- c. The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be sixteen (16) inches below grade and the bottom of the footing to be below the frost line.
- d. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).
- ii. All manufactured homes without a permanent perimeter enclosure shall have an approved foundation/siding/skirting enclosing the entire perimeter of the home.

3. Nonconforming Homes.

A manufactured or mobile home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this Ordinance, shall continue to be a legal nonconforming use. If the nonconforming use is discontinued, the land thereafter must be used in conformity with all provisions of this Ordinance.

4. Replacement of Nonconforming Homes.

Thereafter, upon application to the Zoning Officer and subsequent approval thereof, a manufactured home, deemed a legal nonconforming use, may be replaced by a manufactured home, provided the replacement is of an equal or higher type. Equal or higher type means a Type B manufactured home could be replaced with a Type A or B manufactured home; a Type A manufactured home could be replaced with another Type A manufactured home.

5. Structural Alteration.

Due to its integral design, any structural alteration or modification of a manufactured or mobile home after it is placed on the site must be approved by the Zoning Officer.

6. Variance from Maximum Age Requirement

Type A and B manufactured homes may receive a variance from the maximum age requirement. The Board of Adjustment may grant a variance if the manufactured home meets the following requirements:

- a. The applicant shall provide a photograph of the manufactured home's exterior and interior.
- b. That it shall have been shown to the satisfaction of the Zoning Officer that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of Codington County.
- c. That the applicant shall obtain the written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of sixty-six (66) percent of the property owners within one hundred