

- b. A Commercial WECS shall be deemed inoperable if it has not generated power for 12 consecutive months.

7. Roads

- a. **Public Roads.** Prior to commencement of construction, the permittees shall identify all state, county or township “haul roads” that will be used for the WECS project and shall notify the governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practical, existing roadways shall be used for all activities associated with the WECS. Where practical all-weather roads shall be used to deliver concrete, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites.

The permittees shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate governmental body having jurisdiction over approved haul roads for construction of the WECS for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and components. The permittees shall notify the Lincoln County Planning Department of such arrangements.

- b. **Turbine Access Roads.** Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. When access roads are constructed across streams and drainage ways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed.
 - c. **Private Roads.** The permittee shall promptly repair private roads, easements or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.
 - d. **Dust Control.** The permittees shall utilize all reasonable measures and practices of construction to control dust.
8. **Soil Erosion and Sediment Control Plan.** The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the Lincoln County Planning Department. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive revegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material

and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.

9. Decommissioning/Restoration/Abandonment.

- a. Decommission Plan. Within 120 days of completion of construction, the permittees shall submit to the Lincoln County Planning Department a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out these restoration requirements when they go into effect. The permittees shall ensure that it carries out its obligation to provide the resources necessary to fulfill these requirements. The Lincoln County Planning Department may at any time request the permittees to file a report with the Lincoln County Planning Department describing how the permittees are fulfilling this obligation.
- b. Site Restoration. Upon expiration of this permit, or upon earlier termination of operation of the WECS, the permittees shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four feet. To the extent possible, the permittees shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be recorded with the Lincoln County Planning Department and shall show the locations of all such foundations. All such agreements between permittees and the affected landowner shall be submitted to the Lincoln County Planning Department prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen (18) months after expiration.
- c. Abandoned Turbines. The permittee shall advise the Lincoln County Planning Department of any turbines that are abandoned prior to termination of operation of the WECS. The Lincoln County Planning Department may require the permittees to decommission any abandoned turbine.
- d. Providing Surety. The Planning Director shall decide if it is prudent to include provisions that ensure financial resources will be available for decommissioning. This may include establishing an escrow account into which the project developer/owner will deposit funds on a regular basis over the life of the project. The unit of government shall then have access to the escrow account for the explicit purpose of decommission. Financial provisions shall not be so onerous as to make WECS projects unfeasible.

10. Application Contents. Every application for a commercial WECS permit shall include the following information:
- a. Name and address of the applicant.
 - b. Evidence that the applicant is the owner of the property involved or has written permission of the owner to make such application.
 - c. A plot and development plan drawn in sufficient detail to clearly describe the following:
 - i. Physical dimensions and locations of the property, existing structures, and proposed structures.
 - ii. Location of electrical lines and facilities.
 - iii. Existing topography.
 - iv. Proposed grading and removal of natural vegetation.
 - v. Wind characteristics and dominant wind direction is the direction from which 50 percent or more of the energy contained in the wind flows.
 - vi. Setbacks.
 - vii. Ingress and egress identifying the following factors:
 - 1. Location and distance to the nearest publicly maintained road;
 - 2. A description of the access route from the nearest publicly maintained road to include:
 - a. Road surface material stating the type and amount of surface cover;
 - b. Width and length of access route;
 - c. Dust control procedures;
 - d. A road maintenance schedule or program;
 - e. Utilization of the property under the requested permit.
 - d. Utility interconnection data and a copy of written notification to the utility of the proposed interconnection.
 - e. Specific information on the type, size, height, rotor material, rated power output,

performance, safety, and noise characteristics of each WECS model, tower and electrical transmission equipment.

- f. A location map to scale of all dwellings within ½ mile of the boundary of the property upon which the WECS are to be located.
 - g. If the Planning Director determines it is necessary, the application shall be accompanied by a photograph or detailed drawing of each model of WECS including the tower and foundation; and one or more detailed computer or photographic simulation drawing showing the site fully developed with all proposed WECS and accessory structures.
 - h. An application including any WECS which is located within a 100-year flood plain area, as such flood hazard areas are shown on the maps designated by FEMA, shall be accompanied by a Flood Plain Development Permit.
 - i. An application including any WECS which is located within two miles of any microwave communications link shall be accompanied by a copy of written notification to the operator of the link.
 - j. The types and quantities of wastes, fluids, or pollutants that are proposed to be handled, processed, treated, stored, disposed of, emitted, or discharged at each vessel containing fluid and for the entire project.
 - k. Project schedule.
 - l. Such additional information as shall be required by the Planning Director.
11. Flicker Analysis. A Flicker Analysis shall include the duration and location of flicker potential for all receptors and road ways within a one (1) mile radius of each turbine within a project. The applicant shall provide a site map identifying the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall account for topography but not for obstacles such as accessory structures and trees. Flicker at any receptor shall not exceed thirty (30) hours per year within the analysis area.

(Amended: Ordinance No. 1611-38, 11-22-16)

D. Application Review.

- 1. Administrative Review. An Accessory WECS shall require an administrative review. The Planning Director will make a decision to approve or deny within fifteen (15) days of submittal or the application is deemed approved. If a third-party technical study is required, a decision to approve or deny an application may be postponed until the study is complete. Any decision to deny a request to place, construct or modify facilities

must be in writing and include specific reasons for the action. The Planning Director's decision can be appealed by the applicant within five (5) working days to the Planning Commission.

2. Conditional Use Permit. A conditional use permit is required for a Commercial WECS.
3. Technical Issues and Expert Review. Wind Energy Conversion Systems may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Planning Director may require the applicant to pay reasonable costs of a third-party technical study of a proposed facility. Selection of expert(s) to review the proposal will be in the sole discretion of the County.
4. Building Permit. Administrative and Conditional Use Permit approval of Wind Energy Conversion Systems is separate from the building permit process. Building permits for the construction of facilities can not be issued until the facility is approved through the administrative or conditional use permit process.

12.03 Home Occupations. It is deemed appropriate to allow limited nonresidential activities to operate in conjunction with a residence in those zoning districts where residential dwellings are permitted, provided the regulations protect the character and integrity of the unincorporated area. The objective of these regulations is to allow limited commercial type activities associated with a residence only to the extent that the activity is clearly subordinate to the residential or agricultural use of the property. Due to the diverse pattern of development in the rural area, the regulations provide for both minor and major home occupations.

12.0301 Minor Home Occupation. In all zoning districts permitting residential dwellings, minor home occupations in compliance with each of the following standards are permitted as accessory uses. Due to their incidental and residential nature, minor home occupations are relatively common accessory uses which are not easily detectable and are not reasonable or desirable to regulate through a conditional use permit.

1. The occupation shall be conducted entirely within a dwelling and clearly incidental to the use of the structure for residential purposes.
2. There shall be no change in the outside appearance of the dwelling or any visible evidence of the conduct of the occupation.
3. Only residents of the dwelling shall be employed by or participate in the occupation.
4. The storage of equipment, vehicles, or supplies associated with the occupation shall not occur outside the dwelling. Accessory buildings or structures shall not be used for storage.
5. There shall be no display of products visible in any manner when viewed from outside the dwelling.

6. No advertising or display signs shall be permitted other than a nameplate attached to the dwelling. The nameplate shall not be illuminated and shall not be more than two square feet in area. No off premise signs shall be used.
7. The occupation shall not require internal alterations or involve construction features not customary in a dwelling. External alterations intended to create a separate entrance or other feature exclusively for the occupation is prohibited.
8. There shall be only limited and incidental sale of products conducted on the premise.
9. The occupation shall not generate more than four (4) visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. The occupation shall not result in additional off-street parking spaces for clients or customers.
11. Toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials are prohibited.
12. No equipment or process shall be used in the occupation which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the property.
13. No equipment or process shall be used in the occupation which creates visual or audible electrical interference in any radio or television receiver or causes fluctuations in line voltage off the property.
14. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

12.0302 Major Home Occupation. It is recognized that home occupations which exceed the requirements of Section 12.0301 may be appropriate in a low density residential setting or if associated with an agricultural use. For the purpose of this ordinance, such uses are classified as either a Class 1 or Class 2 major home occupation, and shall be evaluated giving consideration to the following criteria:

A. Class 1:

1. The occupation shall be conducted entirely within a dwelling and/or accessory building and clearly incidental to the use of the structure for residential purposes.
2. The occupation shall be operated by a member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.

4. In addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.
5. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
6. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
7. No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
8. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one non-illuminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
9. The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. There shall be only limited and incidental sale of products conducted on the premise.
11. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

B. Class 2:

1. The occupation shall be conducted in a dwelling or agricultural building accessory to the dwelling which comprise the headquarters for the agricultural use, and such agricultural use is conducted on one or more parcels of land with a total area of at least one-half of a quarter section or equivalent area which must be contiguous to or in close proximity to the headquarters.
2. The occupation shall be clearly secondary to the principal use of the land for agricultural purposes.
3. The owner or occupant of the dwelling shall be engaged in the occupation.
4. The occupation shall have no more than five (5) employees, including residents of the property.

5. The occupation shall be conducted within a completely enclosed building typical of farm buildings. Such building shall be located behind the dwelling, or shall be located at least 200 feet from the nearest road right-of-way.
6. All materials, supplies and products associated with the occupation shall be stored within a building or if open storage of materials or equipment is required it shall be concealed with appropriate screening or landscaping.
7. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or agricultural building. Additionally, one nonilluminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
8. The use shall cease operating when the property is no longer in conformance with Section 12.03.02 (B) (1).

12.0303 Major Home Occupation - Permit Procedure. A conditional use application is required for a major home occupation in accordance with the requirements of Article 19.00. The application shall be evaluated and conditions established using the criteria in Section 12.0302 (A) or (B).

12.04 Mineral Exploration & Development. The regulations regarding mineral exploration and development shall be as follows:

- A. Exploration for minerals may be approved by Conditional Use only as long as the following minimum requirements are met:
 1. The applicant shall provide:
 - a. A description of the mineral or minerals which are the subject of the exploration.
 - b. Maps showing the general area within which the exploration operation will be conducted.
 - c. A detailed description of the regional environmental conditions, to include surface land use and vegetation, as well as a detailed description of the area's geologic formations and hydrology from the best available scientific sources.
 - d. Maps indicating the location of the drill sites to the nearest section of land, a technical description of the exploration process, the types of equipment to be used, and the estimated time table for each phase of work and for final completion of the program.
 - e. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the proposed exploration.

- f. A description of the proposed plan to address the identified environmental impacts to include all measures to be taken to prevent soil erosion, water contamination, air contamination, disruption of the areas ecological balance and any other related hazard to public health and safety.
 - g. A plan for reclamation of the land to its original condition after exploration is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources and the proposed future use of the lands explored and adjacent lands. The reclamation plans include:
 - reclamation schedule
 - methods of plugging drill holes
 - methods of severing and returning topsoil and subsoil.
 - methods of grading, backfilling and contouring of exploration sites and access roads
 - methods of waste management and disposal, including liquid and solid wastes
 - methods of revegetation
 - h. A surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of the affected ground and surface waters. The amount shall be set by the County Commission based on an estimate, provided by the applicant, of the cost of reclamation and decontamination. The bond shall be released five years after exploration has ceased unless the Commissioners find for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the surety bond may be reduced by the Commissioners, if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.
2. The applicant shall identify specific phases when monitoring and inspection of the exploration activities shall be conducted by county, state, federal or independent personnel to assure compliance with all applicable rules and regulations. If a conditional use permit is granted, the permit shall identify such inspection agency and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the County Commission.
 3. A Conditional Use shall be issued only after all of the conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of exploration activities.
- B. Mineral extraction and/or mining may be approved by Conditional Use only as long as the following minimum requirements are met:

1. The Applicant shall provide:
 - a. A description of the mineral or minerals to be mined or milled.
 - b. Maps showing the area within which the mining or milling operations will be conducted.
 - c. A description of the surface land use and vegetation, as well as a description of the nature and depth of the top soil and subsoil.
 - d. An environmental assessment which establishes base line conditions for radioactive intoxicant materials and air, ground and surface waters, soils, vegetation and animals.
 - e. A description of the overburden, mineral seams, and other geologic formations, their conductivities and hydraulic gradients, known to exist above the deepest projected depth of the mining operation.
 - f. A description of the hydrology to the deepest projected depth of the mining operation, including mapping of the depth, water table level, extent, and flow characteristics of ground water and aquifers for the hydrologic regime of the ground water and drainage basins affected by the mining or milling operation.
 - g. A technical description of the mining or milling, types of equipment to be used, detailed site plan of all anticipated construction, an estimated timetable for each phase of work and for final completion of the program, a statement of source, quality, and quantity of water to be used in the mining or milling operations, as well as the chemical and radioactive characteristics of all mined or milled products, waste products, and emissions to the environment.
 - h. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the mining or milling operations.
 - i. A description of the proposed plan to address the identified environmental impacts to include:
 - methods of separating the topsoil, subsoil, and soil piles, protecting them from erosion before reclamation begins, and keeping the topsoil free from acid or toxic materials
 - plan for insuring that acid forming or toxic materials constituting a hazard uncovered or created during mining or milling are promptly treated in a manner to prevent water and air contamination
 - measures to maintain the quantity and quality of ground and surface water, hydrologic balance, productivity of farmland, and soil and water recharge capacity

- procedures to prevent water and air contamination through radioactive or toxic seepage of runoff from tailings, ponds, mine wastes, mine dewatering discharge, or other mining and milling related operations
 - j. A plan for the reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent lands, and shall include:
 - a reclamation schedule
 - methods of grading, backfilling and contouring of disturbed areas and access roads
 - methods of waste management and disposal, including liquid and solid wastes
 - methods of revegetation
 - k. A surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground and surface waters. The amount shall be set by the County Commission based on an estimate, provided by the applicant, of the cost of reclamation and decontamination. The bond shall be released five years after mining and milling has ceased unless the Commissioners find, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the bond may be reduced by the Commissioners if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.
2. The applicant shall identify specific phases when monitoring and inspection of the mining and milling process shall be conducted by county, state, federal or independent personnel to assure compliance with all applicable rules and regulations. If the Conditional Use is granted, the permit shall identify the inspection agency and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Commissioners.
 3. A Conditional Use shall be issued only after all conditions specified therein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of the mining and milling.
- C. Solution mining and/or in situ mining of an ore body with the circulation of chemicals through injection and recovery wells for minerals is prohibited.

12.05 Mobile Homes/Manufactured Homes. Regulations regarding mobile homes and manufactured homes shall be as follows:

- A. A park intended for the placement of mobile homes and manufactured homes on rented lots and where the roads are not publicly dedicated shall meet the following minimum standards:
1. A plan shall be prepared showing the layout of the park, including lot lines, the road system and spacing diagram for all structures. Upon approval of the conditional use for the park, the plan shall be filed in the Office of Planning and Zoning and govern all future development.
 2. Each lot shall have a minimum size required for the zoning district in which the park is located. However, a smaller lot size may be approved as part of the conditional use.
 3. No dwelling or any structure, addition, or appurtenance thereto shall be located less than the minimum setback required by the district in which the park is located. The setback requirements may be changed as part of the approval of the conditional use.
 4. Each lot shall abut or face a clear unoccupied space, roadway, or street having a width of at least 34 feet where parking is permitted on both sides, 27 feet in width where parking is restricted to one side only and 24 feet wide where parking is prohibited, or be connected to such street or roadway by a private driveway not less than 12 feet in width, serving no more than four lots. A hard surfaced material shall be used on all roadways.
 5. The park shall be a minimum of 10 acres in size.
- B. A subdivision for mobile homes and manufactured homes shall be required to meet the subdivision regulations and the density, area and yard requirements for the district in which it is located. The subdivision shall be a minimum of 10 acres in size.
- C. A manufactured home may be considered for a conditional use as specified in the district regulations only if the following requirements are met:
1. The structure shall have been constructed on or after July 15, 1976.
 2. The exterior dimensions of the structure, measured by excluding overhangs, shall not be less than 22 feet.
 3. The structure shall be supported by a foundation system consisting of walls along the perimeter and piers on the interior. All foundation walls and piers shall extend a minimum of 42 inches below final grade.
 4. The roofing and siding material shall be consistent with the material used in site-built dwellings.
 5. The roof pitch shall not be less than a 3 in 12 slope.

- D. Mobile homes which are nonconforming uses may be replaced with another such structure by making application for a conditional use. The compatibility of the replacement dwelling with neighboring dwellings shall be considered in reviewing the conditional use request.
- E. A mobile home or manufactured dwelling may be located temporarily on land owned by the occupant during the construction of a dwelling. Placement shall not occur until construction has actually commenced. The unit shall be removed after one year or upon completion of the dwelling, whichever occurs first.
- F. All mobile homes and manufactured homes as defined in Article 26.00 must be located in conformance with these requirements.

12.06 Accessory Building and Uses. The regulations regarding accessory buildings and uses shall be as follows:

- A. Limited Use. Accessory buildings and uses are buildings and uses customarily incident to any of the permitted uses in the district in which it is located. In the A-1, RR and R-1 districts, accessory buildings and uses are limited to:
 - 1. A noncommercial greenhouse that does not exceed in floor area 25 percent of the ground floor area on the main building.
 - 2. A private residential garage used only for the storage of noncommercial vehicles and other related material.
 - 3. Tennis court, swimming pool, garden house, pergola, ornamental gate, barbeque oven, fireplace, and similar uses customarily accessory to residential uses.
 - 4. Home occupation in conformance with Section 12.03.
 - 5. Temporary storage and distribution of seed and similar type products provided the use is located within a farmstead, the product is stored within a completely enclosed building typical of farm buildings and the use is limited to the seasonal sale of products from the premises.
- B. Time of Construction. No accessory buildings shall be constructed upon a lot until the construction of a main building has been actually commenced, and no accessory buildings shall be used unless the main building on the lot is also being used. Accessory buildings may not be used for dwelling purposes.
- C. Setback Requirements.
 - 1. Accessory buildings which are attached to or located within 10 feet of the main building shall be considered a part of the main building and shall comply with the same yard requirements as the main building.

2. Accessory buildings not a part of the main building, when located in the required rear yard, shall be no closer than three feet to the side and rear property lines.
- D. Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:
1. In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1500 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.
 2. In all Residential Districts, the total area of accessory buildings shall not exceed 1500 square feet unless a conditional use has been approved.
 3. In a Planned Development District, the total area of accessory buildings shall not exceed 1200 square feet unless a minor amendment has been approved.

12.07 Rock, Sand and Gravel Extraction.

- A. Intent. This section addresses the application, review and regulation of extraction and on-site processing of rock, sand and gravel. An applicant must meet certain requirements as specified in Subsection C when filing for a conditional use in addition to the general requirements contained in other sections of the zoning regulations. The developmental and operational criteria contained in Subsection F are intended to assist in the formulation of conditions to be imposed on individual extraction operations. The criteria have been designed to eliminate potential health risks and minimize the adverse impact on other land uses due to extraction operations.

The County will have the discretion of requiring more or less stringent conditions based upon the location of a proposed operation. It is also recognized that such operations will not be appropriate throughout all areas of the County.

- B. Submission of Application. The application for rock, sand or gravel extraction shall be filed with the Planning Office on the prescribed conditional use form at least 30 days in advance of a regularly scheduled Planning Commission meeting.
- C. Application. The conditional use application shall be accompanied by the following:
1. Maps showing the area within which the extraction operations will be conducted, including areas to be disturbed, setbacks from property lines, and the location of all structures, equipment and access and haul roads.
 2. A description of the surface land use and vegetation, including all pertinent physical characteristics.
 3. A hydrologic study which shall include all available information from the State Geological Survey and other information pertinent to the application. If the applicant

believes a study is not warranted, documentation shall accompany the application in support of this position.

4. A reclamation plan which takes into consideration the criteria listed in Subsection F - reclamation.
 5. The applicant shall meet with the township supervisors of the affected township to discuss repair and maintenance responsibilities on township roads to be used as haul routes. A summary of the meeting(s) shall be presented with the application.
- D. Fee. If a conditional use is granted, the operator shall pay to the County an annual fee of \$10 per acre of land which is being disturbed by the extraction activities and has not been reclaimed. The fee shall be used to defray the direct and indirect costs associated with general administration and enforcement of this section. The fee shall be payable by January 20th of each year and deposited in the general fund of the County. The disturbed land area existing on January 1 of each year shall be used in calculating the fee.
- E. Notification Requirements. In addition to the notification requirements of Article 19, the Planning Director shall notify by U.S. mail all property owners of record within one mile of the proposed conditional use area or the owners of the thirty properties nearest to the affected property, whichever affects the least number of owners, of the time, date, place and purpose of the public hearing. The notice shall be mailed not less than 15 days prior to the public hearing.
- F. Developmental and Operational Criteria. The following criteria shall be considered in developing conditions for applications involving rock, sand and gravel extractions. More stringent requirements may be imposed by the County or the applicant may present arguments to relax the requirements based on specific characteristics of the site.

Buffer Area.

1. A minimum distance of 1000 feet should be maintained between an existing residence and a rock, sand or gravel operation, except in those instances when the operator secures a waiver from the affected landowner.

Visual Considerations.

1. Earth berms and vegetation should be employed to minimize visual impacts and reduce the effects of noise.
2. The need for and placement of berms should be determined by the orientation and position of the excavation site with respect to residences and roadways. Berms should be located in such a way as to restrict the public's view of the property. Consideration should be given to placing the berms as close to the public point of view as practical. Generally, berms should be six feet in height and seeded immediately after

construction to avoid soil erosion. Berms should be maintained and kept reasonably free of weeds.

3. The operator should work with the County Conservation District and Planning Director to develop a planting program. The planting program should be reduced to writing and kept on file in the Planning Office.
4. At a minimum, berms should be constructed prior to blasting or the extraction of rock, sand or gravel.

Air Quality.

1. Air quality monitoring should be conducted at the operator's expense when conditions warrant.
2. Ambient air quality: total suspended particulate matter – 150 micrograms per cubic meter of air as a 24-hour average not to be exceeded more than once per year, and 60 micrograms per cubic meter of air as an arithmetic mean; PM10 (10 micrometers or less in size) consistent with the regulations of the State of South Dakota.
3. Employ techniques that minimize the release of particulate matter created by material stockpiles, vehicular movement and process operations.
4. Dust control agents should be applied to township gravel roads designated as haul routes and all driving surfaces within the extraction area.

Hydrology, Dewatering and Drainage.

1. Existing wells should be monitored at the operator's expense to document changes in hydrologic conditions around extraction sites.
2. Dewatering of the extraction site should not result in downstream flooding.
3. Berms should not interrupt the natural drainage of the area, unless such diversion is part of an approved drainage control system.

Haul Roads.

1. In order to minimize the negative impact of truck traffic on area residents, extraction operations should be located on or near existing hard surfaced roads. Consideration should be given to the number of residents located along gravel surfaced roads intended for use as haul roads.
2. Identify repair and maintenance responsibilities through a haul road agreement.
3. Consider the potential impact on County highways to be used as haul routes.

Operator Surety.

1. A surety bond should be filed with the County Auditor to protect the County in the event the operator abandons a site without completing the conditions imposed by the conditional use, including fulfillment of the agreement with the township concerning repair of designated haul roads. In lieu of the required surety, the operator may deposit cash with the County in the amount equal to the required surety.

Reclamation.

1. The type and extent of reclamation should be based on the type of material extracted on the intended post-mining land use, but in all cases the reclamation procedures should result in the rehabilitation of affected land through contouring and soil stabilization, revegetation and other appropriate means so as to create the least amount of unsightliness and most appropriate future use of the reclaimed area. Bodies of water may be incorporated into an acceptable reclamation plan.
2. Provide maps, including cross sections, showing the existing natural topography and anticipated topographic conditions upon completion of reclamation.
3. Grading should achieve a contour that is most beneficial to the proposed future land use. All berms should be removed where sand and gravel operations were conducted. In most cases involving quarry operations, the berms should remain in place unless their removal would serve a more useful purpose.
4. Topsoil should remain on site and be used during reclamation.
5. A seeding and revegetation plan should be developed for the affected area in consultation with the County Conservation District.
6. All required reclamation activities should be completed and a compliance inspection performed by the Planning Director prior to the release of the surety.

Additional Considerations.

1. The maximum height of a bench in a quarry should be 30 feet.
2. The property should be secured during non-working hours by means of gates and fencing. The property should continue to be secured until all required reclamation activities have been completed.

12.08 Reserved.

12.09 Concentrated Animal Feeding Operations.

- A. General Requirements: This section applies to any concentrated animal feeding operation (CAFO) constructed or used after the effective date of this section. Any facility shall be sufficiently separated from other land uses so as not to unreasonably interfere with or burden the enjoyment of other neighboring lands, consistent with the policy established under this Ordinance.
- B. Concentrated Animal Feeding Operation Permit Requirements: Concentrated animal feeding operations are hereby classified as Class A concentrated animal feeding operations, which consist of any concentrated animal feeding operations containing 2,000 or more animal units as defined in these regulations, Class B concentrated animal feeding operations which consist of concentrated animal feeding operations between 1,000 and 1,999 animal units as defined in these regulations, Class C concentrated animal feeding operations which consist of concentrated animal feeding operations between 500 and 999 animal units as defined in these regulations, and Class D concentrated animal feeding operations which consist of concentrated animal feeding operations between 200 and 499 animal units as defined in these regulations. Any person who owns, operates, or proposes to own or operate a Class A, Class B, or Class C concentrated animal feeding operation as defined in these regulations, shall be required to apply for a conditional use permit pursuant to these regulations whenever any of the following occurs: a new concentrated animal feeding operation is proposed where one does not exist, when an expansion is proposed beyond what a current permit allows, when a signed complaint has been received or made by the County Planning Director or the South Dakota Department of Environment and Natural Resources and after inspection reveals that the concentrated animal feeding operation is in violation of County, Federal or State regulations, when a change in operation occurs as defined within these regulations, or when an existing CAFO is to be restocked after being idle for five (5) or more years.
- C. Animal Unit Ratio for Concentrated Animal Feeding Operations:

TYPE OF ANIMAL:	Class A # of Animals	Class B # of Animals	Class C # of Animals	Class D # of Animals
Beef cow, steer, feeder, dairy heifer or fat beef animal	2,000 or more	1,000 to 1,999	500 to 999	200 to 499
Mature Dairy Cattle (milked or dry)	1,429 or more	714 to 1,428	357 to 713	143 to 356
Swine over 55 pounds	5,000 or more	2,500 to 4,999	1,250 to 2,499	500 to 1,249
Nursery Swine under 55 pounds	20,000	10,000 to 19,999	5,000 to 9,999	2,000 to 4,999
Farrow-to-Finish (sows)	540 or more	270 to 539	135 to 269	54 to 134
Horse	1,000 or more	500 to 999	250 to 499	100 to 249

Sheep	20,000 or more	10,000 to 19,999	5,000 to 9,999	2,000 to 4,999
Turkeys	111,111 or more	55,556 to 111,110	27,778 to 55,555	11,111 to 27,777
Hens, cockerels, capons, broilers	60,606 or more	30,303 to 60,605	15,151 to 30,302	6,060 to 15,150
Ducks or Geese	10,000 or more	5,000 to 9,999	2,500 to 4,999	1,000 to 2,499

- D. Waste Management Plan: Any facility for which a conditional use permit ("CUP") is required shall have a waste management plan ("WMP"). Waste application provisions can be found under (E) Waste Application. The WMP shall be prepared with the assistance of an engineer, licensed in the state of South Dakota, or other qualified professional (at the applicant's expense), be in writing, be approved as an adjunct to the CUP, and be updated or amended periodically to conform to facility operating conditions or requirements. In addition, an engineer that is licensed in the state of South Dakota shall approve and sign off on all building and waste storage facility plans associated with the concentrated animal feeding operation.

Class A and B concentrated animal feeding operations, as defined by these regulations, shall be required to have the WMP reviewed and approved by the South Dakota Department of Environment and Natural Resources. Waste management plans for Class A, B, C and D concentrated animal feeding operations may be reviewed periodically by the Planning Commission if deemed necessary. The following minimum requirements (unless varied from or waived by the CUP) shall apply:

1. Pest and odor control shall be maintained using conscientious methods, both as to the facility and the waste disposal site.
2. Unless otherwise required by state or federal law, all waste shall be collected in self-contained, enclosed pits, and transport equipment conveying wastes to the disposal site shall be fully enclosed and structurally sound to prevent leakage or spillage.
3. The legal description of all tillable agricultural lands where waste disposal is to be conducted. All waste produced from swine units must be knifed or injected. Waste produced by any other animal site may be either surface/irrigation applied or incorporated/injected.
4. Written agreements with all owners of waste disposal sites (other than those of the facility owner) for the use of such land for waste disposal, with provision no such land shall be withdrawn from use without written notice to the Planning Commission. Contracts shall be for a minimum three-year time period.
5. Waste disposal at all sites shall meet the following separation distance requirements:

CATEGORY	SURFACE OR IRRIGATION APPLIED	INCORPORATED OR INJECTED
Lakes, Rivers, and Streams Classified as Fisheries	300 feet (lakes) 100 feet (river & stream)	100 feet (lake) 100 feet (river & stream)
Stream & Lakes classified as Drinking Water supplies	1,000 feet	300 feet
Public Roads	25 feet (surface) from right-of-way 300 feet (irrigation)	10 feet from right-of-way
Dwellings	300 feet (surface) 1,000 feet (irrigation)	300 feet
Public Wells	1,000 feet	1,000 feet
Private Shallow Wells	250 feet	250 feet
A Residence other than the Operator	1,000 feet	600 feet
Municipality or rural subdivision	1,000 feet	1,000 feet
Natural or Manmade Drainage Ditch or Canal	200 feet	50 feet

- E. Transportation of Manure into the County: Any landowner within the A-1 Agricultural District receiving and utilizing manure generated from a concentrated animal feeding operation not permitted by Lincoln County shall provide the county with a complete waste management plan, and shall comply with all provisions of Section 12.09. Furthermore, the animal manure shall be applied to the land in a manner consistent with Section 12.09.

(Amended: Ordinance No. 1801-46, 01-23-18)

- F. Minimum Separation Distances: The facility shall be sited not closer than those distances indicated in the "Setback Chart". These setbacks are minimum standards that may be increased by the Planning Commission during the conditional use permit issuance process due to concerns or circumstances unique to a specific concentrated animal feeding operation permit application. Setbacks shall be measured from the outermost point of the feedlot to the structure/use as identified on the "Setback Chart".

If an applicant wishes to place a concentrated animal feeding operation closer than the separation distances set forth in these regulations, the applicant can request an exception for the separation distance from the Planning Commission. The Planning Commission may allow an exception from the separation distance only when the applicant obtains waivers from all the owners of property within the separation distance. Any authorized person, business, or governmental entity that is within the separation distance may waive the separation distance through a written instrument to be filed with the Lincoln County Register of Deeds. This waiver would run with the land.

SETBACK CHART	<u>CLASS A</u>	<u>CLASS B</u>	<u>CLASS C</u>	<u>CLASS D</u>
Dwellings (other than owner's or operator's), Churches, Schools, and Businesses	3,960 feet	2,640 feet	1,320 feet	1,320 feet
Incorporated Municipalities	2 miles	1.25 miles	1 mile	1 mile
Designated County or State Parks	1.5 miles	1 mile	1 mile	.5 mile
Public Water Supplies	1.5 miles	1 mile	1 mile	.5 mile
Private Wells (other than owner's or operators)	.25 mile	.25 mile	.25 mile	.25 mile
Lake, Rivers and Streams Classified as Fisheries	1 mile	1 mile	.5 mile	.5 mile
100 Year Floodplain	Prohibited			
Designated Aquifer Protection Dist.	Prohibited, unless the applicant can show by appropriate soil borings that the site is appropriate.			

In addition to the separation distances set forth above, new concentrated animal feeding operations and new construction on existing concentrated animal feeding operations shall meet a 99% odor annoyance free rating separation distance at the closest city limits line and rural residential zoning district, and a 97% odor annoyance free rating separation distance for structures and dwellings that are not associated with the concentrated animal feeding operation, as determined by the SDOFT odor evaluation modeling as developed and modified by the South Dakota State University Department of Agriculture and Biosystems Engineering.

(Amended: Ordinance No. 1208-37, 08-28-12; Ordinance No. 1711-29, 11-14-17; Ordinance No. 1802-39, 02-27-18)

G. Information Required for the Consideration of Class A, B and C Concentrated Animal Feeding Operation Conditional Use Permits (CUP):
Any applicant for a Lincoln County conditional use permit for concentrated animal feeding operations shall provide the following information to the Planning Director prior to consideration by the Planning Commission:

1. The owners', managers', management company's or similar entities' name, address and telephone number.
2. Legal description of the site.
3. The number and type of animals to be housed by the proposed concentrated animal feeding operation.
4. A fly and odor control plan.
5. Methods to be utilized for the disposal of dead animals.

6. Information on ability to meet designated setback requirements, including maps showing measured distances.
 7. Plans and specifications of the proposed site and a nutrient management plan.
 8. Information on the types of soils at the site, and whether there are any shallow aquifers, designated wellhead protection areas, and/or 100-year floodplain designations at or within one half mile of the proposed site.
 9. A map illustrating all land to be utilized for manure application.
 10. Site plan of all existing and proposed buildings and structures.
 11. Provide farm service agency wetland map.
 12. Test boring location and test boring results. The standards utilized by the South Dakota Department of Environment and Natural Resources for soil borings shall be followed. This item may be a condition of the conditional use permit.
 13. The Lincoln County Planning Commission or the Planning Director may request information reasonably related to a concentrated animal feeding operation not contained in these regulations.
- H. Special Exception for Livestock Sales Barn. A livestock sales barn, as a conditional use in the A-1 Agricultural District, Section 3.04 (U), or other district where such use may be permitted, otherwise meeting the definition of a concentrated animal feeding operation in this ordinance, covered or proposing to be covered by a general water pollution control permit for concentrated animal feeding operations to be issued by the South Dakota Department of Environment and Natural Resources (Pierre, SD), and where animals intending to be sold by their owners through an agency on advertised or publicized sale dates, have been, are or will be stabled or confined for periods of not more than 60 consecutive hours, including the date of sale, shall observe as a minimum separation distance the provisions of the setback chart for a Class C concentrated animal feeding operation, as established in subparagraph (F), above, without regard to whether the number of animals on hand at one or more points in time for purposes of sale are, in terms of animal unit ratios, greater, equal to or lesser than the definition of a Class C concentrated animal feeding operation as provided in subparagraphs (B) and (C) of this Section 12.09. Nothing in this subparagraph (H) shall change, modify or eliminate the otherwise applicable requirements of the waste management plan under subparagraph (D) of this Section 12.09, including separation distances for waste disposal set forth therein.
- I. Minimum Lot Size. A lot size of no less than five (5) acres is required for all Class C concentrated animal feeding operations. A lot size of no less than twenty (20) acres is required for all Class A and Class B concentrated animal feeding operations.

(Amended: Ordinance No. 1802-40, 02-27-18)

- J. Municipality Setbacks. Any new livestock operation or expansion of an existing livestock operation in excess of 100 animal units, up to a Class D Concentrated Animal Feeding Operation, within one mile of a municipal border in an A-1 Agricultural Zoned District will require a conditional use permit.

(Amended: Ordinance No. 1805-07, 05-01-18)

12.10 Temporary Uses.

- A. Intent. The requirements of this section are intended to provide for the regulation and permitting of uses and associated improvements on private property which have only a temporary duration and are not so recurring in nature as to constitute a permanent use. These requirements are not intended to regulate temporary uses on public property, including public rights-of-way.

(Amended: Ordinance No. 1006-01, 06-10-10)

- B. Permit Required. No person shall operate a temporary use without first obtaining a permit therefor from the Planning Commission as prescribed in this section. If an appeal is filed pursuant to Section 12.10(G), the Planning Director shall present the Planning Commission's decision to the Board of County Commissioners for review.

(Amended: Ordinance No. 1006-01, 06-10-10)

C. Applications.

1. Submission deadline. All applications for a temporary use permit shall be made at least 90 days prior to the proposed commencement date of the use.
2. Temporary use plan. All temporary uses shall be subject to approval of a temporary use plan. The plan shall describe the nature and location of all temporary improvements and activities, the location of any permanent buildings intended to be used, the time period for which the temporary use permit is requested, and such other information in sufficient detail as the Planning Department determines is reasonably necessary to adequately review the application and to ensure the use will be conducted in a manner consistent with the requirements of this section.

(Amended: Ordinance No. 1006-01, 06-10-10)

- D. Standards for review. The following standards shall be used in determining the suitability and compatibility of a temporary use:

1. The temporary use will have no unreasonable adverse effect on nearby properties or jeopardize public health, safety, and general welfare, and is compatible with the purpose and intent of this zoning ordinance and the specific zoning district in which it is located.

2. The temporary use will not create hazardous traffic conditions or result in traffic in excess of the capacity of the roads serving the use.
3. The site is adequate to accommodate the proposed use, including the provision for on and off site parking.
4. Adequate sanitation facilities will be available on the site.
5. The time period and hours of operation for the temporary use are clearly specified.
6. Provision is made for the removal, clean-up, and restoration of the site.
7. The temporary use will not adversely impact the natural environment.
8. The site is suitable for the proposed temporary use, considering flood hazard, drainage, soils, and other conditions which may constitute a danger to life, health or property.
9. All temporary improvements and any permanent structures proposed to be used will comply with all applicable provisions of the county's building code.

(Amended: Ordinance No. 1006-01, 06-10-10)

- E. Planning Commission Hearing. Upon the filing of an application for a temporary use permit, the Planning Director shall set a date for public hearing on such requested temporary use, at which time and place the Lincoln County Planning Commission shall meet to consider the temporary use request.
1. Notification. The applicant must notify all property owners (inclusive of Contract for Deed buyers) of land laying within five hundred (500) feet, inclusive of right-of-way, of the outer boundaries of the property involved in the request. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department shall provide the applicant with "Notice of Hearing" forms for this purpose, and the notices are to be sent by the applicant to all parties on the aforementioned list by registered mail no less than thirty (30) days prior to the public hearing on the requested temporary use held by the Planning Commission or the Board of County Commissioners on appeal. The "Notice of Hearing" forms shall include the time, date and location of the public hearing, a description of the proposed temporary use, the area of the temporary use site, and any other information needed to clearly convey the nature of the proposed temporary use. The applicant shall sign an affidavit certifying that the required mailing was completed and file copies of the registered mail receipts. The affidavit shall be provided to the Planning Department at least five (5) working days prior to the Planning Commission meeting.
 2. Signs. Sign(s) to be provided by the Office of Planning and Zoning shall be posted on or near the property at least ten days prior to the scheduled hearing.

3. Action. The Planning Commission shall decide whether to grant the temporary use with such conditions and safeguards as are appropriate or to deny a temporary use. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Section 12.10 (G).

(Amended: Ordinance No. 1006-01, 06-10-10)

- F. Conditions of approval. Reasonable conditions may be required in connection with the approval of any temporary use permit which are deemed necessary to protect the public health, safety and welfare and the social and economic well being of those who will use the temporary use, residents and landowners immediately adjacent to the proposed use, and the community as a whole. Any condition imposed must be clearly specified in writing on the temporary use permit.

(Amended: Ordinance No. 1006-01, 06-10-10)

- G. Appeal of Planning Commission Decision. The decision rendered by the Planning Commission on a temporary use permit, the approval of the terms and conditions of the temporary use plan and the conditions and safeguards determined to be appropriate by the Planning Commission may be appealed to the Board of County Commissioners. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Office of Planning and Zoning within five working days of the Planning Commission decision. When an appeal is filed, the Planning Director shall present the Planning Commission's decision to the Board of County Commissioners for review. Notice of the meeting shall be given as required by Section 12.10 (E) (1). The Board shall vote to either uphold, overrule or amend the decision of the Planning Commission.

(Amended: Ordinance No. 1006-01, 06-10-10)

- H. Fee. A fee of \$250 shall accompany the application for a temporary use permit.

(Amended: Ordinance No. 1006-01, 06-10-10)

- I. Exemptions. The following uses shall not require a temporary use permit:
 1. Estate or real estate sales involving the property or items from the property where the sale is held.
 2. Garage, yard or rummage sales provided:
 - a. Sales last not longer than three (3) days.
 - b. Sales are held no more than twice yearly.
 - c. Sales are conducted on the owner's property or one of the owner's property in case of a multi-party sale.

3. Weddings, purely social parties or similar family events where the function or event involves the owner or lessor of the property and where no monetary consideration or fees for such use of the property or attendance is involved.

(Amended: Ordinance No. 1006-01, 06-10-10)

12.11 Telecommunications Towers, Antenna Support Structures and Wireless Communications Facilities.

- A. Intent and Purpose. The unique and diverse landscapes of Lincoln County are among its most valuable assets. Destroying these assets risks undermining the very characteristics responsible for our economic vitality and future potential. Protecting these assets will require that location and design of tower facilities be sensitive to, and in scale and harmony with, the aesthetics of Lincoln County. This section will provide standards for the proper placement and design of tower facilities in order to ensure their compatibility with surrounding aesthetics and development.

The purpose of this section is to provide predictable and balanced standards for the siting and screening of tower facilities on both public and private property within the jurisdiction of Lincoln County. These standards will protect the health, safety and general welfare of persons in the area(s) surrounding such tower facilities from possible adverse aesthetics related to the placement, construction or modification of such tower facilities.

Leasing of public buildings, publicly owned structures, and/or public rights-of-way for the purposes of locating wireless telecommunication services facilities and/or equipment is encouraged. In cases where a facility is proposed on County property, specific locations and compensation to the County shall be negotiated in lease agreements between the County and the provider on a case-by-case basis, and would be subject to all of the review criteria contained in this section. Such agreements would not provide exclusive arrangements that could tie up access to the negotiated site(s) or limit competition, and must allow for the possibility of "co-locating" (sharing of facilities) with other providers.

Regulations regarding development of telecommunications towers, antenna support structures and wireless communications facilities are intended to encourage development of a competitive wireless communications market place while protecting the health, safety and welfare of the public and maintaining the aesthetic integrity of the County. The regulations cover placement, construction and modification of telecommunications towers, antenna support structures and wireless communications facilities. The intent of this section includes the following:

1. To regulate the location of telecommunication towers, antenna support structures and wireless communication facilities.
2. To protect residential areas and land uses from potential adverse impact of telecommunications towers, antenna support structures and wireless communication facilities.

3. To minimize adverse visual impact of tower sites through design, siting, landscaping and innovate camouflaging techniques.
 4. To promote shared use and co-location of sites.
 5. To insure telecommunications towers, antenna support structures and wireless communication facilities are compatible with surrounding land uses.
 6. To facilitate the provision of services to residents and businesses in an orderly fashion.
 7. To promote the location of telecommunications towers, antenna support structures and wireless communication facilities in non-residential areas.
 8. To avoid potential damage to property caused by telecommunications towers, antenna support structures and wireless communication facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound. Specifically, the Telecommunication Act of 1996 affirms the local government's right to control the siting, construction and modification of cellular and other wireless telecommunication facilities. The permitting process of this article will not discriminate among providers of functionally equivalent services and will not prohibit the provisions of personal wireless services.
- B. Applicability. It shall be unlawful for any person, firm, or corporation to erect, construct in place, or place any tower facility without first receiving a permit(s) from the Lincoln County Planning and Zoning Office. Nor may any person, firm, or corporation alter, modify, transform, add to or change in any way an existing tower facility without first receiving a permit(s) from the Lincoln County Planning and Zoning Office.
- C. Co-Location Requirements for New Tower Facilities. New tower facilities shall be designed and constructed to permit the future co-location of other commercial wireless telecommunications services, according to the following criteria:

<u>Height of Structure</u>	<u>Additional Users Facility Must Accommodate</u>
Less than 100'	No Co-location required
Between 100' and 130'	1 additional user accommodated
Between 130' and 160'	2 additional users accommodated
161' and greater	3 additional users accommodated

In satisfying co-location requirements, the owner of the tower must provide adequate access to the tower site and space within the owned or leased area to accommodate co-location user's equipment. Nothing in these regulations shall prevent the owner of the tower from requiring remuneration from a co-location user, provided that such remuneration is rate reasonable. The owner of the tower may also establish reasonable technical requirements for co-location to protect the owner's investment and guarantee effective telecommunication

service. The owner of the tower shall have the authority to review all plans for co-location uses and require reasonable modifications for such plans to ensure safe and efficient operations of the communication services and protect the owner's investment.

D. General Standards.

Setback: There shall be a minimum setback of 600' from the tower base to any existing residence or proposed residential development area based on the land use plan except the farmstead residence on the proposed site. Building structures must meet County setback requirements. Towers shall be no more than 200' in height. Towers exceeding 200' may be considered, if FCC and FAA approval is received.

Fencing: The tower facility shall be protected by a security fence from six (6) feet to eight (8) feet in height around the perimeter of the site.

Signage: The owner's name, telephone number and site ID number shall be posted on the gate of a perimeter fence. No other advertising or identification sign of any kind is permitted on the tower facility, except applicable warning and equipment information as required by the manufacturer or by federal, state or local authorities.

Lighting: The light source for any necessary security lighting shall feature down-directional, sharp cut-off luminaries that insure there is no spillage of illumination off the parcel or easement boundary.

Towers shall be of a monopole design unless it is determined that an alternative design would be appropriate for the particular site or circumstance.

All sites and equipment shall be maintained in good condition, order and repair so they shall not endanger the life or property of any person.

E. Application Requirements

1. Lincoln County Planning and Zoning Office may contract with an independent technical expert to review technical materials submitted by the applicant, and/or to determine if additional information is necessary. The tower facility applicant shall pay the cost of such review and/or independent analysis.
2. Name and address of the tower facility owner, record landowner of parcel and any duly appointed agents of the parties.
3. A visual study depicting where within a one (1) mile radius any portion of the proposed tower facility will be visible.
4. Site plan(s) drawn to a scale of one (1) inch equals twenty (20) feet or less, specifying the location of the tower facility, support structures, transmission buildings and/or

other accessory uses, access, parking, fences, signs, lighting, landscaped areas and all adjacent land uses within two hundred forty (240) feet of the base.

5. Elevation drawings of "before" and "after" simulating and specifying ground levels, the location and height of antenna(s), support structures, equipment buildings and/or other accessory uses, fences and signs of the tower facility.
 6. Map showing the search radius for the antenna location and the proposed broadcast coverage obtained by the tower facility, including a narrative describing a search radius of not less than one (1) mile for the requested site, clearly explaining why the site was selected, identifying and locating landing and takeoff areas of aircraft within the search radius, locating all existing tower facilities, and identifying all other structures that may be potential co-location sites.
 7. Description of the tower facility design. (e.g. monopole)
 8. An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to obtain permission for installation at a co-location facility.
 9. Written, technical evidence from an engineer(s) that the proposed tower or communication facility cannot be co-located to other tower sites.
 10. Written, technical evidence that an engineer registered in the State of South Dakota has provided the design for this specific tower facility and site ensuring the proper standards for design.
- F. Other Requirements. The County may require additional information from the applicant and impose additional standards, regulations or requirements as deemed necessary to protect the public health, safety and welfare. If the Planning Commission considers the information provided inadequate or if the applicant fails to supply required information, the Planning Commission may deny the application on this basis. Other requirements include, but are not limited to, the following:
1. A letter that requires the tower facility owner and successors to allow the shared use of the tower facility if an additional user(s) agrees in writing to meet reasonable industry terms and conditions for shared use.
 2. A copy of the FAA determination or a signed statement that the proposed tower facility has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or that no compliance with Part 77 is required, and the reasons therefore.
 3. A copy of the FCC's license or a signed statement from the proposed operator of the tower facility attesting to the fact that the tower facility complies with current FCC regulations, including compliance with the regulations of the FCC with regard to maximum radio frequency and electromagnetic frequency emissions, or a statement from the applicant that no such compliance is necessary, and the reasons therefore.

4. Copy of a certificate of insurance for liability and workers compensation insurance that requires notification to Lincoln County Planning and Zoning Office prior to cancellation will be furnished.
 5. Documentation demonstrating that the tower facility has been designed to conform to applicable state structural building standards and accepted electrical engineering methods and practices as specified in applicable provisions of the National Electrical Code and a sworn statement that following completion of construction the tower facility will be inspected at the applicant's expense by a qualified engineer licensed by the State of South Dakota.
 6. The applicant shall submit proof, in the form of a signed affidavit, demonstrating a good faith effort to lease or purchase space on an adjacent existing tower facility. The affidavit shall state why space is not available, such as:
 - a. The planned tower facility would exceed the structural capacity of the tower facility and the structural capacity cannot reasonably be increased;
 - b. The planned tower facility would cause interference with the usability of other existing or planned equipment at the tower facility; and/or
 - c. An existing tower facility cannot accommodate the planned antenna at a height necessary to function reasonably.
- G. Exemptions. Towers exempt from the permitting process include the following:
1. Residential use no more than 10' above average existing tree canopy or roof line.
 2. Normal maintenance to existing tower facilities.
- H. Annual Notification - Failure to Comply Deemed Abandonment. The owner of the facility shall file an annual notification in writing to the Planning and Zoning Office as to the current operation of the tower facility. This annual report due on or before January 15th of each year shall include, but not be limited to, the following information:
1. Tower usage - type of usage, tower in service or out of service.
 2. Documentation of antenna - number of co-locates.
 3. Certification by owner of compliance with this section - signage, landscaping, lighting.
 4. Annual maintenance performed.
 5. Any changes from the original conditional use permit.

Failure to comply with this section will deem the tower facility abandoned.

- I. **Abandonment.** Tower facilities that are not in use for one hundred eighty (180) consecutive days shall be considered abandoned and shall be removed by the owner within one hundred eighty (180) days. The applicant must furnish a copy of the relevant portion of an executed lease, which identifies the applicant's obligation to remove abandoned or unused towers, concrete footings, anchors, supporting equipment and antennae prior to the issuance of a conditional use permit to erect a tower.

Removal includes the complete tower facility including related infrastructures, footings and other underground improvements to a depth of thirty-six (36) inches below existing grade, and restoration to pre-existing vegetative cover. Failure to do so shall be just cause for Lincoln County to seek legal avenues that will remove the tower facility and restore the site.

The County shall require financial assurances including bonds in an amount sufficient to cover costs of removal of towers, buildings, concrete footings, anchors, supporting equipment, and antennae. Said financial assurances shall be submitted with the conditional use permit application. An engineer's cost estimate is to assist the County in determining the amount of financial assurance necessary to cover removal costs of said towers, buildings, concrete footings, anchors, supporting equipment and antennae.

In the event any towers, buildings, concrete footings, anchors, supporting equipment and antennae have not been removed within one hundred eighty (180) days written notice by the County after abandonment, the County shall have the right to remove the towers, buildings, concrete footings, anchors, supporting equipment and antennae and assess the property.

- J. **Existing Tower Facilities.** Existing tower facilities may continue in use and perform routine maintenance for the purpose now used and may not alter, convert, modify, transform, vary, add to or change in any way the form without complying with Section 12.11. Existing tower facilities shall be considered for the co-location of other antenna(s). The owner of an existing tower facility shall file an annual notification in writing to the Planning and Zoning Office as to the continuing operation of every tower facility constructed (see subsection H-Annual Notification). Failure to do so shall be determined to mean that the tower facility is no longer in use and considered abandoned.

- K. **Maintenance.** All tower facilities shall be maintained in a safe and clean manner. The tower facility owner shall be responsible for maintaining a graffiti, debris and litter free site. The landscape plan shall be maintained for the life of the tower facility. Trimming the tops of trees on site shall be allowed, only to maintain the average height of the canopy used to establish tower facility height. All tower facilities shall be subject to periodic inspection to ensure continuing compliance with all conditions of the application submitted and approval requirements.

Telecommunications towers, antenna support structures and wireless communications facilities shall be maintained in compliance with Electronic Industries Association/ Telecommunications Industries Associations Standards (latest revision), all applicable laws and so as not to interfere with the use of other property.

Upon the County Communications Director's determination that a tower site is a hazard to public safety, the owner shall be required to perform an inspection by a registered professional engineer and make all recommended corrections at the owner's expense.

- L. Time Limit on Tower Facility Construction. Construction of an approved tower facility must be completed within two years following the date of the approval. Landscaping must be installed within the first growing season immediately following construction.

12.12 Airport Approach Zones.

A. Approach Zone:

1. Within the air space above the approach zone to each end of a runway designed to be used for instrument landings, no building, structure or growth shall be erected, altered or permitted to project above a plane with a slope of one (vertical) to fifty (horizontal) projected from a point 200 feet beyond the end of a runway for a distance of 10,000 feet, said plane to be in the shape of symmetrical trapezoid 1,000 feet in width at its lowest point and 4,000 feet in width at its highest point; combined with a second plane with a slope of one (vertical) to forty (horizontal) extending from the upper edge of the first plane for an additional distance of 40,000 feet, said plane to be in the shape of a symmetrical trapezoid 4,000 feet in width at its lowest point and 16,000 feet in width at its highest point.
2. Within the air space above the approach zone to each end of a runway not designed to be used for instrument landings, no building or structure shall be erected or altered to project above a plane with a slope of one (vertical) to forty (horizontal) projected from a point 200 feet beyond the end of the runway for a distance of 10,000 feet, said plane to be a symmetrical trapezoid (*) feet wide at its lowest point and (*) feet wide at its highest point.

- B. Transition Zones. Within the established transition zones adjacent to each instrument and non-instrument runway and approach zone, no building, structure or growth shall be erected, altered or permitted to project above a plane with a slope of one (vertical) to seven (horizontal). Transition zones extend outward and upward from a line (*) feet on either side of the center line of non-instrument runways for the length of such runway plus 200 feet on each end; to a height 150 feet above the elevation of the airport reference point. In addition, transition zones are established adjacent to both instrument and non-instrument approach zones which flare outward and upward symmetrically along the entire length of each approach zone to where they intercept to the surfaces of the horizontal and conical zones.

- C. Conical Zone. Within (*) feet from the established airport reference point, no building or structure shall be erected or altered to project above a horizontal plane 150 feet above the established airport elevation. This horizontal zone does not include the approach or transition zones. Within the conical zone, which commences at the periphery of the horizontal zone and extends outward there from a distance of (*) feet, no building or structure shall be erected or altered to project above a plane with a slope of one (vertical) to twenty (horizontal). Exception: Nothing in this subparagraph shall be construed as

prohibiting the growth, construction, or maintenance of any tree or structure to a height up to twenty feet above the surface of the land.

- (*) The applicable distance in feet (referenced in this section) must be based on runway length as set forth in Section 77.27 of Part 77 of the Federal Aviation Regulations.

Article 13.00
Additional Yard Regulations

13.01 Number of Main Buildings on Tract. No more than one main building shall be located on a tract or lot when used for residential purposes. Where a lot or tract is used for an agricultural, commercial, or industrial purpose, more than one main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot or tract for the district in which the lot or tract is located.

13.02 Adjustment to Front Yard Requirements. Where, on the effective date of this ordinance, forty percent (40%) or more of a frontage was occupied by two or more buildings, then the front yard is established in the following manner:

- A. Where the building further most from the street provides a front yard not more than ten (10) feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.
- B. Where this (A) is not the case and a lot is within one hundred (100) feet of a building on each side, then the front yard is a line drawn from the closest front corners of these two adjacent buildings.
- C. Where neither (A) nor (B) is the case, and the lot is within one hundred (100) feet of an existing building on one side only, then the front yard is the same as that of the existing adjacent building.

13.03 Adjustment to Side Yard Requirements. Buildings with side yard setbacks less than required by this ordinance, may have additions erected in line with the existing building and provided further that said addition will be erected no closer to the lot line than the existing building.

13.04 Projections from Buildings. Every part of any required yard shall be open to the sky and unobstructed except:

- A. Eaves may project into a front or rear yard thirty-six (36) inches, exclusive of gutters;
- B. Eaves may project into a side yard twenty-four (24) inches, exclusive of gutters;
- C. Ordinary projection of sills, belt courses, cornices, vertical solar screen, and ornamental features which may project twelve (12) inches;
- D. Air conditioners, not to exceed five (5) ton unit or parts thereof, any project into a required side yard, provided that such projections shall be distant at least three (3) feet from the adjacent lot line and shall not extend more than three (3) feet from the building. Such air conditioners may project into a required front yard, but shall not extend more than three (3) feet from the building, and such air conditioner may extend into one side of a corner lot;

- E. Solar collectors which are a part of the main building may extend into a required rear yard for a distance not to exceed ten (10) feet.

13.05 Porches and Terraces in Front Yards. An open, unenclosed porch may project into a required front yard for distance not exceeding ten (10) feet. Balconies and paved terraces may project into a required front yard for a distance not exceeding six (6) feet. An enclosed vestibule containing not more than forty (40) square feet may project into a required front yard for a distance not to exceed four (4) feet.

13.06 Projection of Terraces, Porches, Platforms, and Ornamental Features. Terraces, uncovered porches, platforms, and ornamental features which do not extend more than three (3) feet above the floor level of the ground (first) story may project into a required side or rear yard, provided these projections be distanced at least three (3) feet from the adjacent side lot line.

13.07 Double Frontage Lots. Where lots have double frontage, the required front yard shall be provided on both streets.

Article 14.00
Additional Height Regulations

14.01 Exceptions. The height regulations established in this ordinance shall not be applied to flag poles, domestic television antennas, church spires, chimneys, broadcast towers, telecommunication towers and water towers.

14.02 Mechanical Appurtenances. All necessary mechanical appurtenances placed on the roof, including but not limited to, air conditioning units, heating units, elevator penthouses, communications towers, and satellite receiving dishes, located on top of a building, are exempt from the height regulations of this ordinance as follows:

- A. No such appurtenances shall exceed 12 feet in height above the maximum permitted in the district in which they are located.
- B. All said appurtenances must be set back a minimum of 12 feet from all faces of a building when said faces are adjacent to the street.

Article 15.00
Parking and Loading Regulations

15.01 Location. All parking required by this article shall be located in conformance with the following requirements:

- A. The parking lot shall maintain a minimum setback of 15 feet from the front property line.
- B. Parking spaces for all structures shall be located on the same site as the structure such parking is intended to serve; except that by conditional use, parking may be located within 300 feet of the use it is intended to serve.

15.02 Off-Street Parking Requirements. Off-street parking for specific uses shall be required as follows:

- A. Single Family and Two-family Dwellings: One space for each dwelling unit.
- B. Multiple Dwellings: One and one-half spaces for each dwelling unit of one bedroom or less. Two spaces for each dwelling unit of two bedrooms or more.
- C. Multiple dwellings for the elderly and handicapped: .75 spaces for each dwelling unit.
- D. Rooming and Boarding Houses, Sororities, and Fraternities: One space per two beds.
- E. Private Club or Lodge: One parking space for each 300 square feet of floor area.
- F. Church or Temple: One parking space for each four seats in the main auditorium.
- G. School:
 - 1. Colleges and Universities: Because of the unique parking needs of colleges and universities, a permit application for new construction must include a parking study prepared by the applicant of the parking needs of the entire campus including the new use and the study must address a plan to meet the parking needs of the staff and students.
 - 2. High Schools: One parking space for each three students based on the building's design capacity.
 - 3. Junior High School: 25 spaces plus one parking space for each teacher and staff member.
 - 4. Elementary School: five spaces plus one parking space for each teacher and staff member.
- H. Hospital: One and one-half parking spaces for each bed.

- I. Sanitarium or Institutional Home: One parking space for each three beds.
- J. Mortuary: One space for each 50 square feet of floor area in slumber rooms or one for each four seats in chapel, whichever is greater.
- K. Auditoriums, Theaters, Other Places of Public Assembly: One parking space for each four seats.
- L. Community Center, Library, Museum or Similar Public or Semi-public Buildings: Ten parking spaces plus one additional space for each additional 300 square feet of floor area in excess of 2,000 square feet.
- M. Hotel or Motel: Five parking spaces plus one space for each sleeping room or suite.
- N. Medical Office Building: Buildings in which 20 percent or more of the gross area is occupied by members of healing profession. One parking space for each 200 square feet of the gross area used for medical purposes.
- O. Manufacturing or Industrial Establishments, Research or Testing Laboratory, Bottling Plant, Warehouse, or other Similar Establishments: Two parking spaces for each three employees on the maximum shift, plus space to accommodate all trucks and other vehicles used in connection therewith.
- P. Restaurant, Bar, Cafe or Recreation or Amusement Establishment Not Specified Herein: One parking space for each 100 square feet of floor area or one parking space per three fixed seats, which ever is greater.
- Q. Bowling Alley: Three spaces per alley.
- R. Personal Services: One parking space for each 200 square feet of floor area.
- S. Retail Stores Selling Furniture, Appliance, or Home Improvement Products (ie. carpet, paint, wall paper, etc.): One parking space for each 600 square feet of floor area.
- T. Other Retail Uses: One parking space for each 300 square feet of gross floor area except for planned shopping centers of 100,000 square feet of floor area or more who may reduce their requirement to one space for each 400 square feet of floor area.
- U. All Nonresidential Buildings, Except Those Specified Above: One space for each 300 square feet of floor area.

15.03 Rules for Computing Parking Spaces. In computing the number of required off-street parking spaces, the following rules shall be applied:

- A. Floor area shall mean the gross floor area of the specific use, excluding any floor or portion thereof used for parking as herein defined.

- B. Where fractional spaces result, the number of parking spaces required shall be the nearest whole number.

15.04 Minimum Improvement and Maintenance Standards. Driveways, parking lots, and loading/unloading areas shall conform with the following improvement and maintenance standards:

- A. If a driveway, parking lot or loading/unloading area is not hard surfaced with concrete or asphalt, an aggregate surface shall be provided. The aggregate surface shall be maintained to a thickness of at least four inches.
- B. Adequate provisions shall be made for the disposal of storm water from a driveway, parking lot or loading/unloading area and the owner shall insure that such water does not flow onto adjoining property in a quantity or manner that would be detrimental thereto.
- C. An opaque fence, wall, berm, or landscaping of a height and character necessary for adequate screening of the parking lot from adjacent residentially used property shall be provided. Where there is a difference in elevation between the property which needs the screening and the property receiving the benefit of the screening, the height of the screen barrier shall be measured on the high side.

(Amended: Ordinance No. 2009-20, 09-01-20)

15.05 Off-Street Loading Requirements.

- A. There shall be provided at the time any building is erected or structurally altered, off-street loading spaces in accordance with the following requirements:

- 1. Office Buildings:

5,000 to 25,000 sq. ft. of GFA*.....One 12' X 20' loading space

25,001 to 50,000 sq. ft. of GFA.....One 14' X 35' loading space

50,001 to 200,000 sq. ft. of GFA.....Two 14' X 35' loading spaces

Add one additional 14' X 35' loading space for each 75,000 square feet of gross floor area above 200,000 square feet.

*GFA means gross floor area.

- 2. Retail or Service Establishment:

Less than 5,000 sq. ft. of GFA.....One 12' X 20' loading space

5,001 to 20,000 sq. ft. of GFA.....One 14' X 35' loading space

20,001 to 100,000 sq. ft. of GFA.....Two 14' X 35' loading spaces

Add one additional space for each 75,000 square feet of gross floor area above 1,000,000 square feet.

3. Wholesale, Commercial use;

2,000 to 20,000 sq. ft. of GFA.....One 14' X 35' loading space.

20,000 to 100,000 sq. ft. of GFA.....Two 14' X 35' loading spaces

Add one additional space for each 75,000 square feet of gross floor area above 100,000 square feet.

4. Manufacturing or Industrial Use:

One 14' X 35" space for each 10,000 square feet of gross floor area plus one 14' X 35' space for each portion thereof in excess of 50,000 square feet.

B. Loading spaces are to be provided on each lot in compliance with the following requirements.

1. The loading space shall be completely contained on the lot it is intended to serve.
2. The loading space shall be arranged on the lot in such a way as to allow normal movement of traffic in and around the loading area.
3. No loading space shall be permitted to extend into any public right-of-way.

Article 16.00

On-Premise Signs

16.01 Intent. These regulations provide standards for the erection and maintenance of private signs. The principal feature of this section is the restriction on the total sign area permissible per site. All private signs shall be erected and maintained in accordance with the following standards. The general objectives of these standards are to promote health, safety, welfare and in part to achieve the following:

- A. Safety: To promote the safety of persons and property by providing that signs:
 - 1. Do not create a hazard due to collapse, fire, collision, decay, or abandonment;
 - 2. Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to see and interpret any official traffic sign, signal or device.
- B. Communications Efficiency: To promote the efficient transfer of information by providing that:
 - 1. Businesses and services may identify themselves;
 - 2. Customers and persons may locate a business or service;
 - 3. No person or group is arbitrarily denied the use of the sight line from public rights-of-way for communication purposes.
- C. Landscape Quality and Preservation: To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:
 - 1. Do not create a nuisance to persons using the public rights-of-way;
 - 2. Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement.

16.02 Permitted Signs and Sign Area. In the following districts, the sign area and height set forth shall apply to all signs on the premises except as provided in Section 16.05:

- A. A-1 Agricultural and RC Recreation/Conservation Districts:
 - 1. Signs advertising the use of a particular breed, type, variety, hybrid, or brand of plant, chemical or tillage. No one sign shall exceed 16 square feet in area per face.
 - 2. Uses which are governed by conditional use may have signs on the premise in accordance with the stipulations of the permit.
 - 3. No hunting, no trespassing and similar signs.

B. RR Rural Residential and R-1 Residential:

1. A two square foot wall or freestanding sign identifying a home occupation.

C. C Commercial, I-1 and I-2 Industrial:

1. Wall, roof, or projecting signs:
 - a. The total sign area on structures which are two stories or less in height shall not exceed two square feet for each linear foot of building frontage.
 - b. The total sign area on structures which are greater than two stories in height shall not exceed either two square feet for each linear foot of building frontage, or 15% of the area of the frontage wall, whichever is greater.
2. Freestanding signs having a total sign area not to exceed one square foot for each linear foot of road frontage or 200 square feet, whichever is less.
3. The maximum sign height shall be 30 feet except when a sign is within 600 feet of an interstate right-of-way, in which case the maximum height shall be 60 feet.

16.03 Regulations and Limitations of Permitted Signs.

A. Wall Signs. Wall signs may be located anywhere on the wall of a building.

B. Projecting Signs.

1. Projecting signs may project no more than five feet from the building face.
2. Projecting signs shall have a minimum clearance of ten feet above grade level about any yard or sidewalk and 16 feet above any road or drive.
3. Projecting signs may project no more than five feet above the top of a parapet or roof line including the framework or support.

C. Roof Signs. Roof signs shall rise no higher than five feet above the top of a parapet or roof line and shall not exceed the height limits for the zoning district.

D. Freestanding Signs.

1. Freestanding signs shall be limited to one per street frontage except that businesses on frontages of 300 feet or more may erect two freestanding signs; however, the total sign area for both signs may not exceed that allowed for the street frontage.
2. Freestanding signs shall be located only in the front or side yard.

3. Freestanding signs shall not project over public property.
4. Freestanding signs shall not be erected within the area of a corner of two intersecting streets or a street and railroad. Area of a corner, in this case, shall be the triangular area formed by measuring 40 feet from the intersection along both roads and connecting these two points with a straight line.

Exceptions: Freestanding signs may be located in the area of a corner when the sign and sign structure comply with the following:

- a. The sign face is located 12 feet above grade level; and
- b. The sign structure is of such a size and spacing as to not obstruct the view of said intersection.

16.04 Special Situations. This section contains the sign regulations for the following special situations:

- A. Shopping Centers. A freestanding sign shall be allowed on each street frontage stating the name of the center and the major tenants provided no other freestanding signs are erected. The sign area shall be determined independently from the sign area allowed under 16.02. A sign area of one square foot for each one lineal feet of street frontage or 200 square feet per frontage, whichever is smaller, shall be allowed. The height shall not exceed 40 feet.
- B. Interstate Highway Interchange. In the C, I-1 and I-2 Districts, businesses which are adjacent to both the interstate and the intersecting cross street may by conditional use erect one additional on-premise freestanding sign not to exceed 200 square feet or 60 feet in height.

16.05 Exemptions. The following signs may be allowed in addition to the signs permitted in Section 16.02, but signs must be in conformance with all other state and local laws.

- A. Automobile Service Station. Gasoline dispensing stations may have, in addition to other signs, one 12 square foot sign on each street frontage. Such signs shall be firmly attached to a structure and shall contain gasoline pricing information only.
- B. Construction Signs. Building contractors, lending institutions and professional firms may post temporary signs on site under construction. The total sign area shall not exceed 100 square feet or 20 feet in height and shall be removed upon completion of the project.
- C. Neighborhood Identification Signs. In any zone, a masonry wall, landscaping and other similar material or feature may be combined to form a display for neighborhood or tract identification, provided that the legend of such signs or display shall consist only of the neighborhood or tract name.

- D. **Permanent Identification Signs.** Churches, schools, day care centers, institutional and public uses in the agricultural and residential districts may have a sign not exceeding 25 square feet in area per frontage.
- E. **Public Signs.** Signs of a noncommercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of his duty shall be permitted.
- F. **Integral Signs.** Names of buildings, dates of erection, monumental citations, commemorable tablets, and the like, of permanent type construction and made an integral part of the building structure shall be permitted.
- G. **Private Traffic Directional Signs.** Signs directing traffic movement into, out of or within the commercial premise. Such signs shall not exceed an area of four square feet per sign face and four feet in height.
- H. **Real Estate Signs.** Temporary real estate signs shall be permitted.

16.06 Illumination. Regulations regarding the illumination of signs shall be as follows:

- A. **Shading.** The light from any illuminated sign or billboard shall be so shielded, shaded, or directed so that the light intensity shall not adversely affect surrounding or facing premises or safe vision of operators of vehicles on public or private roads.
- B. **Blinking and Flashing.** Blinking, flashing, pulsating, or fluttering lights, or other illuminated devices which have a changing light shall not be located closer than 300 feet from any residential district. This restriction shall not apply to signs displaying the date, time and temperature exclusively.

16.07 Temporary and Portable Signs. Temporary and portable signs shall not exceed 32 square feet and may be displayed for 60 days per calendar year in the C and I Districts. It shall be the duty of the user of the sign to:

- A. Notify and obtain approval from the Planning Director prior to placement of said sign.
- B. Notify the Planning Director upon removal of said sign. The Planning Director shall continue to deduct one day from the 60 days allowed per calendar year until notice of removal is received or a total of 60 days has elapsed.
- C. Place the signs in locations so that the provisions of this article and all other applicable codes and ordinances are complied with. Temporary and portable signs in the A-1 District, when used in conjunction with roadside stands and fireworks stands, shall be authorized as part of the conditional use granted to such uses.

16.08 Prohibited Signs. The following signs are prohibited:

- A. **Parking of Advertising Vehicles Prohibited.** No person shall park any vehicle or trailer on a public right-of-way, or public property, or on private property so as to be visible from a public right-of-way, which has attached thereto or located thereon, any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same premises or any other premise. This is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettering on a motor vehicle.
- B. **Nuisance Signs.** Signs which imitate an official traffic sign or signal or which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic, street sign or signal shall be removed upon notice.
- C. **Banners.** Banners shall be prohibited except on a temporary basis for a maximum of 21 days during any calendar year.

16.09 Maintenance and Removal. Every on-premise sign, including any exempt from this code in respect to permits and permit fees, shall be maintained in good structural and aesthetic condition at all times. Any abandoned, unsafe or unsightly sign shall be removed or renovated within 60 days upon written notice. If the owner fails to remove or renovate the sign within the required time period the County may remove such sign at the owner's expense.

Article 17.00 Off-Premise Signs

17.01 Purpose and Intent. The purpose of this article is to prevent the uncontrolled use of off-premise signs so as to promote the health, safety and general welfare of those persons using the public rights-of-way. These regulations are intended to preserve the overall landscape quality of the county while allowing the reasonable use of signs to inform the traveling public. This is accomplished through the application of standards for size, illumination and separation.

17.02 General Regulations.

- A. In the A-1 and RC Districts, off-premise signs shall be limited to those which provide direction to a business or use and shall be constructed in accordance with the following:
1. A maximum sign area of 9 square feet.
 2. The sign shall contain the business name and directional information only.
 3. There shall be no more than one sign face per direction of facing.
 4. A sign shall not be within a 500 foot radius of any other off-premise sign intended to be read from the same right-of-way. The sign shall not be within a 300 foot radius of any other off-premise sign intended to be read from a different right-of-way. All spacing measurements in this subsection shall refer to a measurement made along the edge of the right-of-way and shall apply only to structures located on the same side of the highway. These spacing provisions do not apply to signs separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the road right-of-way at any one time.
 5. A sign shall not be illuminated nor shall blinking or flashing lights be used.
 6. A maximum height of 16 feet.
- B. The following regulations shall apply to off-premise signs in the C, I-1 and I-2 Districts:
1. A maximum sign area of 288 square feet.
 2. There shall be no more than one sign face per direction of facing.
 3. The maximum height shall be 40 feet.
 4. No part of the sign face or structure shall be located in or overlap into the required side or rear yard setbacks or public right-of-way.
 5. A sign shall not be within a 500 foot radius of any other off-premise sign intended to be read from the same right-of-way. The sign shall not be within a 300 foot radius of

any other off-premise sign intended to be read from a different right-of-way. All spacing measurements in this subsection shall refer to a measurement made along the right-of-way and shall apply only to structures located on the same side of the highway. These spacing provisions do not apply to signs separated by buildings or other obstructions in such a manner that only one sign facing located within the above spacing distance is visible from the road right-of-way at any one time.

6. The light from any illuminated sign shall be so shielded, shaded or directed so that the light intensity shall not adversely affect surrounding or facing premises or the safe vision of operators of vehicles on public roads.

17.03 Conditional Uses.

- A. Off-site signs up to a maximum of 672 square feet and signs with more than one sign face per direction of facing may be constructed in the C, I-1 and I-2 Districts if a conditional use has been obtained.
- B. A conditional use shall be required for off-premise signs within 500 feet of a park, school, church, or designated historic site.

17.04 Exceptions.

- A. Directional signs for nonprofit organizations not to exceed four square feet per sign face.
- B. Political campaign signs provided the signs are removed within five days after the election.
- C. Directional signs, street name signs, or other signs which have been authorized and directed by a governmental unit.

17.05 Prohibited Signs. The following signs are prohibited:

- A. **Parking of Advertising Vehicles Prohibited.** No person shall park any vehicle or trailer on a public right-of-way, or public property, or on private property so as to be visible from a public right-of-way, which has attached thereto or located thereon, any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same premises or any other premise. This is not intended to prohibit any form of vehicular signage such as a sign attached to a bus or lettering on a motor vehicle.
- B. **Nuisance Signs.** Signs which imitate an official traffic sign or signal or which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic, street sign or signal shall be removed upon notice.

17.06 Maintenance and Removal. Every off-premise sign shall be maintained in good structural and aesthetic condition at all times. Any abandoned, unsafe or unsightly sign shall be

removed or renovated within 60 days upon written notice. If the owner fails to remove or renovate the sign within the required time period the County may remove such sign at the owner's expense.

Article 18.00
Nonconforming and Nonstandard Uses

18.01 Purpose and Intent. The purpose of this article is to provide for the regulation of nonconforming uses, buildings, and structures, and to specify those circumstances under which they shall be permitted to continue.

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

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

18.04 Change in Nonconforming Use. If no structural alterations or additions are made, a nonconforming use may be changed to another nonconforming use of the same or a more restrictive classification. For the purposes of this article, each of the following classifications shall be considered to be "more restrictive" than those it precedes:

RC	Recreation/Conservation
RR	Rural Residential
R-1	Residential
C	Commercial
I-1	Light Industrial
I-2	General Industrial

Whenever a nonconforming use has been changed to a more restrictive use or to a permitted use, such use shall not thereafter be changed to a less restrictive use.

18.05 Extension or Enlargement. A nonconforming use shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the premise is located except that a conditional use permit may be authorized after the following criteria are given specific consideration:

- A. Effect on surrounding property values.
- B. The density of land use zoning for the subject and adjacent properties.
- C. The degree of hardship upon the applicant which would be caused by failure to grant the permit.
- D. It can be demonstrated that it was the owner's intent to use the entire premises for said use prior to the adoption, revision or amendment of this ordinance.

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

Exception: Single family dwellings may be restored if damaged less than 100 percent.

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

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

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

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