

Davison County Zoning Ordinance

July 11, 2017

ACKNOWLEDGEMENTS

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**AN ORDINANCE IN NINTH REVISION OF THE ZONING ORDINANCE
OF DAVISON COUNTY, SOUTH DAKOTA**

An Ordinance entitled "An Ordinance in Ninth Revision of the Ordinances of Davison County, South Dakota".

BE IT ORDAINED by Davison County, and in pursuance of the authority conferred in § 7-18A and § 11-2 of the South Dakota Code as amended and supplemented, the Board of County Commissioners of Davison County, South Dakota, does hereby ordain and enact into law the following ordinances and revision of the ordinances of Davison County, South Dakota; that same which are hereby read, approved and adopted as follows:

First Reading: June 20, 2017

Second Reading: July 11, 2017

Approved and Adopted: July 11, 2017

Notice of Adoption Published: July 20, 2017

Effective Date: August 10, 2017

Chairperson, Davison County Commission

ATTEST:

Susan Kiepke, Davison County Auditor

**NOTICE OF ADOPTION
AN ORDINANCE IN NINTH REVISION OF THE ZONING ORDINANCE
OF DAVISON COUNTY, SOUTH DAKOTA**

NOTICE IS HEREBY GIVEN that Ordinance No. _____ being an Ordinance in Ninth Revision of the Zoning Ordinance of Davison County, South Dakota, was duly adopted by the Board of County Commissioners of Davison County on the _____ day of _____, 20____, unless the referendum shall have been invoked.

Dated this _____ day of _____, 20____.

Susan Kiepke, Davison County Auditor

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ORDINANCE HISTORY

Pursuant to § 11-2-10, the Davison County Board of Commissioners created the Davison County Temporary Zoning Ordinance on May 1, 1996. A permanent Ordinance was passed on April 1, 1998. Since then, the Ordinance has been amended nine times; March 7, 2000, October 24, 2000, December 14, 2004, November 15, 2005, April 1, 2008, January 16, 2009, August 14, 2009, May 11, 2010, and this amendment passed on July 11, 2017 with an effective date of _____.

The Planning Commission is comprised of two County Commissioners and five residents of the county from various locations and backgrounds; serving three year terms of office. The Davison County Planning Commission will follow the Davison County Zoning Ordinance to make decisions in the best interests of the County. The Planning Commission will hear all Variance Applications, Conditional Use Applications, and Appeals; then make a recommendation to the Board of Adjustment. The Board of Adjustment consists of the County Commissioners and will render the final approval.

The Davison County Planning Commission will also consider all plats, comprehensive plans, and Tax Increment Financing District requests in the county, then make a recommendation to the County Commissioners. The County Commissioners have the final approval. Any decisions the Board of Adjustment or County Commissioners make will stand unless taken to a Court of Law.

The purpose of the oversight by the Planning Commission, Board of Adjustment, and County Commission is to protect the integrity and intended use of property in Davison County. The Planning Commission, Board of Adjustment, and County Commission must follow the South Dakota Codified Law, and provide unbiased decisions in the best interests of Davison County.

ARTICLE 1 DEFINITIONS

For the purpose of this Ordinance, unless otherwise stated, words used in the present tense include the future; the singular number includes the plural and the plural the singular; the word shall means mandatory, not discretionary; the word may is permissive; the word person includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word lot includes the word plat or parcel; and the words used or occupied include the words intended, designed, or arranged to be used or occupied.

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted as follows:

Abut - Having a common border with, or being separated from such a common border by a right-of-way, alley, or easement.

Accessory Agricultural Structure - A structure customarily incidental and necessary to farming and the raising of animals including barns and other animal shelters, corrals and fences, silos, grain bins and storage sheds for machinery and crops.

Accessory Building - A subordinate building, the use of which is purely incidental to the main building, is less than one hundred (100) percent of the area of the largest floor of the principal building, and is unattached from the principal building at least five (5) feet.

Accessory Use or Structure - A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure.

Actual Construction - Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially commenced, preparatory to building, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Addition - Any construction that increases the size of a building such as a porch, attached garage or carport, or a new room.

Adult Entertainment - Any premises or part thereof in which a principal feature or characteristic is the nudity or partial nudity of any person; to include a place or part thereof where, in pursuance of a trade, calling, business or occupation, goods or services appealing to or designed to appeal to erotic or sexual appetites or inclination.

Agriculture - The planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards along with the raising and/or feeding of less than five hundred (500) animal units of livestock and/or poultry. An animal feeding operation as defined by this ordinance is not considered an agricultural use. The processing and/or storage of raw agricultural products, including facilities such as grain elevators and ethanol plants, shall not be considered an

agricultural use if such use constitutes the main or principal use on a lot or parcel.

Agriculture Product Processing Facility - A business activity customarily designed to process raw agricultural products into value added products. Agricultural processing facilities include, but are not limited to; feed mills, ethanol plants, soy bean processing facilities, cheese plants, milk processors, packing plants and rendering facilities.

Agricultural Use and Industrial Development Covenant Running with the Land - An agreement required by ordinance by which the grantee, a United States term in legal conveyancing for the party receiving title or encumbrance, often referring to the purchaser, acknowledges that adjacent land may be subjected to conditions resulting from agricultural operations or industrial development. The Grantee is the Grantor of the covenant. Once executed, said agreement runs with the land and cannot be separated from the land nor transferred without it.

Alley - A way which affords only a secondary means of access to abutting property.

Amendment - A change in the wording or substance of this ordinance or a change in the boundaries or classifications upon the Official Zoning Map.

Animal Units - A unit of measure for livestock equated as follows; one animal unit is equivalent to:

Animal	Animal =Units		
Cow, feeder, or slaughter beef animal, excluding calves under 300 pounds	1	=	1
Horse	0.5	=	1
Mature dairy cattle, excluding dairy calves under 300 pounds	0.7	=	1
Farrow-to-finish sows	0.27	=	1
Swine in a production unit	2.13	=	1
Nursery swine less than 55 pounds	10	=	1
Finish swine over 55 pounds	2.5	=	1
Sheep, lambs, or goats	10	=	1
Chickens, laying hens or broilers	30	=	1
Ducks and/or geese	5	=	1
Turkeys	55	=	1

Animal Waste Facility - A structure designed and constructed to store and/or process animal waste. Animal waste facilities include but are not limited to holding basins, lagoons, pits and slurry storage.

Apartment - A portion of a multiple unit dwelling, used as a separate housing unit; having cooking facilities and a private bath.

Applicant - For purposes of this Ordinance a person shall be deemed to be an applicant if they are the owner of the proposed facility; an officer or director of the owner thereof; or an owner of any interest, direct or indirect, in any company, except a publicly traded company, which is the owner of the proposed development.

Aquaculture - Land devoted to the hatching, raising and breeding of fish or other aquatic plants or animals intended for sale or personal use.

Arcade - A place of business where an individual, association, partnership or corporation maintains four or more amusement devices for public use.

Auction Barn - Any premises used predominantly as a livestock auction facility and may include the auction of agriculturally related items on an incidental or accessory basis only. The term may also include a building or structure or lands used for the storage of goods and materials which are to be sold on the premises by public auction and for the sale of the said goods and materials by public auction and on an occasional basis.

Automobile-Machinery Service Station - Building and premises where motor fuel, oil, grease, batteries, tires, and vehicle accessories may be supplied and dispensed at retail; and where, in addition, customary repair services may also be rendered.

Automobile Wrecking Yard - Any premises on which two or more self-propelled vehicles not in running order or operating condition are stored in the open. See also Junkyard and Salvage Yard.

Bar - A building or part thereof where, in consideration of payment therefore, liquor, beer, or wine or any combination thereof are served for consumption on the premises, with or without food.

Basement - A portion of a building with the floor located below the mean grade level. For the purpose of this ordinance, any such basement with more than four (4) feet above grade level shall be counted as a story. No dwelling unit shall be situated in a basement having less than four (4) feet above grade level.

Bed and Breakfast - A dwelling occupied by a family and used incidentally to provide accommodation and meals to guests for compensation, but shall not include a boarding house, residential care facility, hotel, motel, or other similar uses.

Board of Adjustment - The Board of Adjustment is designated to hear all zoning appeals. The Davison County Commission shall serve as the Board of Adjustment.

Buildable Area - The portions of a lot remaining after required setbacks have been provided.

Building - The word "building" includes the word structure and is a structure that is entirely separate from any other structure by space or by walls in which there is no shared doors or windows or similar openings. A principal building, including covered porches and paved patios, is a structure in which the principal use of the lot is conducted. In any residential district, any dwelling shall be deemed to be the principal building on the lot on which the same is situated.

Building Line, Front - A line parallel to the street, or right-of-way intersecting the foremost point of the building, excluding uncovered steps.

Building Setback Lines - A line parallel or approximately parallel to the lot lines at a specified distance there from, marking the minimum distance from the lot line that the building may be erected. All front setbacks are measured from the lot line or edge of the right of way, not from the center of the right away.

Building Site - A lot or parcel, or portion thereof, whether a lot of record or described by metes and bounds, used or intended to be used as the location of a structure.

Building, Alterations of - Any change or rearrangement of the supporting members (such as bearing walls, beams, columns, or girders) of a building, an addition to a building, or movement of a building from one location to another. See Structural Alterations.

Building, Height of - The vertical distance measured from the average grade of the building level of the highest and lowest elevations of the site covered by the building to the top of the roof or parapet of the highest story.

Building, Principal - A building in which is conducted the main use of the lot on which said building is located.

Bus Depot - A building or premises where commercial motor vehicles pick up and discharge fare-paying passengers. Accessory uses may include ticket offices, luggage checking facilities and similar uses.

Camper - See Travel Trailer.

Campground - Any premises where two (2) or more camping units are parked or placed for camping purposes, or any premises used or set apart for supplying to the public camping space for two (2) or more camping units for camping purposes, which include any buildings, structures, vehicles or enclosures, uses or intended for use or intended wholly, or in part, for the accommodation of transient campers.

Camping Unit - Any vehicle, tent, trailer or portable shelter used for camping purposes.

Car Wash - An establishment having facilities for washing motor vehicles by production line methods which may include a conveyor system or similar mechanical devices, as well as a self-service operation.

Casino - A room or rooms in which legal gaming is conducted.

Cellar - A portion of a building between two floor levels which is partly or wholly underground and which has more than one-half ($\frac{1}{2}$) of its height, from finished floor to finished ceiling or to the underside of the floor joints of the story next above, as the case may be, below the average finished grade level adjacent the exterior walls of the building.

Cemetery - Land that is set apart or used as a place for the interment of the dead or in which

human bodies have been buried. Cemetery may include a structure for the purpose of the cremation of human remains and may include facilities for storing ashes of human remains that have been cremated or the interment of the dead in sealed crypts or compartments.

Church - A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

Clinic - A building or part of a building used solely for the purpose of consultation, diagnosis and treatment of patients by one or more legally qualified physicians, dentists, optometrists, podiatrists, chiropractors, or drugless practitioners, together with their qualified assistants, and without limiting the generality of the foregoing, the building may include administrative offices, waiting rooms, treatment rooms, laboratories, pharmacies and dispensaries directly associate with the clinic, but shall not include accommodation for in-patient care or operating rooms for major surgery.

Club - A building owned, leased, or hired by a non-profit association of persons the use of which is generally restricted to due-paying members and their guests. Such club may periodically be rented, or leased, to non-members for gathering such as weddings, anniversaries, and dances, but no portion of the building shall continuously be used for business purposes.

Company - For purposes of this ordinance the term, "company" includes, but is not limited to, any corporation, partnership, Limited Liability Company, limited liability partnership, limited partnership, business trust and any other business entity.

Comprehensive Plan - Any legally adopted part or element of the Davison County Comprehensive Plan.

Concentrated Animal Feeding Operation - A facility where more than five hundred (500) animal units are stabled, confined, fed, or maintained in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more facilities under common ownership are a single animal operation if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure.

Conditional Use - A conditional use is a use that would not be appropriate, generally or without restriction, throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as conditional uses, if specific provision for such conditional use is made in this Ordinance.

Congregate Housing - Housing units that provide a semi-independent living environment, which offers residential accommodations, central dining facilities (where at least one (1) meal a day is provided seven (7) days a week), related facilities, and supporting staff and services to persons of at least sixty-two (62) years of age or with disabilities.

Construction Services - A yard, structure, or combination thereof of any general contractor or builder where equipment and materials are stored or where a contractor performs shop or assembly work but does not include any other yard or establishment otherwise defined or classified herein.

Contiguous - Next to, abutting, or touching and having a boundary, or portion thereof, which is adjoining.

Contractor - The person who contracts with an individual or developer to construct a building on a parcel of land prepared by a developer.

Convenience Store - A retail store in which articles for sale are restricted to gasoline sales and a limited range of food items such as milk, bread, soft drinks, ice cream, canned and bottled goods, snacks and candy. Retail sales may also include the limited sale of magazines, books, house wares, toiletries, bait, alcoholic beverages and tobacco.

Court - Any open space, unobstructed from ground to sky, other than a yard, that is on the same lot with and bounded on two or more sides by the walls of a building.

Covenant - An agreement, convention, or promise of two or more parties, by deed in writing, signed and delivered, by which either of the parties pledges himself to the other that something is either done, or shall be done, or shall not be done. The term is currently used primarily with respect to promises in conveyance or other instruments relating to real estate.

Cul-de-sac - A local right-of-way with only one outlet that terminates in a vehicular turnaround and having an appropriate terminal for the safe and convenient reversal of traffic turnaround.

Day Care - The providing of care and supervision of children or adults as a supplement to regular parental or home care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.

Day Care Center - Any type of group day care programs including nurseries for children of working parents, nursery schools for children under minimum age for education in public schools, parent cooperative nursery schools, playgroups for pre-school children, programs covering after-school care for school children provided such establishment is licensed by the State and conducted in accordance with State requirements.

Day Care, Family - The provision of regular care and supervision of no more than twelve (12) children including the provider's own children who are under the age of six (6) years for part of a twenty-four (24) hour period as a supplement to regular parental care.

Day Care, Group Family Home - The provision of regular care and supervision of thirteen (13) to twenty (20) children either in the provider's home or in a facility outside the provider's home for part of a twenty-four (24) hour period as a supplement to regular parental care.

Deck - A structure abutting a dwelling with no roof or walls except for visual partitions and railings that is constructed on piers or a foundation above-grade for use as an outdoor living area.

Deck, covered - A structure abutting a dwelling with a roof, which may include walls.

Developer - The owner of the property being platted or re-platted or the person designated by the owner as being responsible for the development of the property. The terms “sub-divider” and “developer” are synonymous and used interchangeably, and shall include any person, partnership, firm, association, corporation and/or any officer, agent, employee and trustee thereof who does or participates in the doing of any act toward the subdivision of land within the intent, scope and purview of this Ordinance. The developer shall also be defined as the builder or contractor if they are responsible for the construction of buildings and/or structures or permanent improvements.

Domesticated Animals - Any animal that through long association with man, has been bred to a degree which has resulted in genetic changes affecting the temperament, color, conformation or other attributes of the species to an extent that makes it unique and different from wild individuals of its kind. For the purpose of this ordinance the definition shall include, but is not limited to, animals commonly raised on farms and ranches or kept in a residence.

Dormitory - A building or part of a building operated by an institution and containing a room or rooms forming one or more habitable units which are used or intended to be used by residents of the institution for living and sleeping, but not for cooking or eating purposes.

Drive-in Restaurant or Refreshment Stand - Any place or premises used for sale, dispensing, or serving of food, refreshments, or beverages in automobiles, including those establishments where customers may serve themselves and may eat or drink the food, refreshments, or beverages on the premises.

Due Diligence - Such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case.

Dwelling - A building or portion of a building designed for residential purposes, including one and two family dwellings but not including hotels, motels or lodging houses.

Dwelling Unit - A room or suite of rooms designed for and occupied by one family and having not more than one kitchen facility.

Dwelling, Efficiency Unit - A dwelling unit having only one room exclusive of bathroom, kitchen, laundry, pantry, foyer, communicating corridor, closets, or any dining alcove. An efficiency unit shall be permitted in a multi-family dwelling.

Dwelling, Multiple Family - A residential building designed for, or occupied by, two (2) or more families, with the number of families in the residence not exceeding the number of dwelling units

provided.

Dwelling, Single Family - A detached residential dwelling unit other than a manufactured home designed for or occupied by one (1) family only.

Dwelling, Two Family - A building containing two dwelling units designed exclusively for occupancy by two families living independently of each other.

Easement - Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property. For the purposes of this Ordinance the term shall primarily be used to describe utility access.

Employee(s) - In regard to off right-of-way parking requirements, all who work in the enterprise, including owners.

Exhibition Areas - A building, group of buildings, or place where art, objects, articles, or livestock or agricultural projects are placed on display for the public.

Extraterritorial Zoning Jurisdiction - The area illustrated within the Official Zoning Map of Davison County not exceeding one (1) mile in width immediately adjoining the City of Mitchell.

Facility - A building, piece of land or any combination thereof owned and operated by the same owner and dedicated to a specific use or uses. The term shall include those operations where indoor and outdoor activities may be conducted in concert and are integral or compliment the operation as a whole. An example may be an automobile dealership with office spaces, a small indoor display area, separate maintenance facility, and an outdoor display area.

Fairground - An agricultural fairground where farm produce is on display for judging and for sale, and livestock shows, horseracing and other sports events are held and on occasion for auctions, flea markets and concession stands.

Family - Any number of individuals living together as a single housekeeping unit, in which not more than four (4) individuals are unrelated by blood, marriage, or adoption. This definition shall not include foster families as regulated by the State.

Farm, Ranch, Orchard - An area of not less than twenty five (25) acres of un-platted land which is used for growing usual farm products, vegetables, fruits, trees, and grain, and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, hogs and sheep, and including accessory uses for raising, treating, and storing products raised on the premises; but excluding an Animal Feeding Operation.

The processing and storage of raw agricultural products, such as grain elevators and ethanol plants, shall not be considered a farm, ranch or orchard if such constitutes the main or principal use on the lot or parcel.

Farm Building - All buildings and structures, to include grain bins and silos, needed in

agricultural operation, including dwellings for owners, operators, farm laborers employed on the farm, and other family members.

Farm Drainage Systems - The term shall include all waterways, ditches, flood control, watershed, and erosion control structures and devices provided each individual system or structure comply with the applicable local, state, and federal regulations.

Farm, Hobby - An activity carried out in rural residential areas, which includes the planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards.

The raising and feeding of livestock and poultry shall be considered as part of a hobby farm if the area, in which the livestock or poultry is kept, is one (1) acre or more in area for every one (1) animal unit, and if such livestock does not exceed ten (10) animal units.

Farm Occupation - A business activity customarily carried out on a farm by a member of the occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal farm operations, without the employment of more than the equivalent of two (2) full time employees not residing in the home, which does not cause the generation of additional traffic in the area. Farm occupations include, but are not limited to, seed sales and custom combining support facilities.

Farmstead - The area surrounding and adjacent to the house and main buildings, including, the driveway and the land lying between the farmstead and the road. For the purposes of this ordinance a farmstead shall include a residential structure fit for human habitation and the customary outbuildings such as barns, sheds, grain bins, shelterbelt, etc.

Farm Unit - All buildings and structures needed in an agricultural operation, including dwellings for owners, operators, and other family members.

Fence - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Financial Institutions - The premises of a bank, trust, finance, mortgage, or investment company.

Fireworks, Sales - A building, structure, or place where fireworks are sold, pursuant to all applicable state statutes.

Fishery - As defined by South Dakota Administrative Rules, Sections 74:51:02 and 74:51:03 (January 27, 1999) and Davison County as described in Section 74:51:02:20. Lake Mitchell (Sections 74:51:02:01 and 74:51:02:02) is beneficial for fish and wildlife propagation, recreation, stock watering, immersion recreation and limited contact recreation. Section 74:51:02:20 identifies Lake Mitchell as a domestic drinking water supply and warm water permanent fish life propagation waters. Section 74:51:03:01 assigns all streams in South Dakota the beneficial uses of irrigation, fish and wildlife propagation, recreation and stock watering. Within Davison County the James River is defined as warm-water semi-permanent fish life

propagation waters and limited contact recreation waters. Enemy, North Fork of Enemy, and Morris (Dry Run) Creeks are defined as warm-water marginal fish life propagation waters and limited contact recreation waters. Firesteel Creek from the James to West Fork Firesteel Creek includes domestic water supply warm water permanent fish life propagation waters, and limited contact recreation waters.

Flood or Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of wetlands, lakes, streams, tributaries, or other water bodies; and/or
2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Hazard Boundary Map (FHBM) - Official map of a community issued by the Federal Insurance Administrator, where the boundaries of the flood, mudflow, and related erosion areas having special hazards have been designated.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without an accumulative increase in the water surface. The floodway shall be defined and designated by the most recent Flood Hazard Boundary Map as defined herein.

Food Product Processing Facility - A commercial establishment in which food or food-related products are processed, packaged, or otherwise prepared for human consumption but not consumed on the premises.

Footprint - The land area covered or occupied by a building and a facility as defined herein. The term shall also include any land area dedicated to a use such as outdoor storage or any area utilized for storage, display, or livestock confinement as part of or in support of the building or use.

Game Farm - An area of five (5) acres or more, which is used for producing hatchery, raised game and non-domestic animals for sale to private shooting preserves.

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

Gaming Device or Gaming Equipment - Any mechanical contrivance or machine used in connection with gaming or any game.

Gaming or Gambling - The dealing, operating, carrying on, conducting, maintaining, or exposing for pay of any game.

Gaming or Gambling Establishment - Any premises wherein or whereon gaming exists.

Garage - An accessory building or portion of a building including a carport which is designed or used for the sheltering of private motor vehicles and the storage of household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.

Garage, Public - A building or portion thereof used for the housing or care of motor vehicles for the general public or where such vehicles are equipped or repaired for remuneration or kept for hire or sale. This may include premises commonly known as gasoline stations or service stations.

Gasoline Station - Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel, and oil or other lubrication substances; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning such vehicles.

Golf Course - A public or private area operated for the purpose of playing golf, and may include a par 3 golf course, club house, recreational facilities, driving ranges, miniature golf courses, and similar uses.

Grain Elevator - Grain storage facilities, which are the principal and primary use of the lot. Said facilities are generally equipped with devices for housing and discharging significant quantities of grain. This definition does not include normal farm product storage and warehousing facilities such as grain bins and where such storage is an accessory use to the parcel.

Grandfather - For the purposes of this ordinance the term “grandfather” shall be defined as a lay term used to describe structures, land uses, facilities, operations or similar activities in existence prior to adoption of the May 1, 1996 Zoning Ordinance. The term is generally applied to uses not allowed or further regulated within the new ordinance. The act or condition of grandfathered is more fully addressed in the non-conforming Article herein.

Greenhouse, Commercial - A building for the growing of flowers, plants, shrubs, trees, and similar vegetation which are not necessarily transplanted outdoors on the same lot containing such greenhouse, but are sold directly from such lot at wholesale or retail.

Hazardous Materials - Which may include:

1. Flammable material is any material that will readily ignite from common sources of heat, or that will ignite at a temperature of 600°F or less.
2. Flammable liquid is any liquid having a flash point below 100°F and having vapor pressure not exceeding forty (40) pounds per square inch (absolute) at 100°F.
3. Combustible liquid is any liquid having a flash point at or above 100°F.
4. Hazardous material includes any flammable solids, corrosive liquids, radioactive materials, oxidizing materials, highly toxic materials, poisonous gases, reactive materials, unstable materials, hyperbolic materials, pyrophoric materials, and any substance or mixture of substances which is an irritant, a strong sensitizer or which generates pressure through exposure to heat, decomposition or other means.

Home, Group - See Residential Care Facility.

Home, Manufactured - A moveable or portable dwelling which is eight (8) feet or more in width and thirty-two (32) feet or more in length, constructed on a permanent steel frame chassis, which is designed to be towed, designed for year-round occupancy, primarily to be used without a permanent foundation, but which may sit on a permanent foundation, and designed to be connected to utilities. It may consist of one or more units, separately transportable, but designed to be joined together into one integral unit. Manufactured homes are built according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976 and will included a Title. Manufactured homes are not mobile homes. The following shall not be included in this definition:

1. Travel trailers, pickup coaches, motor homes, camping trailers, or other recreational vehicles.
2. Manufactured modular homes which is designed to be set on a permanent foundation, and which uses standard sheathing, roofing, siding, and electrical, plumbing, and heating systems.

Home, Mobile - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Mobile Homes are commonly referred to as a Trailer House and will include a Title.

Home, Modular - A structure or building module that is manufactured at a location other than the site upon which it is installed and used as a residence; transportable in one or more sections on a temporary chassis or other conveyance device; and to be used as a permanent dwelling when installed and placed upon a permanent foundation system. A Modular Home will not include a Title. This term includes the plumbing, heating, air conditioning, and electrical systems contained within the structure.

Home Occupation - A business activity customarily carried on in the home or outbuildings by a member of the occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal household operations, without the employment of more than the equivalent of two (2) full time employees not residing in the home, which does not cause the generation of traffic in excess of that experienced on an average right-of-way of similar design, noise, electrical interference, fumes, odors, etc.

Home Park, Manufactured - A parcel of land under single ownership, which has been planned and improved for the placement of, manufactured homes for non-transient use.

Home Park, Mobile - Having three or more mobile homes on one parcel. Since Mobile Homes are not authorized in any district, a Mobile Home Park will also not be authorized.

Horticulture - The science or art of cultivating fruits, vegetables, flowers, and plants.

Hospital - An institution devoted primarily to the operation of facilities of the diagnosis, treatment, and cure of disease, illness, injury, or other abnormal physical conditions with provisions for keeping patients overnight.

Hotel - An establishment of transient guests having sleeping rooms without individual cooking facilities for more than six (6) persons for compensation and may or may not provide meals.

Industrial Development - The planning and building of new industries in special areas.

Interchange - A grade-separated intersection with one (1) or more direct connections for vehicular travel between the intersecting right-of-ways.

Irrigation Systems - This term shall include all canals, ditches, piping, center pivot, and other methods utilized to irrigate cropland. This term does not include systems designed to land apply waste or water from animal feeding operations as defined herein. All irrigation systems shall comply with local, state, and federal regulations.

Junkyard - A place where scrap is collected before being discarded, reused, or recycled.

Kennel - Any place where more than twelve (12) dogs, cats, or other domesticated animals of breeding age are housed, groomed, bred, boarded, trained, harbored, kept, or sold for commercial purposes.

Lagoon - Any pond, basin, or other impoundment made by excavation or earthen fill for storage or treatment of human sewage or animal waste.

Landing Strip - A strip of ground used or capable of being used for the landing and take-off of aircraft.

Loading Area - A completely off right-of-way, space, or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to a public right-of-way.

Loading Space, Off Right-of-Way - Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off right-of-way loading space is not to be used as off right-of-way parking space in computation of required off right-of-way parking space.

Locker - A meat processing plant and any other facility where meat, poultry or eggs are cooked, cured, smoked, or otherwise processed or packed, provided that all activities are carried out indoors. This term shall not include a delicatessen, stockyard, slaughterhouse, tannery, a poultry killing establishment, an animal food factory, or an animal by-products plant.

Lot - For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public right-of-way, or on an approved private right-of-way, and may consist of a single lot of record; a portion

of a lot of record; a combination of complete lots of record and portions of lots of record, a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

Lot Coverage - The percent of the area of a lot occupied by buildings, or structures, including accessory building or structures.

Lot Depth - The average horizontal distance between the front and rear lot lines.

Lot Frontage - The portion of the lot nearest the right-of-way; for the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to right-of-ways shall be considered frontage, and yards shall be provided as indicated under "Yards" in this ordinance.

Lot Frontage, Pie Shaped - A lot usually abutting a cul-de-sac. For the purpose of determining frontage, said distance shall be measured perpendicularly to the said lot lines at a point thirty (30) feet from the front line.

Lot Line - The legally defined limits of any lot.

Lot, Corner - A lot situated at the intersection of two (2) right-of-ways, the interior angle of such intersection not exceeding one hundred thirty five (135) degrees.

Lot, Double Frontage - A lot having frontage on two (2) non-intersecting right-of-ways, as distinguished from a corner lot.

Lot Line, Exterior - The side lot line, which abuts the right-of-way on a corner lot.

Lot Line, Rear - The lot line or point of intersection of the side lot lines farthest from and opposite the front lot line.

Lot Line, Side - A lot line other than a front or rear lot line.

Lot of Record - A lot which is part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded. For the purposes of this Ordinance, a legally transacted parcel prior to adoption may be considered as a lot of record.

Lot Width - The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth or the same distance measured at the front building line.

Lot, Corner - A corner lot is defined as a lot located at the intersection of two (2) or more right-of-ways. A lot abutting on a curved right-of-way(s) shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

Lot, Interior - An interior lot is defined as a lot other than a corner lot with only one frontage on a right-of-way.

Lot, Through - A through lot is defined as a lot other than a corner lot with frontage on more than one right-of-way. Through lots abutting two right-of-ways may be referred to as double frontage lot.

Lot, Reversed Frontage - A reversed frontage lot is defined as a lot on which the frontage is at right angles or approximately right angles, interior angle less than one hundred thirty-five (135) degrees, to the general pattern in the area. A reversed frontage lot may also be a corner or a through lot.

Major Road Plan - The Transportation Plan in the Davison County Comprehensive Plan.

Major Recreational Equipment - Major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Manufacturing - The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article, thing or service.

Massage Establishment - Any premises or part thereof where massages are given, offered or solicited in pursuance of a trade or calling, business or occupation provided that the service is rendered by a person duly trained, licensed and registered under the appropriate statute.

Motel - A group of attached or detached buildings on the same lot containing sleeping quarters for rental to transients.

Museum - A building or buildings used, or to be used, for the preservation of a collection of paintings and/or other works of art, and/or of objects of natural history, and/or of mechanical, scientific and/or philosophical inventions, instruments, models and/or designs and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories and/or other offices and premises used or to be used in connection therewith.

Navigable Waters - A body of water presently being used or is suitable for use for transportation and commerce, or if it has been so used or was suitable for such use in the past, or if it could be made suitable for such use in the future by reasonable improvements.

Nonconforming Lot - A lot of record existing on the date of passage of this ordinance which does not have the minimum width or contain the minimum area for the zone in which it is located.

Nonconforming Structure - A lawful structure which exists on the date of passage of this

ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yard setbacks, or other characteristics of the structure.

Nonconforming Use - A land use or building or structure or portion thereof lawfully existing at the effective date of this ordinance or at the time of any amendment thereto, which does not conform to the regulations of the zone in which it is located.

Noxious - When used with reference to any use or activity in respect of any land, building or structure or a use or activity which, from its nature or from the manner of carrying on same, creates or is liable to create, by reason or destructive gas or fumes, dust, objectionable odor, noise or vibration or unsightly storage of goods, wares, merchandise, salvage, machinery parts, junk, waste or other material, a condition which may become hazardous or injurious as regards to health or safety or which prejudices the character of the surrounding are or interferes with or may interfere with the normal enjoyment of any use of activity in respect of any land, building or structure.

Nuisance - Any condition existing that is or may become injurious or dangerous to health or that prevents or hinders or may prevent or hinder in any manner the suppression of a disease.

Nursery - A facility confining a specific number of small and/or young swine averaging ten (10) to fifty-five (55) pounds in size.

Nursing Home, Rest Home, Convalescent Home - A place which undertakes through its ownership or management to provide maintenance, personal, or nursing care for three or more persons who by reason of illness, physical deformity, or old age are unable to care for themselves.

Obstruction - Any structure or vegetation that blocks the complete vision of people.

Office - A building or part thereof, designed, intended or used for the practice of a profession, the carrying on of a business, the conduct of public administration, or, where not conducted on the site thereof, the administration of an industry, but shall not include a retail commercial use, any industrial use, clinic, financial institution or place of amusement or place of assembly.

Open Sales Area - Any open land or area used or occupied for the purpose of displaying for sale new or secondhand merchandise, including but not limited to, passenger cars or trucks, farm machinery, construction machinery, motor scooters or motorcycles, boats, trailers, aircraft, and monuments. No repair work is done except for incidental repair of times to be displayed and sold on the premises.

Outdoor Storage Area - Any open land or area used for the purpose of storage of any product or part of a product before, during, or after manufacturing, servicing, or repairing and not displayed for retail sale. This does not include open sales areas.

Owner - The record owners of the fee or a vendee in possession, including any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided.

Ownership Line - A line defining ownership of property under one owner of record.

Parcel - A legally defined piece of property including a platted lot, legally described portion, or similarly described piece of property primarily used as an identifier within taxation.

Park - An area consisting largely of open space, which may include a recreational area, playground, or similar use but shall not include a mobile home park, a campground or trailer park.

Parking Space - An off right-of-way space available for parking of a motor vehicle and which is held to be an area for dimension of which are ten (10) feet by twenty (20) feet or which covers two hundred (200) square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto. Off right-of-way parking shall be on or adjacent to the property on which the principal use is located.

Parking Space, Off Right-of-Way - For the purposes of this ordinance, an off right-of-way parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a right-of-way and maneuvering room. Required off right-of-way parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any right-of-way, and so that any automobile may be parked and un-parked without moving another.

For purposes of rough computation, an off right-of-way parking space and necessary access and maneuvering may be estimated at three hundred (300) square feet, but off right-of-way parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the County.

Pawnshop - An establishment where money is loaned on the security of personal property pledged in the keeping of the pawnbroker.

Percolation Test - A test to determine the absorption rate of soil for a septic drain field or leach field. The results of a percolation test are required to properly design a septic system.

Performance Standards - Criterion established for the purposes of:

1. Assigning proposed land uses to proper districts; and
2. Controlling noise, odor, glare, smoke, toxic matter, aesthetics, vibration, fire/explosive hazards generated by, or inherent in, uses of land or buildings.

Permitted Use - A use by right, which is specifically authorized in a particular zoning district.

Person - Any individual or group of individuals, or any corporation, general or limited partnership, joint venture, unincorporated association, or governmental or quasi-governmental entity.

Places of Assembly - Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.

Planning Commission - The Planning Commission of Davison County. The term Planning Commission shall be synonymous with Planning and Zoning-Commission and Commission.

Plat - A map, or representation on paper of a piece of land subdivided into lots, parcel, tracts or blocks, including streets, commons, and public grounds, if any, all drawn to scale.

Plaza - A public square or similar open area.

Portable Processing Plant - Any equipment for the crushing, screening or washing of sand and gravel aggregate materials, but not including a concrete batching plant or an asphalt plant, which equipment is capable of being readily drawn or readily propelled by a motor vehicle and which equipment is not considered permanently affixed to the site.

Principal Use - The main use of land or structures as distinguished from a secondary or accessory use.

Private Recreation Area - Any open space or recreational area, other than a public park, owned and operated or maintained in whole or in part for profit by a private individual(s), club or fraternal organization for members only, and may include therein one or more of the following activities: swimming, boat facilities, picnic area, tennis courts, outdoor skating rinks, athletic fields, walking, riding and cross-country skiing, snowmobiling, but does not include the racing of animals, motor vehicles, motorcycles or snowmobiles.

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

Property Line - The division between two parcels of land, or between a parcel of land and right-of-way.

Public - Promotion of a public cause or service, including utilities having a franchise from Davison County or other governmental entity, but excluding other for-profit organizations.

Public Building - Any building which is owned, leased, primarily used, and/or primarily occupied by a school district or municipal, county, state, or federal government, or any subdivision or agency of the school district, municipal, county, state, or federal government.

Publicly Traded Company - For purposes of this Ordinance a “publicly traded company” means a company, the shares or other interests in which are regularly traded on the New York Stock Exchange, the American Stock Exchange, NASDAQ or similar recognized security market.

Quarry - A place where consolidated rock has been or is being removed by means of an open excavation to supply material for construction, industrial, or manufacturing purposes, but does not include a wayside quarry or open pit metal mine.

Ranch Building - See Farm Building.

Ranch Occupation - See Farm Occupation.

Ranch Unit - See Farm Unit.

Recreational Equipment - The term recreational equipment shall include boats and boat trailers, jet skis, snowmobiles, travel trailers, pick-up campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers, and the like, and case or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Recycling Center - A building and/or area in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Remote Fuel Depots - A structure, usually unmanned, that is used for the sale of gasoline, diesel, or other motor vehicle fuel.

Rent-All Shop - A building or part of a building where residential and commercial equipment is kept for rental to the general public and includes such things as lawn and garden tools, floor cleaning equipment, masonry tools, painting and decorating equipment, moving tools, plumbing tools and power tools.

Repair Shop - Maintenance, mechanical, restoration, welding, body, paint or other repair.

Repair Shop, Auto Body - A general industrial establishment for the repair of damage to a motor vehicle caused by collision, accident, corrosion or age, and, without limiting the generality of the foregoing, includes the reconstruction of motor vehicles, the painting or repainting of motor vehicles and the rebuilding or conversion of automotive engines or engine parts, but does not include a motor vehicle repair shop, an impounding yard, an automobile service station or a gas station.

Repair Shop, Motor Vehicle - A service commercial or general industrial establishment for the repair or replacement of parts in a motor vehicle and without limiting the generality of the foregoing, shocks, transmissions, gears, brakes, clutch assemblies, steering assemblies, radiators, heating or cooling systems, ignition systems, mechanical or electrical parts or systems, the installation of undercoating, engine tuning, lubrication and engine conversion or replacement, but does not include an auto body repair shop, an impounding yard, an automobile service station

or a gas station.

Residential Care Facility - A family home, group care facility, or similar facility for twenty-four (24) hour non-medical care of persons in need of personal services, supervision or assistance for sustaining the activities of daily living or for the protection of the individual.

Restaurant - A business establishment consisting of a kitchen and dining room, whose primary purpose is to prepare and serve food to be eaten by customers seated in the dining room.

Restaurant, Drive-In - A business establishment consisting of a kitchen, with or without a dining room, where food is prepared and packaged to eat either off the premises or within automobiles parked on the premises.

Restaurant, In-House - A private business establishment consisting of a kitchen, with or without a dining room, whose primary purpose is to prepare and serve food to be eaten by employees of the principal employer. For the purposes of this ordinance, the term "cafeteria" shall be synonymous with "Restaurant, In-House."

Rest Home - See Nursing Homes.

Retail Sales - A building where goods, wares, merchandise, substances, articles, or items are offered or kept for sale at retail, including storage of limited quantities of such goods, wares, merchandise, substances, articles, or items sufficient only to service such store.

Retail Store - A building where goods, wares, merchandise, substances, articles or items are offered or kept for sale at retail, including storage of limited quantities of such goods, wares, merchandise, substances, articles or items sufficient only to service such store.

Retaining Wall - A structure constructed to hold back or support an earthen bank.

Riding Stable - Any place that has more than fifteen (15) stalls or horse spaces to board, train, or provide recreational equine activities.

Right-of-Way - An area of land that is legally described in a registered deed for the provision of public access within which there is usually a road or street. The term right-of-way shall include any defined access route or point including but not limited to public and private accesses, road easements, streets, roads, and drives other than a private drive serving a single owner.

Right-of-Way Line - A dividing line between a lot, tract, or parcel of land and the public right-of-way.

Roadside Stand - A structure having a ground area of not more than three hundred (300) square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises, bait, and other approved products.

Rodeo Grounds - A building or place where rodeo events such as roping and riding are done for practice or competition.

Row of Trees - Ten (10) or more trees planted in a line, separated by a distance of forty (40) feet or less.

Running Gear - The parts which allow a manufactured home to be mobile including the tires, wheels, axles, running lights, and hitch. This definition shall include all mobility items exclusive of the parts of the chassis that make up the structural integrity of the manufactured home.

Salvage Yard - A place for the storage, keeping, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

Satellite Dish/Receiver - A device incorporating a reflective surface that is solid, open mesh, or bar configured and is the shape of a shallow dish or cone designed and used for the reception of television signals related back to earth from a terrestrially and/or orbital based communications satellite.

School, Boarding - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools, accredited by the State of South Dakota and provides room and board for its students; but excluding private trade or commercial schools. Day Care Centers as herein defined, shall not be considered schools as applicable to this definition.

School, Denominational or Private - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools and accredited by the State of South Dakota; but excluding private trade or commercial schools. Day Care Centers as herein defined, shall not be considered schools as applicable to this definition.

School, Public - A school under the sponsorship of a public agency providing elementary or secondary curriculum, and accredited by the State of South Dakota; but excluding private trade or commercial schools.

School, Trade or Commercial - An establishment other than an accredited or licensed public, private or denominational school, offering training or instruction in art, occupation or trade.

Screening - A continuous fence, wall, compact evergreen hedge or combination thereof, supplemented with landscape planting, which would effectively screen the property which it encloses, and is broken only by access drives and walks.

Secondhand Shop - The use of land, or building or structure or part thereof where used goods, wares, merchandise, substances, or articles are offered or kept for sale but shall not include a pawnshop.

Security Dwelling Unit - A building or portion thereof designed for occupancy by a security

employee.

Self-Storage Units - A building containing separate, individual self-storage units divided from the floor to the ceiling by a wall with an independent entrance from the exterior of the building, designed to be rented or leased on a short-term basis to the general public for private storage of personal goods, materials and equipment.

Semi-Portable Agricultural Structures - Anything that requires placement on the ground for agriculture related purposes. Semi-portable agricultural structures include, but are not limited to, feed bunks, calving, lambing, or farrowing sheds, and temporary grain storage facilities.

Services - Establishments, primarily engaged in providing services for individuals, business and government establishments and other organizations, including hotels and other lodging places, establishments providing personal business, repair, and amusement services, health, legal, engineering, and other professional services, educational institutions, membership organizations, and other miscellaneous services.

Service Establishment - Establishments primarily engaged in providing services for individuals, business and government establishments and other organizations, including hotels and other lodging places, establishments providing personal business, repair, and amusement services, health, legal, engineering, and other professional services, educational institutions, membership organizations and other miscellaneous services.

Setback - The minimum horizontal distance from a lot line, to a wall of the building, exclusive of permitted projections. The setback shall be measured at right angles to such lot lines.

Shelterbelt - Three or more rows of trees and/or shrubs that reduce erosion and protects against the effects of wind and storms.

Shelterbelt Restoration - The removal and replacement of two or more rows of trees or of trees totaling one-half acre or more, whichever is greater, in an existing shelterbelt.

Shooting Range - An area or structure specially designed for the safe discharge and use of firearms and/or archery on a regular basis by shooters other than the land owner.

Sight Triangle - The triangular space formed by the right-of-way lines of a corner lot and a line drawn from a point in one right-of-way line to a point in the other right-of-way line. The side yard setback for a site triangle will only apply to the road side.

Sign - Any device designed to inform or attract the attention of persons not on the premises on which the sign is located, provided, however, that the following shall not be included in the application of the regulations herein:

1. Signs not exceeding one (1) square foot in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification or premises not having commercial connotations;

2. Flags and insignias of any government, except when displayed in connection with commercial promotion;
3. Legal notices, identification, informational, or directional signs erected or required by governmental bodies;
4. Integral decorative or architectural feature of buildings, except letters, trademarks, moving parts, or moving lights; and
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Sign, Advertisement - An advertisement sign, billboard, or poster panel which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such advertising sign is located or to which it is affixed, but does not include those business signs which direct attention to the business on the premises to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.

Sign, Banner - A temporary sign, which has a maximum area of twelve (12) square feet, composed of lightweight material either enclosed or not in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere (i.e., pennants, twirling signs, balloon, or other gas-filled figures, ribbons, or other similar moving devices) and intended to be displayed for a limited period of time.

Sign, Bulletin Board - An exterior sign, which has a maximum area of thirty-five (35) square feet, used by public, charitable, and religious institutions for the purpose of informing the public about activities of their organization.

Sign, Business - A sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises on which such sign is located or to which it is affixed. See also on-site and off-site signs.

Sign, Directional Off-Site - An exterior sign that is generally informational, that has a purpose secondary to the use of the primary use on a property that is not adjacent to the property on which the directional off-site sign exists. Said sign shall include those signs placed by a political subdivision and those signs standardized by the South Dakota Department of Transportation.

Sign, Directional On-Site - An exterior sign that is generally informational, that has a purpose secondary to the use of the property on which it is located, such as "no parking," "entrance," and "loading only." Said sign shall conform to standards adopted or approved by the regulating public agency.

Sign, Easement and Utility - An exterior sign, a maximum area of five (5) square feet, used to identify the location of easements, property lines, utilities, hazards, or providing restrictions of public access.

Sign, Flag - Any fabric or bunting containing distinctive colors, patterns, or symbols, which has a maximum area of twenty (20) square feet and is used as a symbol of government, political subdivision, or other entity.

Sign, Ground and Monument - An exterior sign permanently attached to the ground to identify churches, schools, institutional, and public uses. Said sign may also identify a specific neighborhood by displaying the name of the tract. Ground and monument signs:

1. Are generally constructed of concrete or other masonry material;
2. Shall not exceed twenty (20) feet in height above the mean right-of-way centerline or grade;
3. Shall meet a minimum of one-half (½) of the yard requirements for the district in which it is located; and
4. Shall not exceed one hundred (100) square feet on one (1) side or two hundred (200) square feet on all sides of any one (1) premise.

Sign, Mounted Wall - A sign, which has a maximum area of one hundred (100) square feet, that is attached to or erected against a wall of a building and shall project no more than twelve (12) inches from the wall of the building. Said sign is intended to be read from directly in front of the face of the building.

Sign, Name and Address Plate - A sign, which has a maximum area of two (2) square feet, that is affixed to the side of a building informing the public as to the residents, occupation, and/or address of the building.

Sign, Off-Site - A sign other than an on-site sign, which has a maximum area of six hundred (600) square feet. Off-site signs are conventionally known as billboards regardless of size, which also need to comply with § 31-29 if located along a state or federal highway right of way.

Sign, On-site, Exterior - An exterior sign, which has a maximum area of one hundred (100) square feet, relating in subject to the premises upon which it is located, or to products, accommodations, services, or activities on the premises. Exterior on-site signs do not include signs erected by outdoor advertising industry in the conduct of the outdoor advertising business, such as billboards, which are classified as off-site signs.

Sign, Portable - Any sign, which has a maximum area of twenty (20) square feet, not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu and sandwich board signs. Signs attached to or painted on vehicles parked and visible from the public right-of-way shall not be included in this definition and shall be prohibited unless said vehicle is used in normal day-to-day operations of the business. Said sign is intended to be displayed for a limited period of time.

Sign, Projecting - Any sign, which has a maximum area of one hundred (100) square feet, that is affixed to a building or wall in such a manner that its face is perpendicular to the face of the building and the sign extends more than twelve (12) inches beyond the surface of such building or wall.

Sign, Real Estate - An exterior sign for the purpose of advertising the sale, rental, lease of real property. Said sign is located on the premises for sale, rental, or lease and shall be of a temporary nature and shall have a maximum area of four (4) square feet except in the Commercial, Highway Commercial, or Industrial Districts where the maximum area shall be thirty-two (32) square feet.

Sign, Roof - Any sign, which has maximum area of three hundred (300) square feet that is erected upon, against, or directly above a roof or on top of the parapet of a building.

Solar Energy System - A photovoltaic (PV) system that generates and supplies electricity on an individual property.

Street - A right-of-way established by a recorded plat to provide the primary means of access to abutting property. The term shall also include the term "road" or other similar means of conveyance or access.

Street Line - The right-of-way line of a street.

Street, Arterial - A public street or highway intended to be used primarily for fast or heavy through traffic.

Structure - Anything constructed or erected which requires location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings, farm buildings to include grain bins and silos, manufactured homes, and permanently mounted signs. This definition does not include semi-portable agricultural structures or pouring of concrete for driveways, etc., as long as a structure will not sit on the concrete.

Structural Alterations - Any change in the supporting members of a structure such as bearing walls, columns, beams or girders, foundations and poles. See Building, Alterations of.

Survey - the finished result of the technique and science of measuring positions and distances on Earth.

Swimming Pool - A water filled enclosure, permanently constructed or portable, having a depth of more than twenty four inches below the level of the surrounding land, or an above ground pool, having a depth of more than thirty inches, designed used and maintained for swimming.

Swine Production Unit - An operation confining a specific number of female breeding age swine for the purpose of farrowing. All farrowed swine shall be relocated to an off-site nursery facility,

as defined by this ordinance, at approximately ten (10) pounds or said swine shall be calculated as part of the total animal units.

Tank Farm - A facility having two or more storage containers for the transfer of inorganic liquids or gases and from which wholesale sales of fuel to the public is or may be conducted.

Temporary Construction Facilities - Parcels of land or structures where construction or mining support facilities are constructed or placed at or near a job site to provide materials and support mechanisms for construction or mining projects. The term shall include but is not limited to portable offices, signage, trailers, stationary and mobile equipment, and scales. Common uses include portable concrete, processing, or asphalt plants, job site trailers, and areas for equipment parking, material storage or stockpiling. The term temporary shall be flexible yet is generally tied to a related construction project with defined start-up and completion times.

Thrift Shop - A shop operated by a charitable organization, which sells, donated used merchandise only. All such merchandise shall be displayed and/or stored in an enclosed building.

Tower - A structure intended for transmitting or receiving television, radio, telephone communications or other electronic or electromagnetic signals, such structure being in excess of 100' in height or the base of which is located a distance less than the height of the tower from the property line.

Travel Trailer - A moveable vehicle with wheels designed or used as living and sleeping quarters or for recreation or business purposes, and such vehicles that have not had the wheels removed; to include campers, recreation vehicles, and trailer coaches.

Truck or Equipment Terminal - A building, structure or place where six (6) or more commercially licensed trucks are rented, leased, kept for hire, stored, or parked for compensation, or from which trucks or transports, stored or parked on the property, are dispatched for hire as common carriers, and which may include warehouse space.

Use - Use shall mean the purpose for which a lot or a building or structure, or any portion thereof, is designed, arranged, intended, occupies, or maintained, and "used" shall have a corresponding meaning.

Utility Facilities - Any above-ground structures or facilities, other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities, owned by a governmental entity, a nonprofit organization, a corporation, or any entity defined as a public utility for any purpose and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals.

Variance - A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for area and size of structure or size of yards and open spaces; establishment or expansion

of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining district or because of conditions created by the landowner.

Veterinary Clinic - A building or part of a building used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured animals, and those who are in need of medical or surgical attention. Such clinics may or may not provide long-term lodging for ill or unwanted animals, or lodging for healthy animals on a fee basis. No outside runs, pens, or facilities shall be permitted.

Veterinary Service - Shall be defined as a veterinary clinic except that outside pens and runs are allowed.

Video Rental Shop - The use of land, building or structure for the purpose of renting video cassette recorders and/or video disc players and/or the rental of video tapes and/or discs.

Vision Clearance - An unoccupied triangular space at the intersection of right-of-ways with other right-of-ways or at the intersection of right-of-ways with railroads. See Traffic Visibility Triangle.

Warehouse - A building or part of a building used for the storage and distribution of goods, wares, merchandise, substances, or articles and may include facilities for a wholesale or retail commercial outlet, but shall not include facilities for a truck or transport terminal or yard.

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

Wholesale - The sale of commodities to retailers or jobbers and shall include the sale of commodities for the purpose of carrying on any trade or business even if the said trade of business is the consumer or end user of the commodity.

Wind Energy System – Commercial - A single, or multiple, structure(s) or place(s), such as a wind turbine, designed and constructed to generate power from wind for distribution to off-site users.

Wind Energy System – Non-Commercial - A single structure or place, such as a wind turbine, designed and constructed to generate power from wind and primarily intended to generate power for on-site use.

Windbreak - Any non-opaque manmade structure constructed of any material and erected adjacent to an animal feeding, calving, or other such lot of which its principal use is that of protecting livestock from the effects of the wind.

Yard - An open space at grade, other than a court or plaza, between a structure and the adjacent

lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward.

Yard, Front - An open, unoccupied space on a lot facing a right-of-way and extending across the front of the lot between the side lot lines; measured from the road right-of-way to the structure.

Yard, Rear - An open, unoccupied space extending across the rear of a lot from one side lot line to the other side lot line.

Yard, Side - An open, unoccupied space on the same lot with a building situated between the building and sideline of the lot and extending through from the front yard to the required rear yard. Any lot line not the rear line or a front line shall be deemed a sideline.

Zone - An area within which, in accordance with the provisions of this Ordinance, certain uses of lands, buildings, and structures are permitted and certain others are prohibited, where yards and other open spaces are required, where lot areas, building height limits, and other requirements are established, all of the foregoing being identical for the zone and district in which they apply.

Zoning Administrator - An official of the County appointed and confirmed by the County Commission, charged with the responsibility of administering this ordinance. Zoning Administrator may also mean Deputy Zoning Administrator or Planning and Zoning Department.

ARTICLE 2

ADMINISTRATION

Section 2:01. General
Section 2:02. Jurisdiction
Section 2:03. Provisions of this Ordinance Declared to the Minimum Requirements
Section 2:04. Zoning Affects Every Building and Use
Section 2:05. Performance Standards
Section 2:06. Yard and Lot Reduction Prohibited
Section 2:07. Districts Created
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Section 2:09. Zoning Map Replacement
Section 2:10. Regulation Amendments
Section 2:11. Rules for Interpretation of District Boundaries
Section 2:12. Erection of More than One Principal Structure on a Lot
Section 2:13. Moving a Structure
Section 2:14. Nuisance Property
Section 2:15. Shelterbelts
Section 2:16. Sewage Disposal or Treatment Sites
Section 2:17. Agricultural Use and Industrial Development Covenant Required
Section 2:18. Naming of Additions and Subdivisions
Section 2:19. Flood Zones

Section 2:01. General

This Ordinance shall be known, cited, and referred to as “The Zoning Ordinance of Davison County, South Dakota,” to the same effect as if the full title were stated. The regulations, set forth by this Ordinance within each district, shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

Section 2:02. Jurisdiction

As established on the map entitled “The Official Zoning Map of Davison County, South Dakota”, the provisions of this Ordinance shall apply within the unincorporated areas of Davison County, South Dakota, to include Loomis but excluding Ethan, Mt. Vernon, and Mitchell.

In accordance with § 11-3-6, § 11-6-26.1 and any other authority provided by law or as such statutes may be amended, the City of Mitchell, under city code 10-1-2: Jurisdiction, hereby exercises the power and authority of zoning within the extraterritorial jurisdiction of the city and county as provided by law for such purpose.

The extraterritorial jurisdiction that has been mutually agreed upon by the city of Mitchell council and the Davison County board of commissioners documented in the October 4, 1998 Commission Minutes, which is depicted on the official zoning maps of the city of Mitchell and Davison County and as such limits now exist or as they may be changed, in accordance with the

City of Mitchell Codified Law 10-1-2, is an area of approximately one (1) mile outside of the Mitchell City limits, which includes all or part of the following sections:

Mitchell Township 103-60;

Sections 3, 4, 5, 6, 8, 10, W ½ 11, 14, 15, 17, E ½ 19, 20, 23, W ½ 24, NW ¼ 25, 26, 27, 29, E ½ 30, 32, 33, 34, 35; and

Perry Township 104-60;

Sections 27, 28, 29, E ½ 30, 31, 32, and 34.

Section 2:03. Provisions of this Ordinance Declared to the Minimum Requirements

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a greater width or size of yards, courts or other spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required, in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance require a greater width or size of yards, courts, or other open spaces, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

Any restrictions on property included in covenants, reservations and restrictions, or by-laws are the responsibility of the property owner and/or developer.

Section 2:04. Zoning Affects Every Building and Use

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

Section 2:05. Performance Standards

No building or other structure shall hereafter be erected or altered, without obtaining a permit to:

1. Accommodate or house a greater number of families;
2. Occupy a greater area of the lot; or
3. Have narrower or smaller rear yards, front yards, side yards, or other open spaces.

Section 2:06. Yard and Lot Reduction Prohibited

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective

date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Section 2:07. Districts Created

For the purpose of this Ordinance, there are hereby created nine (9) types of districts by which the jurisdictional area defined in Section 2:02 shall be divided. The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the County Commissioners, attested by the Auditor, and bearing the seal of the County, under the following words: "This is to certify that this is the Official Zoning Map referred to in Ordinance No. 17-XX of Davison County, South Dakota," together with the date of the adoption of this Ordinance.

1. Agricultural (AG)
2. City Limits (CL)
3. Agricultural Residential (AR)
4. Extraterritorial Jurisdiction (ETJ)
5. Rural Estates (RE)
6. Rural Residential (RR)
7. Platted Town Site Residential District (PTR)
8. Planned Unit Development (PUD)
9. Rural Commercial (RC)

Section 2:08. Zoning Map Changes

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

No changes of any nature shall be made in the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 15:02.

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

Section 2:09. Zoning Map Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Davison County Commission may, by resolution, adopt a new Official Zoning Map that shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chairman of the County Commission, attested by the Auditor, and bearing the seal of the County, under the following words:

“This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted [date of adoption of map being replaced] as part of Ordinance [number of Ordinance adopted] of Davison County, South Dakota.”

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

Section 2:10. Regulation Amendments

The regulations, restrictions, and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed in accordance with § 11-2-18, provided that such modification or repeal in each instance be proposed in an Ordinance presented to the governing body for adoption in the same manner and upon the same notice as required for the adoption of the original Ordinance. Any Codified Law cited herein, which may be updated from time to time by the South Dakota Legislature, shall apply.

Prior to consideration of amending, supplementing, changing, modifying or repealing this Ordinance by the governing body, notice of public hearings shall be provided as follows:

1. If the proposed changes affect a particular piece of property a notice shall be posted in a conspicuous place on or near the property upon which action is pending. The sign must be at least twenty-four (24) inches wide and eighteen (18) inches tall with bold lettering to inform the public about the petition and hearing, in accordance with § 11-2-28.3. Such posted notice shall be so placed upon such premises that it is easily visible from the road and shall be so posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearings.

2. At least ten (10) days before the date of the Planning Commission hearing, the County shall have published in a legal newspaper a notice of the time, place, and subject matter of such hearing in accordance with § 11-2-19.
3. The Zoning Administrator or their designee in the event of a re-zone shall notify by mail all owners of abutting property for which action is sought. Notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date. A single notice explaining the Planning Commission Public Hearing and the County Commission Public Hearing shall be mailed to all abutting property owners.
4. The Planning Commission shall hold the Public Hearing in accordance with § 11-2-29, review the proposed amendment(s), and make recommendations to the County Commission.
5. At least ten (10) days before the date of the County Commission hearing, the County shall have published in a legal newspaper a notice of the time, place, and subject matter of such hearing; in accordance with § 11-2-19.
6. The County Commission shall hold a first reading and Public Hearing to review the proposed amendment(s).
7. The County Commission shall hold a second reading and Public Hearing to review the proposed amendment(s) and by ~~resolution or~~ Ordinance deny or pass the recommendations.
8. The Zoning Administrator or their designee shall prepare a summary of the changes, commonly referred to as a Findings of Fact.
9. Once the summary is prepared the States Attorney may review the changes and forward the changes to the County Auditor for publishing.
10. A notice of the fact of adoption (summary) must be published once in the legal newspaper(s) of the County in accordance with § 11-2-30. The changes will take effect twenty (20) days after publication.

Section 2:11. Rules for Interpretation of District Boundaries

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

1. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the Planning Commission shall interpret the district boundaries.

Section 2:12. Erection of More than One Principal Structure on a Lot

In any district, more than one structure, housing a permitted or permissible principal use, may be erected on a single lot, provided, that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

Section 2:13. Moving a Structure

In any district, any residential structure moved in a horizontal direction, must come into compliance with the most recent Uniform Building Code and this ordinance.

Section 2:14. Nuisance Property

Property shall be free from any person unlawfully doing an act, or omitting to perform a duty, which act or omission:

1. Annoys, injures, or endangers the comfort, repose, health, or safety of others;
2. In any way renders other persons insecure in life, or in the use of property;
3. Renders the ground, water, air, or food a hazard or an injury to human health;
4. Allows property to contain clutter or safety hazards;

5. Fails to encourage aesthetic standards and design requirements to maintain and improve the county's visual appeal and image, to include towers and signage.
6. Allows open burning without first notifying the Davison County Sheriff's Department of the location, property owner, and contact information.
7. Allows the dumping, abandonment, or disposal of any solid waste that will not be regularly collected and disposed of at a permitted solid waste facility.
8. Allows the burning of solid waste except as provided by § 34A-6-1.6 and except in a manner and under conditions approved by the department or board pursuant to § 34A-1.
9. Allows motorized vehicles or trailers of any kind or type without current license plates *and* operable stored in the Agriculture Residential District (AR), other than in completely enclosed buildings.

No provision of this section, or § 34A-6-1.1 to § 34A-6-1.38, inclusive, may be construed so as to prohibit a farmer or rancher from disposing of solid waste from normal farming operations or ordinary domestic activities upon his own land; provided such disposal does not create a nuisance or hazard to public health, does not violate a local ordinance, will not unlawfully pollute ground or surface waters or does not violate § 34A-1 or § 34A-2 or the water or air pollution control laws of the United States.

Section 2:15. Shelterbelts

Shelterbelts shall be planted no closer than seventy-five (75) feet from the road, lot line, or street right of way.

Section 2:16. Sewage Disposal or Treatment Sites

All individual sewage treatment systems shall be prohibited when any portion of the system is located less than three hundred and fifty (350) feet of a lake, river, or stream classified as a local or downstream public drinking water supply. Sites located between three hundred and fifty (350) feet to six hundred sixty (660) feet shall be required to obtain a conditional use as described herein. Sites located greater than six hundred sixty (660) feet shall be exempt from the conditional use process and shall be eligible for construction as prescribed by this Ordinance.

Septic systems installed within Davison County must comply with all applicable South Dakota Department of Environment and Natural Resources and State Plumbing Code regulations, to include AR 74:53:01. Systems installed by someone other than the owner shall be completed by a person licensed to do such work within the State of South Dakota. All plumbing construction and major plumbing remodel shall have a Plumbing Installation Certificate, which can be purchased from the State Plumbing Commission and returned to the Commission with an appropriate fee.

A water-carriage wastewater system may not be installed or operated on a lot which is smaller than 20,000 square feet in surface area if supplied by a public water supply system. A water-carriage wastewater system may not be installed or operated on a lot which is smaller than 43,560 square feet (1 acre) when potable water is supplied by a private water supply system located on the lot. A water-carriage wastewater treatment system may be installed and operated on a lot which is 20,000 square feet in surface area or larger if the requirements of AR 74:53:01:19 distance between on-site wastewater system components and pertinent ground features are met and the premises are supplied by a public water supply system, a private water supply system not located on the lot, or by hauling and storage of potable water in a cistern. The requirements of this section do not apply if wastewater is emptied into a holding tank or an unconventional system is used, in accordance with AR 74:53:01:16.

Individual or similar septic systems proposed where the concentration of development shall merit such review as determined by the Zoning Administrator, shall submit soil suitability and percolation tests prior to issuance of a building permit. A percolation test may also be a stipulation of the Planning Commission.

Section 2:17. Agricultural Use and Industrial Development Covenant Required

An Agricultural Use and Industrial Development Covenant, as defined herein, shall be required and approved by the County Zoning Administrator and recorded at the Register of Deeds office in accordance with South Dakota Codified Law required prior to issuance of:

1. All residential or commercial building permits.
2. Plats intended for residential dwellings or commercial use.
3. Requests for rezoning of agriculture land.

A building permit to replace or enlarge an existing residence or commercial building is exempt from this requirement.

Section 2:18. Naming of Additions, Subdivisions, Tracts, and Roads

Every addition, subdivision, or tract within Davison County and subject to this Zoning Ordinance shall be uniquely named. Such name shall not duplicate, be the same in spelling, or alike in pronunciation, with or to any existing addition, subdivision, or tract in Davison County; unless it is an extension of or adjoining to an existing addition or subdivision recorded in Davison County. Naming of Plat shall not include an initial along with a name. Such addition, subdivision, and tract names are subject to the approval of the Davison County Register of Deeds; whose decision shall be final. Plats which do not comply with this section and the general provisions of Section 13:05 (B) of this ordinance shall not be entitled to recording.

All new road names must be approved by the Register of Deeds, Local Emergency Planning Commission (LEPC), the Davison County Planning Commission, and the Davison County Commissioners.

Section 2:19. Flood Zones

No residential structures designed for human habitation including manufactured and modular homes shall be placed, sited, or constructed within a floodway as defined herein without meeting the criteria set forth in the Davison County Flood Damage Prevention Ordinance. Residential dwellings including manufactured and modular homes currently located within a floodway as defined herein shall not be allowed to expand without review pursuant to the requirements of this Ordinance and the Flood Damage Prevention Ordinance.

ARTICLE 3

AGRICULTURAL DISTRICT (AG)

Section 3:01. Intent

Section 3:02. Permitted Principal Uses and Structures

Section 3:03. Permitted Accessory Uses and Structures

Section 3:04. Conditional Uses and Structures

Section 3:05. Classification of Unlisted Uses and Structures

Section 3:06. Prohibited Uses and Structures

Section 3:07. Minimum Lot Requirements

Section 3:08. Minimum Setback Requirements for Structures

Section 3:09. Concentrated Animal Feeding Operation Standards (500 to 999 Animal Units)

Section 3:10. Concentrated Animal Feeding Operation Standards (1000 Animal Units or more)

Section 3:11. Wind Energy Systems

Section 3:01. Intent

The intent of Agricultural Districts (AG) is to protect agricultural lands and lands consisting of natural growth from incompatible land uses in order to preserve land best suited to agricultural uses and land in which the natural environment should be continued; and to limit residential, commercial, and industrial development to those areas where they are best suited for reasons of practicality and service delivery.

Section 3:02. Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in the Agricultural District (AG):

1. Agriculture;
2. Bed and breakfasts;
3. Day cares, family;
4. Dwellings, additional farm;
5. Dwellings, single-family;
6. Farms;
7. Farm buildings;
8. Historic sites;
9. Kennels;
10. Manufactured homes;

11. Modular homes;
12. Orchards;
13. Parks;
14. Ranches;
15. Rental Property of less than three (3) units.
16. Storage Building;
17. Utility facilities;
18. Veterinary services; and
19. Wind energy system – non-commercial. (With towers up to 75'(ft))

Section 3:03. Permitted Accessory Uses and Structures

Permitted accessory uses and structures shall be allowed, as long as a permitted principle use or structure exists on the property.

The following accessory uses and structures shall be permitted in the Agricultural District (AG):

1. Accessory agricultural structures;
2. Accessory buildings;
3. Accessory uses, not specifically regulated by ordinance and structures customarily incidental to permitted uses and structures when established within the space limits of this district;
4. Farm drainage and irrigation systems, flood control, watershed structures and erosion control devices meeting all county, state, and soil conservation district regulations;
5. Farm occupations;
6. Home occupations;
7. Roadside stands for sales of farm products, fish bait, and other approved products;
8. Shelterbelts;

9. Signs, on-site;

10. Stock dams.

Section 3:04. Conditional Uses and Structures

After the provisions of this Ordinance relating to conditional uses and structures have been fulfilled, the Planning Commission and Board of Adjustment may permit a temporary or permanent conditional use or structure in the Agricultural District (AG) for the following, regardless if a permitted principle or accessory use exists on the property:

1. Agricultural product processing facilities;

2. Airports;

3. Aquaculture;

4. Auction yards and barns;

5. Auto sales or vehicles, including trailers;

6. Campgrounds;

7. Cemeteries;

8. Churches;

9. Commercial trucking terminals;

10. Concentrated animal feeding operations;

11. Day care centers;

12. Day cares, group family home;

13. Exhibition areas;

14. Extraction of sand, gravel, or minerals provided such uses meet requirements for conducting surface mining activities of § 45-6B;

15. Fairgrounds;

16. Fireworks stands;

17. Game farms;

18. Game lodges;
19. Golf courses;
20. Grain elevators;
21. Hobby farms;
22. Motor vehicle tracks or play areas;
23. Municipal or multi-residential sewage treatment sites pursuant to Section 2:15;
24. Open sales;
25. Private recreation areas;
26. Private shooting preserves;
27. Rental Property of three (3) or more units.
28. Repair shops;
29. Riding stables;
30. Salvage yard-recycling center;
31. Sanitary landfills or restricted use sites, permitted by the Department of Environment and Natural Resources (DENR);
32. Schools, public;
33. Schools, private or denominational;
34. Self-storage units;
35. Shooting range;
36. Signs, off-site;
37. Solar Energy Systems, with a total panel nameplate rating of 1,000 watts or higher or a system with an operating DC voltage of 100 volts or higher;
38. Special Events, which may include alcohol sales;
39. Swimming pools;

40. Towers;
41. Wildlife and game production areas;
42. Wind energy system, commercial; and
43. Wind energy system, non-commercial.

Section 3:05. Classification of Unlisted Uses and Structures

In order to insure that the zoning ordinance will permit all similar uses or structures in each district, the Planning Commission and the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use or structure not specifically listed as a permitted, accessory, or conditional use or structure in a District shall be deemed a permitted, accessory, or conditional use or structure in one or more districts on the basis of similarity to uses or structures specifically listed.

Section 3:06. Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 3:05 shall be prohibited.

Section 3:07. Minimum Lot Requirements

The minimum lot width shall be one hundred and fifty (150) feet.

The minimum lot area per single-family dwelling unit, modular, or manufactured home to be used as a residence shall be twenty-five (25) acres. Lots recorded at the Register of Deeds prior to May 1, 1996 are grandfathered in from complying with this Section.

The minimum lot area of twenty-five (25) acres may be waived by variance upon compliance with one of the following criteria:

1. The proposed building site is a farmstead as defined herein; then the minimum lot size shall be three (3) acres. The applicant shall secure a variance prior to issuance of a building permit.
2. An additional dwelling, occupied by other members of the family farm unit is to be placed within the existing farmstead.
3. A financing agency requiring a smaller lot size for the dwelling shall enable the applicant consideration of a variance, provided written proof of such requirement is presented to the Zoning Administrator upon request and the applicant verifies ownership of a minimum of twenty-five (25) acres adjacent to or abutting the proposed plat.

4. If the proposed building site will be transferred by the owner to a relative within the 3rd degree of kinship subject to the following limitations:
 - a. the minimum lot size shall be three (3) acres,
 - b. the applicant shall secure a variance prior to issuance of the building permit, and
 - c. the proposed building site shall be platted, and the plat recorded with the Register of Deeds prior to issuance of a building permit.
5. The Planning Commission and County Commission have the authority to determine whether a plat which does not meet the minimum lot area in a District be permitted.

Section 3:08. Minimum Setback Requirements for Structures

There shall be a setback from all public or private right-of-ways, and other structures. Setbacks will be measured from the edge of the structure, including a gutter or down spout, to the public right-of-way, according to the following:

1. All yards must meet the following criteria, which shall apply to all buildings and structures, including decks, patios, car ports, and obstructions;
 - a. A front yard setback from all public right-of-ways of not less than a depth of seventy-five (75) feet;
 - b. A rear yard setback from all lot lines or public right-of-ways of not less than a depth of fifty (50) feet;
 - c. A side yard setback from all lot lines or public right-of-ways of not less than a width of fifty (50) feet;
 - d. A corner lot shall meet the requirements of a site triangle, requiring a front yard setback in accordance with Section 3:08 (1) (a), and a side yard setback from all public right-of-ways of not less than a depth of seventy-five (75) feet.
2. No accessory building or structure shall be erected in any required yard area and no separate accessory building or structure shall be erected within five (5) feet of any other building or structure, unless connected.
3. No structure, other than a standard mailbox approved by the United States Post Office, shall be erected in any right of way.

4. No temporary items, such as bales, may remain in the right of way past November 1st of each year, in accordance with § 13-31-56.
5. No trees or crops may be planted or remain in the right of way at any time.
6. No trees shall be planted in any drainage or utility easement.

Section 3:09. Concentrated Animal Feeding Operation Standards (500 to 999 Animal Units)

1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources and the Planning & Zoning Office.
2. Prior to construction, such facilities shall obtain a storm water permit for construction activities from the South Dakota Department of Environment and Natural Resources. The storm water pollution prevention plan required by the permit must be developed and implemented upon the start of construction.
3. Animal Feeding Operation confinement and waste facilities shall comply with the following facility setback requirements:
 - a. Public wells 2,640 feet
 - b. Private wells 250 feet
 - c. Private wells (producers) 150 feet
 - d. Lakes, rivers, or streams classified as a drinking water supply 1,320 feet
 - e. Lakes, rivers, or streams classified as fisheries 500 feet
 - f. All public road right of ways 300 feet
 - g. Special Flood Hazard Area Prohibited
 - h. All property lines delineating an ownership change 300 feet
4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval and/or certification.
5. Animal feeding operation confinement and waste facilities shall be located no closer than one (1) mile from any incorporated municipality.
6. Animal feeding operation confinement and waste facilities shall be located no closer than one-quarter ($\frac{1}{4}$) mile from any church, commercially zoned area, or residential dwelling. One or more dwelling units are allowed on the facility site.

Residential dwellings associated with the animal feeding operation do not have to meet setback requirements.

7. The owner and/or operator of a proposed animal feeding operation or the owner and/or developer of proposed residential property may request a variance decreasing the separation distances required by this Article. Prior to approval of a variance in the agriculture district the owner(s) of all property within $\frac{1}{2}$ mile of the proposed animal feeding operation will be informed of the application by mail at least 10 days prior to any hearings.
8. Animal waste shall be transported in leak proof containers and all hauling equipment shall comply with Davison County load limits.
9. Animal waste generated outside of and transported to Davison County for the purpose of land application shall comply with manure application setbacks as prescribed in this section.
10. Animal feeding operations shall prepare a facility management plan to dispose of dead animals, manure, and wastewater in such a manner as to control odors or flies. The Planning Commission and Board of Adjustment will review the need for control measures on a site-specific basis.
11. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is incorporated or injected:
 - a. Public wells 1,320 feet
 - b. Private wells 660 feet
 - c. Private wells (producers) 150 feet
 - d. Lakes, rivers, or streams classified as a drinking water supply 1,320 feet
 - e. Lakes, rivers or streams classified as fisheries 660 feet
 - f. All public road right-of-ways 0 feet
 - g. Special Flood Hazard Area Prohibited
 - h. Incorporated or unincorporated communities 660 feet
 - i. A residence other than the operators 100 feet
 - j. All property lines delineating an ownership change 0 feet

12. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is irrigated or surface applied:

a. Public wells	1,320 feet
b. Private wells	660 feet
c. Private wells (producers)	150 feet
d. Lakes, rivers or streams classified as a drinking water supply	2,640 feet
e. Lakes, rivers or streams classified as fisheries	660 feet
f. All public road right-of-ways (surface)	100 feet
g. All public road right-of-ways (irrigated)	660 feet
h. Special Flood Hazard Area	Prohibited
i. Incorporated or unincorporated communities	2,640 feet
j. A residence other than the operators (surface)	330 feet
k. A residence other than the operators (irrigated)	660 feet
l. All property lines delineating an ownership change (surface)	100 feet
m. All property lines delineating an ownership change (irrigated)	200 feet

Section 3:10. Concentrated Animal Feeding Operation Standards (1000 Animal Units or more)

1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources and the Planning & Zoning Office.
2. Prior to construction, such facilities shall obtain a storm water permit for construction activities from the South Dakota Department of Environment and Natural Resources. The storm water pollution prevention plan required by the permit must be developed and implemented upon the start of construction.
3. Animal Feeding Operation confinement and waste facilities shall comply with the following facility setback requirements:
 - a. Public wells 2,640 feet

- | | |
|--|------------|
| b. Private wells | 250 feet |
| c. Private wells (producers) | 150 feet |
| d. Lakes, rivers, or streams classified as a drinking water supply | 1,320 feet |
| e. Lakes, rivers, or streams classified as fisheries | 500 feet |
| f. All public road right of ways | 300 feet |
| g. Special Flood Hazard Area | Prohibited |
| h. All property lines delineating an ownership change | 300 feet |
4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval and/or certification.
 5. Animal feeding operation confinement and waste facilities shall be located no closer than one (1) mile from any incorporated municipality.
 6. Animal feeding operation confinement and waste facilities shall be located no closer than one-half ½ mile from any church, commercially zoned area, or residential dwelling. One or more dwelling units are allowed on the facility site. Residential dwellings associated with the animal feeding operation do not have to meet setback requirements.
 7. The owner and/or operator of a proposed animal feeding operation or the owner and/or developer of proposed residential property may request a variance decreasing the separation distances required by this Article. Prior to approval of a variance in the agriculture district the owner(s) of all property within ½ mile of the proposed animal feeding operation will be informed of the application by mail at least 10 days prior to any hearings.
 8. Animal feeding operations shall prepare a facility management plan to dispose of dead animals, manure, and wastewater in such a manner as to control odors or flies. The Planning Commission and Board of Adjustment will review the need for control measures on a site-specific basis.
 9. Animal waste shall be transported in leak proof containers and all hauling equipment shall comply with Davison County load limits.
 10. Animal waste generated outside of and transported to Davison County for the purpose of land application shall comply with manure application setbacks as prescribed in this section.

11. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is incorporated or injected:

a. Public wells	1,320 feet
b. Private wells	660 feet
c. Private wells (producers)	150 feet
d. Lakes, rivers, or streams classified as a drinking water supply	1,320 feet
e. Lakes, rivers or streams classified as fisheries	660 feet
f. All public road right-of-ways	0 feet
g. Special Flood Hazard Areas	Prohibited
h. Incorporated or unincorporated communities	660 feet
i. A residence other than the operators	100 feet
j. All property lines delineating an ownership change	0 feet

12. Manure generated from animal feeding operations shall comply with the following manure application setback requirements if the manure is irrigated or surface applied:

a. Public wells	1,320 feet
b. Private wells	660 feet
c. Private wells (producers)	150 feet
d. Lakes, rivers or streams classified as a drinking water supply	2,640 feet
e. Lakes, rivers or streams classified as fisheries	660 feet
f. All public road right-of-ways (surface)	100 feet
g. All public road right-of-ways (irrigated)	660 feet
h. Special Flood Hazard Areas	Prohibited
i. Incorporated or unincorporated communities	2,640 feet
j. A residence other than the operators (surface)	330 feet

- k. A residence other than the operators (irrigated) 660 feet
- l. All property lines delineating an ownership change (surface) 100 feet
- m. All property lines delineating an ownership change (irrigated) 200 feet

ARTICLE 4

AGRICULTURAL - RESIDENTIAL DISTRICT (AR)

Section 4:01. Intent

Section 4:02. Permitted Principal Uses and Structures

Section 4:03. Permitted Accessory Uses and Structures

Section 4:04. Conditional Uses and Structures

Section 4:05. Classification of Unlisted Uses and Structures

Section 4:06. Prohibited Uses and Structures

Section 4:07. Minimum Lot Requirements

Section 4:08. Minimum Setback Requirements for Structures

Section 4:09. Rural Development Standards

Section 4:10. Concentrated Animal Feeding Operation Standards (500 to 999 Animal Units)

Section 4:01. Intent

The intent of Agricultural - Residential Districts (AR) is to protect agricultural lands and lands consisting of natural growth from incompatible land uses while providing for single family residential uses in a pleasant and stable environment; yet to encourage in-fill development of rural areas which currently support rural residential developments and to limit increased residential development to areas where they are best suited for reasons of practicality and service delivery.

Section 4:02. Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in the Agricultural - Residential District (AR):

1. Additional farm dwellings;
2. Agriculture;
3. Bed and breakfasts;
4. Day cares, family;
5. Dwellings, single-family;
6. Farms;
7. Farm buildings,
8. Farms, hobby;
9. Historic sites;

10. Horticulture;
11. Modular homes;
12. Orchards;
13. Parks;
14. Ranches;
15. Rental Property of less than three (3) units.
16. Shelterbelts;
17. Stock dams;
18. Storage Building;
19. Utility facilities; and
20. Veterinary clinics.

Section 4:03. Permitted Accessory Uses and Structures

Permitted accessory uses and structures shall be allowed, as long as a permitted principle use or structure exists on the property.

The following accessory uses and structures shall be permitted in the Agricultural - Residential District (AR):

1. Accessory agricultural structures;
2. Accessory buildings;
3. Accessory uses, not specifically regulated by ordinance and customarily incidental to permitted uses and structures when established within the space limits of this district;
4. Farm drainage and irrigation systems, flood control and watershed structures and erosion control devices meeting all county, state, and soil conservation district regulations;
5. Farm occupations;
6. Home occupations;

7. Roadside stands for sales of farm products, fish bait, and other approved products;
and
8. Signs, on-site;

Section 4:04. Conditional Uses and Structures

After the provisions of this Ordinance relating to conditional uses and structures have been fulfilled, the Planning Commission and Board of Adjustment may permit a temporary or permanent conditional use or structure in the Agricultural - Residential District (AR) for the following, regardless if a permitted principle or accessory use exists on the property:

1. Accessory agricultural structures;
2. Agricultural product processing facilities;
3. Aquaculture;
4. Auction yards and barns;
5. Auto sales or vehicles, including trailers;
6. Campgrounds;
7. Cemeteries;
8. Churches;
9. Commercial trucking terminals;
10. Concentrated animal feeding operations;
11. Convenience stores;
12. Day care centers;
13. Day cares, group family home;
14. Exhibition areas;
15. Extraction of sand, gravel, or minerals provided such uses meet requirements for conducting surface mining activities of § 45-6B;
16. Fairgrounds;

17. Fireworks stands;
18. Game farms;
19. Game lodges;
20. Governmental services;
21. Golf courses;
22. Grain elevators;
23. Kennels;
24. Manufactured homes;
25. Motor vehicle tracks or play areas;
26. Municipal or multi-residential sewage treatment sites pursuant to Section 1211;
27. Open sales areas;
28. Private recreation areas;
29. Private shooting preserves;
30. Rental Property of three (3) or more units.
31. Repair shops;
32. Riding stables;
33. Salvage yard-recycling center;
34. Sanitary landfills or restricted use sites, permitted by the Department of Environment and Natural Resources (DENR);
35. Self-storage units;
36. Shooting range;
37. Signs, off-site;
38. Solar Energy Systems, with a total panel nameplate rating of 1,000 watts or higher or a system with an operating DC voltage of 100 volts or higher;

- 39. Special Events, which may include alcohol sales;
- 40. Swimming pools;
- 41. Tower;
- 42. Veterinary services;
- 43. Wildlife and game production areas; and
- 44. Wind Energy System, Non-Commercial

Section 4:05. Classification of Unlisted Uses and Structures

In order to insure that the zoning ordinance will permit all similar uses or structures in each district, the Planning Commission or the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use or structure not specifically listed as a permitted, accessory, or conditional use or structure in a District shall be deemed a permitted, accessory, or conditional use or structure in one or more districts on the basis of similarity to uses or structures specifically listed.

Section 4:06. Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 4:05 shall be prohibited.

Section 4:07. Minimum Lot Requirements

The minimum lot width shall be one hundred and fifty (150) feet.

The minimum lot area per single-family dwelling unit, modular, or manufactured home to be used as a residence shall be twenty-five (25) acres. Lots recorded at the Register of Deeds prior to May 1, 1996 are grandfathered in from complying with this Section.

The minimum lot area of twenty-five (25) acres may be waived by variance upon compliance with one of the following criteria:

1. The proposed building site is a farmstead as defined herein; then the minimum lot size shall be three (3) acres. The applicant shall secure a variance prior to issuance of a building permit.
2. An additional dwelling, occupied by other members of the family unit is to be placed within the existing farmstead.
3. A financing agency requiring a smaller lot size for the dwelling shall enable the applicant consideration of a variance, provided written proof of such requirement