



# YANKTON COUNTY

## ZONING ORDINANCE 2020

Adopted: February 18, 2020

Prepared by: Yankton County Commission  
Yankton County Planning Commission

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# COUNTY OFFICIALS

## **Yankton County Commission:**

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Joseph Healy, Yankton  
Cheri Loest, Utica  
Don Kettering, Yankton  
Wanda Howey-Fox, Yankton

## **Yankton County Planning Commission:**

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## **Yankton County Auditor:**

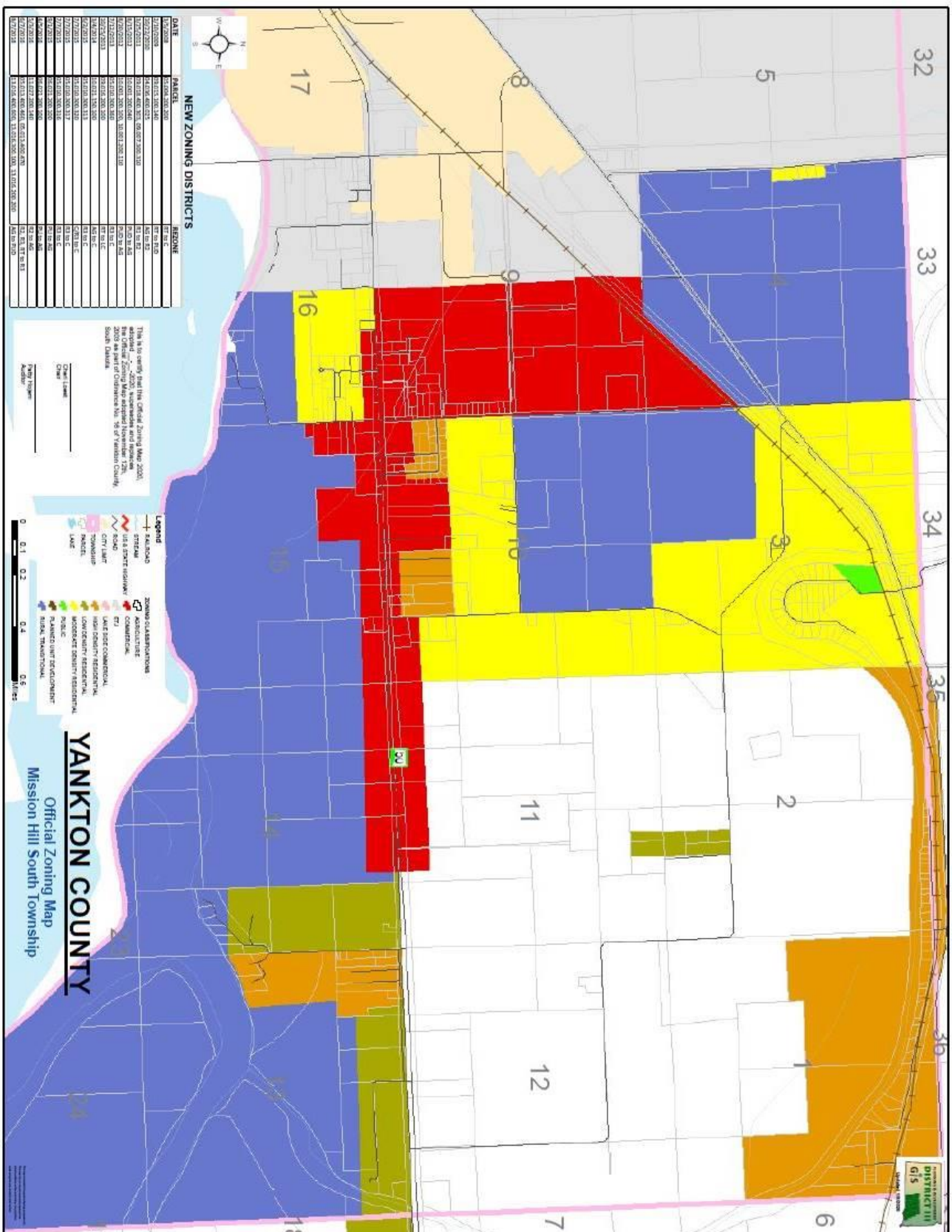
Patty Hojem, (605) 260-4436

**Yankton County  
Zoning Ordinance  
District Lot Requirements Overview**

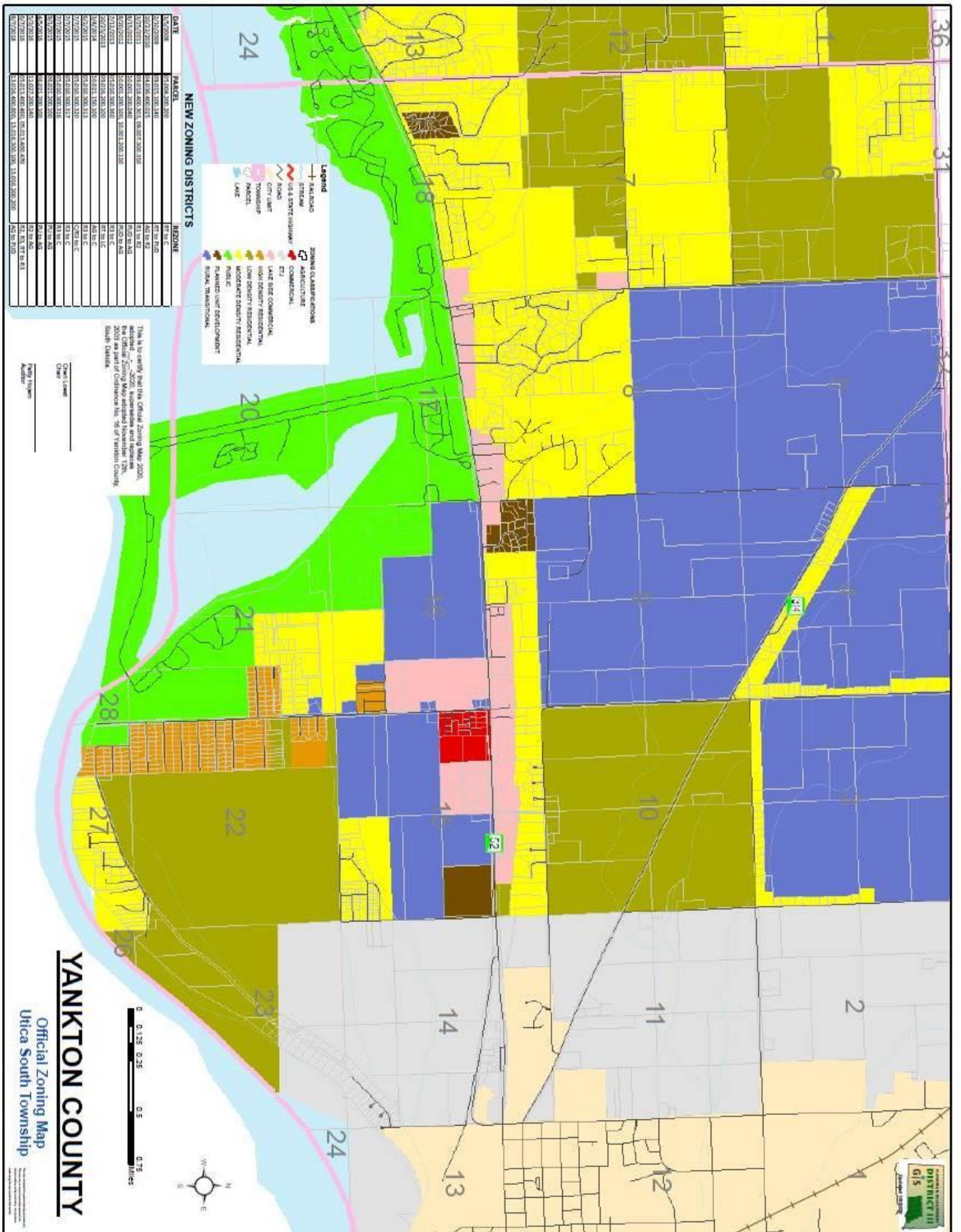
<b>District</b>	<b>Lot Area</b>	<b>Minimum Lot Width</b>	<b>Minimum Front Yard Depth</b>	<b>Minimum Rear Yard Depth</b>	<b>Minimum Side Yard Width</b>
<b>Agriculture (AG) (Amended July 20,2021)</b>	<b>20 acres</b>	<b>500 feet</b>	<b>50 feet</b>	<b>50 feet</b>	<b>50 feet</b>
<b>Low Density Residential (R1)</b>	<b>5 acres</b>	<b>200 feet</b>	<b>30-50 feet *</b>	<b>20 feet</b>	<b>10 feet</b>
<b>Moderate Density Residential (R2)</b>	<b>40,000 sq ft (1 acre)</b>	<b>100 feet</b>	<b>30-50 feet *</b>	<b>20 feet</b>	<b>10 feet</b>
<b>High Density Residential (R3)</b>	<b>20,000 sq ft (1/2 acre)</b>	<b>75 feet</b>	<b>30-50 feet *</b>	<b>20 feet</b>	<b>10 feet</b>
<b>Manufactured Home Park (MHP)</b>	<b>3 acres</b>	<b>300 feet</b>	<b>30 feet</b>	<b>10 feet</b>	<b>10 feet</b>
<b>Commercial (C)</b>	<b>2 acres</b>	<b>150 feet</b>	<b>100 feet</b>	<b>50 feet</b>	<b>25 feet</b>
<b>Lakeside Commercial (LC)</b>	<b>1 acre</b>	<b>150 feet</b>	<b>75 feet</b>	<b>25 feet</b>	<b>25 feet</b>
<b>Rural Transitional (RT)</b>	<b>20 acres</b>	<b>500 feet</b>	<b>30-50 feet *</b>	<b>20 feet</b>	<b>10 feet</b>
<b>Planned Unit Development (PUD)</b>	<b>5 acres</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

\* Refer to the ordinance text for more detailed information.

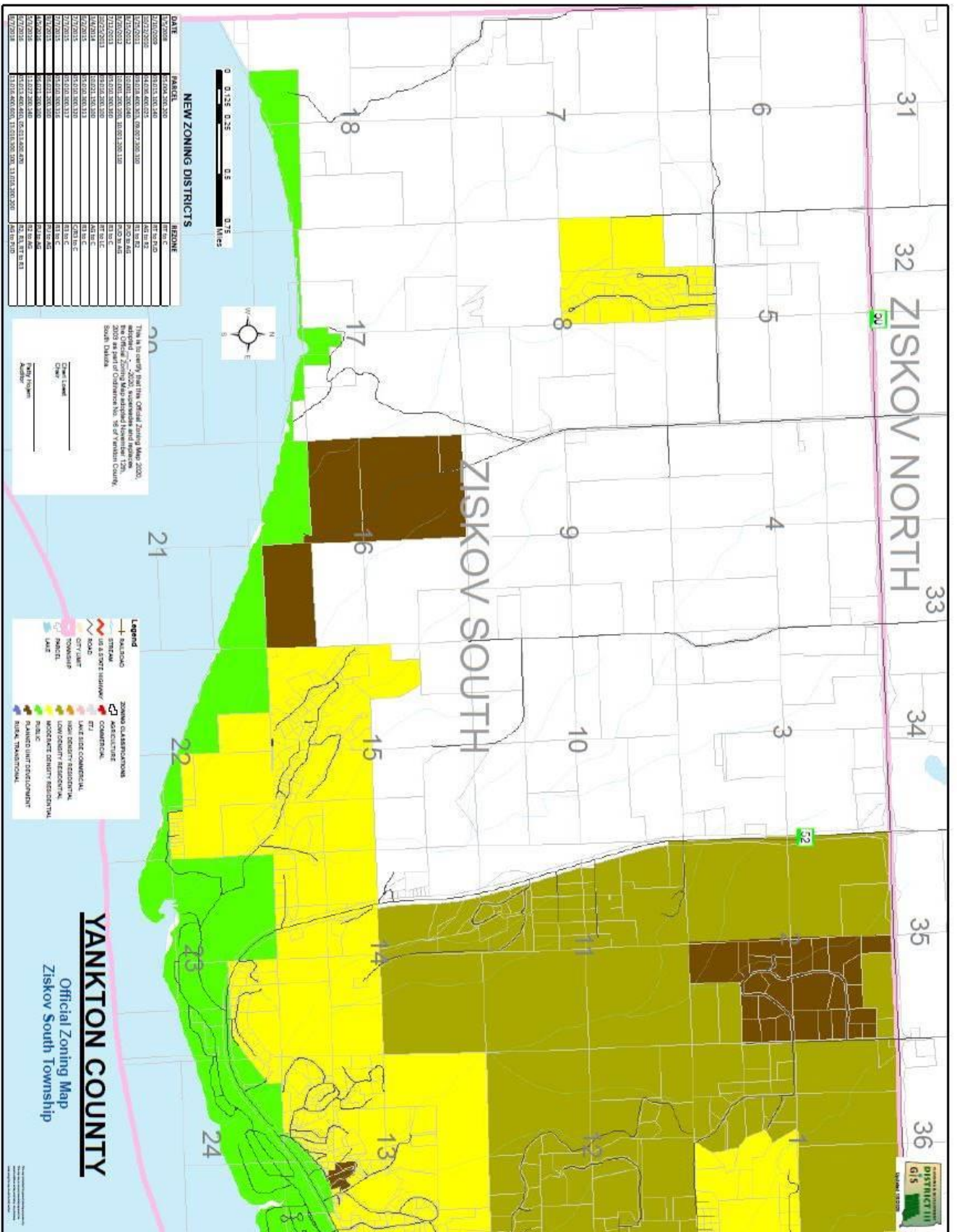












## DEFINITIONS

### **Definitions**

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

### **Terms**

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

Abandoned Sign/Billboard - a sign or sign structure that is blank, obliterated or displays obsolete advertising material for a period in excess of twelve continuous months. The twelve-month period for determining if a sign is abandoned commences upon notification of violation to the offender.

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

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

Accessory Building - A subordinate building, the use of which is purely incidental to the main building. It shall be unlawful for any person, firm, or corporation in the following Yankton County Zoning Districts: Low Density Rural Residential (R1), Moderate Density Rural Residential (R2), High Density Rural Residential (R3), Manufactured Home Park (MHP), Lakeside Commercial (LC), Rural Transitional (RT), Planned Unit Development (PUD) to use any van body, truck body, semi-trailer, rail car, "shipping crate", and/or any vehicle no longer used for its manufactured purpose as a storage shed, storage building, warehouse, or as living quarters. It shall be unlawful to use manufactured homes for any use other than residential living quarters in all Yankton County Zoning Districts. However, this shall not prevent the lawful parking of vehicles properly licensed, insured, and in regular use for their intended purpose to include 'RVs' and camping trailers. **(Amended May 19, 2020)**

Accessory Use or Structure - A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure. It shall be unlawful for any person, firm, or corporation in the following Yankton County Zoning Districts: Low Density Rural Residential (R1), Moderate Density Rural Residential (R2), High Density Rural Residential (R3), Manufactured Home Park

(MHP), Lakeside Commercial (LC), Rural Transitional (RT), Planned Unit Development (PUD) to use any van body, truck body, semi-trailer, rail car, “shipping crate”, and/or any vehicle no longer used for its manufactured purpose as a storage shed, storage building, warehouse, or as living quarters. It shall be unlawful to use manufactured homes for any use other than residential living quarters in all Yankton County Zoning Districts. However, this shall not prevent the lawful parking of vehicles properly licensed, insured, and in regular use for their intended purpose to include ‘RVs’ and camping trailers.

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

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

Administrative Review - A process brought forth by the Zoning Administrator to clarify a provision of the Zoning Ordinance. A review may include policy interpretation or procedural questions but shall not include the appeals process as detailed herein.

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

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

Agriculture - The planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards along with the raising and feeding of livestock and/or poultry shall be considered an agricultural use. Grain elevators or Agricultural Product Processing Facilities shall not be considered an agricultural use if such use constitutes the main or principal use on a lot or parcel.

Agribusiness – A business which directly supports the agricultural industry, such as suppliers of feed, seed, chemicals, fertilizer, farm equipment, and equipment parts, farm equipment repair services, veterinary services, drain tile installers, and commercial grain elevators. **(Amended August 19, 2021)**

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

Aggrieved Person - A person aggrieved is any person directly interested in the outcome of and aggrieved by a decision or action or failure to act regarding a zoning decision thus: **(Amended August 19, 2021)**

1. Establishes that the person suffered an injury, an invasion of a legally protected interest that is both concrete and particularized, and actual or imminent, not conjectural or hypothetical;
2. Shows that a causal connection exists between the person's injury and the conduct of which the person complains. The causal connection is satisfied if the injury is fairly traceable to the challenged action, and not the result of the independent action of any third party not before the court; (3) Shows it is likely, and not merely speculative, that the injury will be redressed by a favorable decision, and; (4) Shows that the injury is unique or different from those injuries suffered by the public in general.

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

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

Amusement Park - A facility, primarily outdoors, that may include structures and buildings, where there are various devices for entertainment including rides, booths for the conduct of games or sale of items, buildings for shows and entertainment and restaurants and souvenir sales.

Animal Feeding Operation: An animal feeding operation is a lot or facility where 200 or greater animal units, excluding aquaculture, are confined, stabled, fed, or maintained in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more facilities under common ownership are a single animal operation if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure. **(Amended August 19, 2021)**

For the purposes of these regulations, Animal Feeding Operations are divided into the following classes:

Class	Animal Units
Class A	<u>500 - 10,000</u>
Class B	<u>200 – 499</u>

**Animal Feeding Operation or CAFO, New** - An animal feeding operation or CAFO, (see definitions), constructed after the effective date of this ordinance or any subsequent amendment of applicable Articles or Sections. Operations in existence upon adoption or prior to future amendments may be considered a new operation if the facility is expanded to facilitate an increase of more than three hundred (300) animal units. Any new construction relating to an expansion must comply with the applicable performance standards. The Planning Commission and Board of Adjustment shall have the authority to decrease or waive any standard deemed contradictory to the intent of the zoning ordinance upon review and in accordance with the conditional use and variance process described herein. **(Amended May 19, 2020)**

**Animal Units** - A unit of measure for livestock equated as follows; one head is equivalent to animal units: **(Amended August 19, 2021)**

Cow, feeder, or slaughter beef animal, including cow/calf pairs	1.0 A.U.
Horse	2.0 A.U.
Mature dairy cattle, excluding dairy calves under 300 pounds	1.4 A.U.
Farrow-to-finish sows	3.7 A.U.
Swine in a production unit	0.47 A.U.
Nursery swine less than 55 pounds	0.1 A.U.
Finisher swine over 55 pounds	0.4 A.U.
Sheep or lambs, goats	0.1 A.U.
Laying hens or broilers	0.033 A.U.
Ducks and/or geese	0.2 A.U.
Turkeys	0.018 A.U.

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

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

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

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

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

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



Auction Yard - Any premises used predominantly as an auction pavilion or any area dedicated to consignment auctions or similar activities. A yard may include structures, open, and fenced display areas.

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

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

Back-To-Back Sign: An off-site or on-site sign consisting of two sign facings oriented in the opposite direction with not more than one face per side.

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

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

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

Billboard - See Sign, Off-Site.

Board of Adjustment - The Yankton County Commission shall serve as the Board of Adjustment.

Bona fide practitioner-patient relationship” means: (Amended November 4, 2021)

- a. A practitioner and patient have a treatment or consulting relationship, during course of which the practitioner has completed an assessment of the patient’s medical history and current medical condition, including an appropriate in-person physical examination;
- b. The practitioner has consulted with the patient with respect to the patient’s debilitating medical condition; and
- c. The practitioner is available to or offers to provide follow-up care and treatment to the patient, including patient examinations;

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

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

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

**Building Permit** - A type of authorization that must be granted by a government or other regulatory body before the construction of a new or expansion of existing building can legally occur. **(Amended August 19, 2021)**

**Building Setback Lines** - A line parallel or approximately parallel to the lot lines at a specified distance therefrom, marking the minimum distance from the lot line that the building may be erected.

**Building Site** - A lot or parcel, or portion thereof, whether a lot of record or described by metes and bounds, used or intended to be used as the location of a building for housing one or two families.

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

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

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

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

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

**Camper** - See Travel Trailer.

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

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

Cannabis (or Marijuana): all parts of any plant of the genus cannabis, whether growing or not; the seeds thereof; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds. The term does not include fiber produced from the mature stalks of the plant, or oil or cake made from the seeds of the plant, or the resin when extracted from any part of the plant or cannabidiol in a drug product approved by the United States Food and Drug Administration. The term does not include the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis. **(Amended October 21, 2021)**

Cannabis, Allowable amount: **(Amended November 4, 2021)**

- a. Three ounces of cannabis or less;
- b. A quantity of cannabis products with an equivalent cannabis weight as established by rules promulgated by the department under § 34-20G-72;
- c. If the cardholder has a registry identification card allowing cultivation, three cannabis plants minimum or as prescribed by physician; and
- d. If the cardholder has a registry identification card allowing cultivation, the amount of cannabis and cannabis products that were produced from the cardholder's allowable plants, if the cannabis and cannabis products are possessed at the same property where the plants were cultivated;

Cannabis Cultivation Facility: a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment. **(Amended October 21, 2021)**

Cannabis Dispensary: a legally licensed entity that acquires, possesses, stores, delivers, transfers, transports, sells, supplies, or dispenses cannabis, cannabis products, paraphernalia, or related supplies and educational materials. **(Amended October 21, 2021)**

Cannabis Establishment: a cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary. **(Amended October 21, 2021)**

Cannabis Establishment, Non-licensed: an entity which would otherwise meet the definition of a cannabis establishment but which is not legally licensed. **(Amended October 21, 2021)**

Cannabis product- any concentrated cannabis, cannabis extracts, and products that are infused with cannabis or an extract thereof, and are intended for use or consumption by humans. The term includes edible cannabis products, beverages, topical products,

ointments, oils and tinctures. **(Amended November 4, 2021)**

Cannabis Product Manufacturing Facility: a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary. **(Amended October 21, 2021)**

Cannabis Testing Facility: a legally licensed entity legally authorized to analyze the safety and potency of cannabis. **(Amended October 21, 2021)**

Cardholder - a qualifying patient or a designated caregiver who has been issued and possesses a valid registry identification card **(Amended November 4, 2021)**

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

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

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

Cemetery - Land that is set apart or used as a place for the interment of the dead or in which human bodies have been buried. "Cemetery" may include a structure for the purpose of the cremation of human remains and may include facilities for storing ashes of human remains that have been cremated or the interment of the dead in sealed crypts or compartments.

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

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

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

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

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

Commissioners - the Yankton County Board of County Commissioners (**Amended November 4, 2021**)

Concentrated Animal Feeding Operation (CAFO): An animal feeding operation that is previously defined meets one or more of the following criteria: (**Amended August 19, 2021**)

1. Contains at least 500 animal units
2. Utilizes a Liquid Manure System (see definitions)
3. Utilizes environmentally controlled housing where the animals are contained in a thermostatically controlled environment
4. Discharges pollutants into waters of the state through man-made ditch, flushing system, or other similar man-made device
5. Discharges pollutants directly into waters of the state which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in operation

Concentrated Animal Feeding Operation (CAFO) Existing: Concentrated animal feeding operations in existence prior to the effective date of this ordinance or any subsequent amendment of applicable Articles or Sections. (**Amended August 19, 2021**)

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

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

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

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



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

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

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

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

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

Cultivation facility - an entity registered with the department pursuant to this chapter that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a medical cannabis establishment. **(Amended November 4, 2021)**

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

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

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

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

**Debilitating medical condition – (Amended November 4, 2021)**

- a. chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including those characteristic of multiple sclerosis; or
- b. Any other medical condition or its treatment added by the department, as provided for in SDCL 34-20G-26;

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

**Department - the Department of Health (Amended November 4, 2021)****Designated caregiver - a person who: (Amended November 4, 2021)**

- a. Is at least twenty-one (21) years of age;
- b. Has agreed to assist with a qualifying patient's medical use of cannabis;
- c. Has not been convicted of a disqualifying felony offense; and
- d. Assists no more than five (5) qualifying patients with the medical use of cannabis, unless the designated caregivers' qualifying patients each reside in or are admitted to a health care facility or residential care facility where the designated caregiver is employed

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

**Directional Sign** - A sign erected for the convenience of the public, such as directing traffic movement, parking or identifying restrooms, public telephones, walkways and other similar features or facilities and bearing no advertising in the message.

**Disqualifying felony offense** - a violent crime that was classified as a felony in the jurisdiction where the person was convicted. **(Amended November 4, 2021)**

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

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

Double Faced Sign - An off-site or on-site sign with two adjacent faces oriented in the same direction and not more than 10-feet apart at the nearest point between the two faces.

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

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

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

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

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

Dwelling, Multiple Family - A residential building designed for, or occupied by, three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

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

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

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

Edible cannabis products - any product that: **(Amended November 4, 2021)**

- a. Contains or is infused with cannabis or an extract thereof;
- b. Is intended for human consumption by oral ingestion; and
- c. Is presented in the form of foodstuffs, beverages, extracts, oils, tinctures, or other similar products;

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

Enclosed, locked facility - any closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by a cardholder or a person allowed to cultivate the plants. Two or more cardholders who reside in the same dwelling may share one enclosed, locked facility for cultivation.  
**(Amended November 4, 2021)**

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

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

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

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

Family - Any number of individuals living together as a single housekeeping unit, in which not more than five (5) individuals are unrelated by blood, marriage or adoption. This definition shall not include foster families as regulated by the State.

Farm Building - All buildings and structures needed in agricultural operation.  
**(Amended July 20, 2021)**

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

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

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

Farm, Hobby - An activity carried out in rural residential areas, which includes the planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards. The raising and feeding of livestock and poultry shall be considered as part of a hobby farm if the area, in which the livestock or poultry is kept, is one (1) acre or more in area for every one (1) animal unit, and if such livestock does not exceed ten (10) animal units.

Farm, Ranch, Orchard - An area of unplatted land, which is used for growing usual farm products, vegetables, fruits, trees, and grain, and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, hogs and sheep, and including the necessary accessory uses for raising, treating, and storing products raised on the premises; but excluding an Animal Feeding Operation. The processing and storage of raw agricultural products, such as grain elevators and ethanol plants, shall not be considered a farm, ranch or orchard if such constitutes the main or principal use on the lot or parcel. **(Amended August 19, 2021)**

Farmstead - A place with empirical evidence of a previous farmstead including at a minimum foundations, structures, or a tree belt. For the purposes of this ordinance the Zoning Administrator or Planning Commission shall determine the eligibility of a farmstead as a building site as described within Section 516. **(Amended August 19, 2021)**

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

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

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

Fishery - As defined by South Dakota Administrative Rules, Sections 74:51:02:02 and 74:51:02:03 (January 17, 1999). Yankton County as described in Section 74:51:02:68.

- Lakes Marindahl and Yankton (Section 74:51:02:03(4)) are warm water permanent fish life propagation waters;
- State or Beaver Lake and Westside Kid's Pond (Section 74:51:02:03(6)) are warm water marginal fish life propagation waters.
- The Missouri River (Section 74:51:03:05(1,4,7,8,11)) is a domestic water supply, warm water permanent fish life propagation waters, immersion recreation waters, limited contact recreation waters, and commerce and industry waters.
- James River (Section 74:51:03:20(5,8)) is a warm water semi permanent fish life propagation waters and limited contact recreation waters;
- Beaver Creek, Mud Creek (Section 74:51:03:20(6, 8)), Clay Creek, and Turkey Creek (Section 74:51:03:25(6, 8)) are warm water marginal fish life propagation waters and limited contact recreation waters.

Flammable or Combustible Liquids, or Hazardous Material - Flammable material is any material that will readily ignite from common sources of heat, or that will ignite at a



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

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

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

Flood Hazard Boundary Map (FHBM) - The official map issued by the Federal Insurance Administration where the areas of special flood hazard have been designated Zone A.

Floodway - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without an accumulative increase in the water surface.

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

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

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

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

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

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

Gaming or Gambling Establishment - Any premises wherein or whereon gaming is done.

Garage - An accessory building or portion of a building including a carport which is designed or used for the sheltering of private motor vehicles and the storage of

household equipment incidental to the residential occupancy and in which there are no facilities for repairing or servicing of such vehicles for remuneration or commercial use.

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

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

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

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

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

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

Group Home - See Residential Care Facility.

Highway - Every way or place of whatever nature open to the public, as a matter of right, for purposed of vehicular travel, is a highway. The term “highway” shall also include private access easements and roadways.

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

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

Horticulture Sales - The on-site retail sale of farm produce, floral, fauna, or similar items. The majority of the produce sold shall be seasonal in nature and grown on-site. An exception may be a cooperative venture between numerous producers.

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

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

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

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

Junkyard - A place where non-recyclable waste, having no economic values, or waste, which is recyclable, but has no chance of being recycled is deposited.

Kennel - Any place where more than twenty (20) dogs, cats, or other domesticated animals of breeding age are housed, groomed, bred, boarded, trained, harbored, kept, or sold for commercial purposes.

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

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

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

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

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

Lot - For purposes of this ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public right-of-way, or on an approved private right-of-way, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record, a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

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

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

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

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

Lot Line - The legally defined limits of any lot.

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

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

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

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

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

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

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

Lot, Corner - A corner lot is defined as a lot located at the intersection of two (2) or more right-of-ways. A lot abutting on a curved right-of-way(s) shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the

foremost point of the lot meet at an interior angle of less than one hundred thirty-five (135) degrees.

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

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

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

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

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

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

The following shall not be included in this definition:

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

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

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

**Manufacturing Light** - The use of land, buildings or structures for the purpose of manufacturing, assembly, making, preparing, inspecting, finishing, treating, altering, repairing, warehousing or storing or adapting for sale of any goods, substance, article, thing or service. Light manufacturing shall have no more than ten employees.

**Manure System Definitions: (Amended August 19, 2021)**

1. Solid Manure System – Any style of manure not conforming to the definition of “Liquid Manure”. Example systems include floor-raised poultry, deep-bedded housing systems, and dry lots. Vast majority (>90%) of excreted manure will be maintained in form that can be handled with a front-end loader and stacked without seepage under normal operating conditions. Example systems include floor-raised poultry, deep-bedded housing systems, and drylots
2. Liquid Manure System – Vast majority (>90%) of excreted manure will be stored in a form that – with or without agitation/mixing – can be handled with a common centrifugal pump under normal operating conditions. Example systems include slatted floor facilities and facilities where manure can be transferred via gravity.

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

**Medical use** - includes the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient’s debilitating medical condition or symptom associated with the patient’s debilitating medical condition. The term does not include:

**(Amended November 4, 2021)**

- a. The cultivation of cannabis by a nonresident cardholder;
- b. The cultivation of cannabis by a cardholder who is not designated as being allowed to cultivate on the card holder’s registry identification card; or
- c. The extraction of resin from cannabis by solvent extraction unless the extraction is done by a cannabis product manufacturing facility

**Mobile Home** - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

**Modular Home** - A structure or building module that is manufactured at a location other than the site upon which it is installed and used as a residence; transportable in one or more sections on a temporary chassis or other conveyance device; and to be used as a permanent dwelling when installed and placed upon a permanent foundation

system. This term includes the plumbing, heating, air conditioning, and electrical systems contained within the structure.

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

Motor Vehicle Track or Play Area - An area of land utilized for the racing or recreational riding of motor vehicles with or without a defined area or track. The term may include a racetrack with spectators and an established racing affiliation or a day use area utilized by a club, group, or independent individuals. A motor vehicle may include cars, trucks, motorcycles, all-terrain vehicles or similar items. **(Amended May 19, 2020)**

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

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

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

Nonconforming Structure - A lawful structure which exists on the date of passage of this ordinance that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yard setbacks, or other characteristics of the structure.

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

Nonresident cardholder - a person who: **(Amended November 4, 2021)**

- a. Has been diagnosed with a debilitating medical condition, or is the parent, guardian, conservator, or other person with authority to consent to the medical treatment of a person who has been diagnosed with a debilitating medical condition;
- b. Is not a resident of this state or who has been a resident of this state for fewer than forty-five (45) days;
- c. Was issued a currently valid registry identification card or its equivalent by another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the



- person to use cannabis for medical purposes in the jurisdiction of issuance; and.
- d. Has submitted any documentation required by the department and has received confirmation of registration

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

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

Nursery, Swine - A facility confining a specific number of small and/or young swine averaging ten (10) to fifty five (55) pounds in size. **(Amended August 19, 2021)**

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

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

Off-Site Sign - A sign/billboard that advertises goods or services not available at the location of the billboard or advertising sign.

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

On-Site Sign - A sign identifying an establishment's activities, products or services conducted or available on the property upon which it is located and signs advertising the sale or lease of the property upon which they are located.

Open Sales Area - Any open land or area used or occupied for the purpose of displaying for sale new or secondhand merchandise, including but not limited to, passenger cars or trucks, farm machinery, construction machinery, motor scooters or motorcycles, boats, trailers, aircraft, and monuments.

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

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

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

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

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

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

Parking Space, Off Right-of-Way - For the purposes of this ordinance, an off right-of-way parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a right-of-way and maneuvering room. Required off right-of-way parking areas for three (3) or more automobiles shall have individual spaces marked, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any right-of-way, and so that any automobile may be parked and un-parked without moving another. For purposes of rough computation, an off right-of-way parking space and necessary access and maneuvering may be estimated at three hundred (300) square feet, but off right-of-way parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the County.

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

#### Performance Standards –

Criterion established for the purposes of:

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

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

Permitted Special Use - A use allowed in a zoning district subject to the applicable restrictions of that zoning district and additionally subject to certain restrictions for that specific use. **(Amended August 19, 2021)**

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

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

Place of worship - a structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs, or architectural or other features. **(Amended November 4, 2021)**

Plat - a map, or representation on paper, of a piece of land subdivided into lots, parcels, tracts or blocks, including roads, commons, and public grounds, if any, all drawn to scale and complete with all irrevocable offers of dedication.

Planning Commission - The Planning Commission of Yankton County. The term Planning Commission shall be synonymous with Planning and Zoning Commission and Commission, but shall not include Board of Adjustment or Zoning Board.

Planning Official: The Planning (Zoning) Administrator and his/her designee charged with the administration and enforcement of the Yankton County Zoning Ordinance.

Plaza - A public square or similar open area.

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

Practitioner - a physician who is licensed with authority to prescribe drugs to humans. In relation to a nonresident cardholder, the term means a person who is licensed with authority to prescribe drugs to humans in the state of the patient's residence. **(Amended November 4, 2021)**

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

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

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

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

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

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

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

Qualifying patient - a person who has been diagnosed by a practitioner as having a debilitation medical condition. **(Amended November 4, 2021)**

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

Ranch Building - See Farm Building.

Ranch Occupation - See Farm Occupation.

Ranch Unit - See Farm Unit.

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

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

Registry identification card - a document issued by the department that identifies a person as a registered qualifying patient or registered designated caregiver, or documentation that is deemed a registry identification card pursuant to SDCL 34-20G-29 to SDCL 34-20G-42 inclusive. **(Amended November 4, 2021)**

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

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

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

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

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

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

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

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

Rest Home - See Nursing Homes.

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

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

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

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

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

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

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

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

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

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

Salvage Yard - The use of more than seven hundred fifty (750) square feet of open storage on any lot, portion of lot, or tract of land for the sale, storage, keeping, or for the abandonment, dismantling, or wrecking of automobiles or other vehicles, machines, or parts thereof.

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

School, Boarding - A school under the sponsorship of a private agency, corporation, or religious entity, having a curriculum generally equivalent to public elementary or secondary schools, accredited by the State of South Dakota and provides room and board for its students; but excluding private trade or commercial schools. "Day Care

Centers” as herein defined, shall not be considered schools as applicable to this definition.

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

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

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

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

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

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

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

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

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

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

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

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

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

Side Wall - The measurement from the highest point of the finished floor at grade to the height of the highest point of wall framing.

Sight Triangle - See “Traffic Visibility Triangle”.

Signs/Billboards - Any sign defined in this ordinance which displays or conveys any identification, description, illustration, or device illuminated or non-illuminated, which directs attention to a product, service, business activity, institution, business or solicitation, including any permanently installed or situated merchandise, or any emblem, painting, banner, pennant or placard designed to advertise, identify or convey information, with the exception of window displays.

Sign Structure - The sign face and support members that are permanently affixed to the ground or attached to a structure.

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

1. Signs not exceeding one (1) square foot in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification or premises not having commercial connotations;
2. Flags and insignias of any government, except when displayed in connection with commercial promotion;
3. Legal notices, identification, informational, or directional signs erected or required by governmental bodies;
4. Integral decorative or architectural feature of buildings, except letters, trademarks, moving parts, or moving lights; and
5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

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



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

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

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

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

Sign, Exterior On-site - An exterior sign relating in subject to the premises upon which it is located, or to products, accommodations, services, or activities on the premises. Exterior on-site signs do not include signs erected by outdoor advertising industry in the conduct of the outdoor advertising business, such as billboards, which are off-site signs.

Sign Facing - That portion of a sign structure upon which advertising is affixed or painted and visible in one direction at one time.

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

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

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

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

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

Sign, Off-Site - A sign other than an on-site sign. Off-site signs are conventionally known as billboards regardless of size.

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

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

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

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

Start of construction – includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or are not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**(Amended August 19, 2021)**

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

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

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

Structure - Anything constructed or erected which requires location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings and manufactured homes. This definition does not include semi-portable agricultural structures.

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

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

Swine Production Unit - An operation confining a specific number of female breeding age swine for the purpose of farrowing. The operation shall farrow no more than an average of one-third (1/3) of the total herd at any one time and the total herd shall not farrow more than an average of two and one-half (2 ½) times within a twelve month period. All farrowed swine shall be relocated to an off-site nursery facility, as defined by this ordinance, at approximately ten (10) pounds or said swine shall be calculated as part of the total animal units.

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

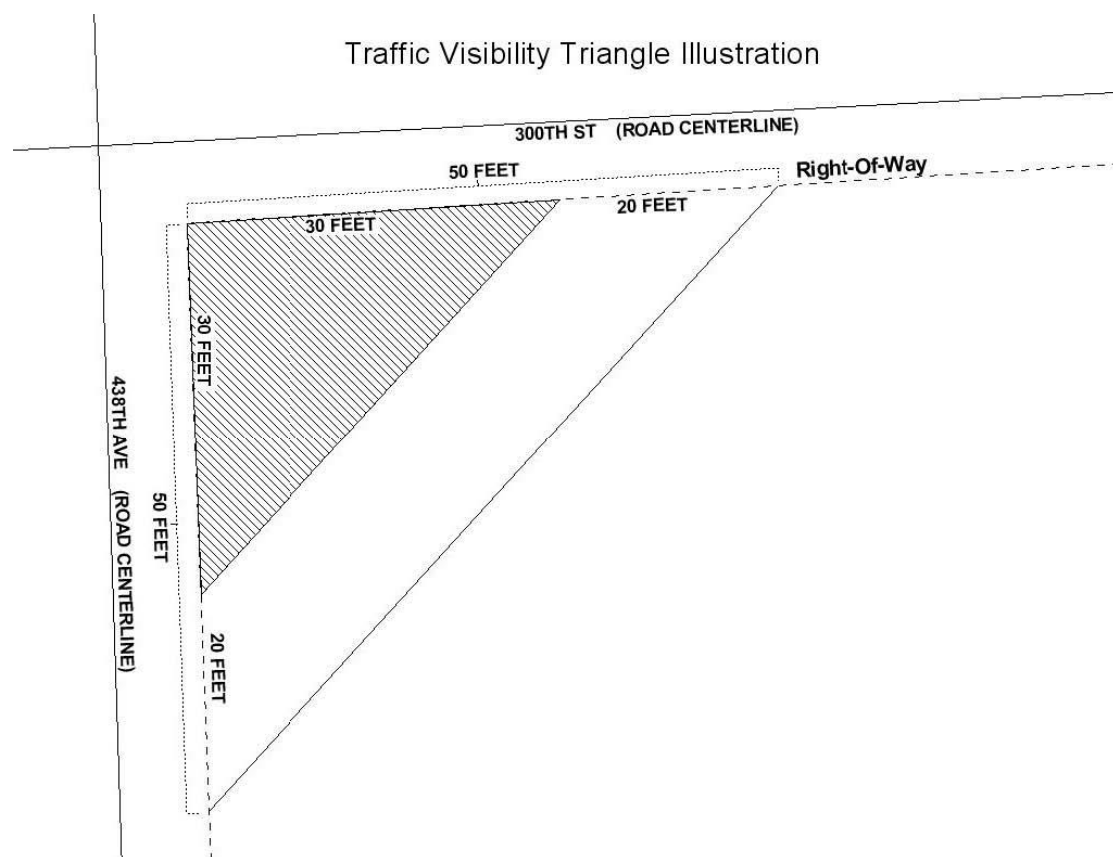
Temporary Construction Facilities - Parcels of land or structures where construction or mining support facilities are constructed or placed at or near a job site to provide materials and support mechanisms for construction or mining projects. The term shall include but is not limited to portable offices,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

Temporary Signs - Signs and sign structures that are temporary in nature used in conjunction with a specific event, that are placed or erected in such a manner to be easily removed from the property and are not permanently affixed. All political signs shall be considered temporary signs. Temporary signs shall not exceed 32 square feet in size.

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

Tower - A structure situated on a nonresidential site that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for governmental dispatch communications.

Traffic Visibility Triangle - The triangular space formed by the right-of-way lines of a corner lot and driveways with a line drawn from a point in one right-of-way line to a point in the other right-of-way line, each such point being thirty (30) feet from the point of intersection of the right-of-way lines (measured along the right-of-way lines). Where the two (2) right-of-way lines do not intersect at a point, the point of intersection of the right-of-way lines shall be deemed to be the intersection of the projection of the right-of-way lines or the intersection of the tangents to the right-of-way lines. In the case of arterial highways intersecting with other arterial highways or railways, the distances establishing the sight triangle shall be increased to fifty (50) feet.



Trailer Park - This definition shall include the following existing trailer courts or parks:

1. Country Acres, legally described as LT C exc LTS H2 & all LT D lane's S/D;
2. Country Liven', legally described as Lot A NE4 SW4 10-93-55;

3. Country View, legally described as LT A & S2 LT B & W30' N2 NE4 NE4 16-93- 55;
4. Sunrise, legally described as Parcel C LT 2 NE4 less LTS H1 & H2 16-93-55;
5. Hansen's Court, legally described as LT D N2 NE4 NE4 less Lot H1 16-93-55;
6. Lakeside Court, legally described as Lakeside SE4 SE4 (10.66 A) 16-93-56;
7. Crosley Court, legally described as Lot 4 truck/trailer S/D 15-93-55;
8. Blue Shak Rentals, legally described as Vera Van Epps Add'n exc Lot H1 & H2 SW4 NW4 (2.47 a) 3-93-55;
9. Marquardts Trail Acres, legally described as Lots 2–4 trail acres Lot G of Gov LT 1 1-93-55;
10. Lakeview, legally described as LTS F1 & F2 Fitzgerald Park & E6' W150' orig. Fitzgerald Park 17-93-56;
11. Black Walnut, legally described as N2 N2 NE4 exc Parcels 17-93-56;
12. Shreve's, legally described as Parcel A LT 5 NW4 SE4 3-93-55;
13. Eastwinds, legally described as Blk 1 Edna's Add'n & Par A W2 SW4 SE4 10-93-55;
14. Country Manor Estates, legally described as LT 2, ex W170' & NW4 NW4 exc E417.4' & S417.4' W482.2' S220' N578.7' & Parcel C exc W170' NW4 NW4 16-93-55; and
15. Larson's Landing, legally described as E2 LT 2 Shore Acres 27-93-56.

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

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

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

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

storage of water, sewage, electricity, gas, oil, or electronic signals. **(Amended August 19, 2021)**

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

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

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

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

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

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

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

Wind Energy System - A structure or place, such as a wind turbine, designed and constructed to generate power for distribution to off-site users. This definition shall not include private facilities with a single tower or turbine less than seventy-five (75) feet in height and not designed for distribution of power to off-site users.

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

Written certification - a document dated and signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or

palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptom associated with the debilitating medical condition. This document shall affirm that it is made in the course of a bona fide practitioner-patient relationship and shall specify the qualifying patient's debilitating medical condition. **(Amended November 4, 2021)**

Yard - An open space at grade, other than a court or plaza, between a structure and the adjacent lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward.

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

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

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

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

Zoning Administrator - An official of the County appointed by the Chairman and confirmed by the County Commission, charged with the responsibility of administering this ordinance.

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# ARTICLE 1

## JURISDICTION

### Section 101   General

This Ordinance shall be known and shall be cited and referred to as “The Official Zoning Ordinance of Yankton County, South Dakota”, which shall be kept, updated and located in the Yankton County Auditor’s Office. Additional copies shall be available in the Yankton County Register of Deeds Office and the Yankton County Planning and Zoning Office. The Yankton County Zoning Ordinance is also available to the public on the Yankton County website online in accordance with SDCL #7-18A-25-1. **(Amended May 19, 2020)**

### Section 103   Jurisdiction

The provisions of this Ordinance shall apply within the unincorporated areas of Yankton County, South Dakota, including organized and unorganized townships, and excluding the incorporated communities of Gayville, Irene, Lesterville, Mission Hill, Utica, Volin, and Yankton, including the extraterritorial jurisdictional area as defined herein, as established on the map entitled “The Official Zoning Map of Yankton County, South Dakota”.

### Section 105   Provisions of this Ordinance Declared to the Minimum Requirements

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

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## ARTICLE 2

### APPLICATION OF DISTRICT REGULATIONS

#### Section 201    General

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

#### Section 203    Zoning Affects Every Building and Use

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, or moved, except in conformity with all of the regulations herein specified. **(Amended May 19, 2020)**

#### Section 205    Performance Standards

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

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

#### Section 207    Yard, Lot, and Parcel Reduction **(Amended May 19, 2020)**

The reduction of any existing yard, lot or parcel in dimension or area below the minimum requirements set forth herein must follow variance procedures in sections 1807 and 1907. **(Amended May 19, 2020)**

The creation of any new yard, lot, or parcel with dimensions or area below the minimum requirements set forth herein must also follow variance procedures in sections 1807 and 1907. **(Amended May 19, 2020)**

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## ARTICLE 3

### ESTABLISHMENT OF DISTRICTS

#### Section 301    Districts Created

For the purpose of this Ordinance, there are hereby created nine (9) types of districts by which the jurisdictional area defined in Section 103 shall be divided.

<b><u>Symbol</u></b>	<b><u>District</u></b>
AG	Agricultural
R1	Low Density Rural Residential
R2	Moderate Density Rural Residential
R3	High Density Rural Residential
MHP	Manufactured Home Park
C	Commercial
LC	Lakeside Commercial
RT	Rural Transitional
PUD	Planned Unit Development

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## **ARTICLE 4**

### **OFFICIAL ZONING MAP AND BOUNDARY INTERPRETATION**

#### Section 401    General

The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the County Commissioners, attested by the Auditor, and bearing the seal of the County, under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 401 of Ordinance No. 16 of "Yankton County, South Dakota," together with the date of the adoption of this Ordinance.

#### Section 403    Zoning Map Changes

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

No changes of any nature shall be made in the Official Zoning Map or matters shown thereon except in conformity with the procedures set forth in this Ordinance.

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 2303.

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

#### Section 405    Zoning Map Replacement

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the Yankton County Commission may, by resolution, adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map.

The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

The new Official Zoning Map shall be identified by the signature of the Chairman of the County Commission, attested by the Auditor, and bearing the seal of the County, under the following words:

“This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted [date of adoption of map being replaced] as part of Ordinance No. 16 of “Yankton County, South Dakota.”

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

#### Section 407    Rules for Interpretation of District Boundaries

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

1. Boundaries indicated, as approximately following the centerlines of right-of-ways, roads, highways, or alleys shall be construed to follow such centerlines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated, as approximately following city limits shall be construed as following such city limits;
4. Boundaries indicated, as following railroad lines shall be construed to be midway between the main tracks;
5. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 5 above shall be so construed. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map; and

Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the Planning Commission shall interpret the district boundaries.



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## ARTICLE 5

### AGRICULTURAL DISTRICT (AG)

#### Section 501 Intent

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

#### Section 503 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in an Agricultural District (AG): **(Amended August 19, 2021)**

1. Agriculture;
2. Cemeteries;
3. Day cares, family;
4. Farms, ranches or orchards as defined herein;
5. Farm buildings;
6. Historic sites;
7. Horticulture;
8. Utility facilities; and
9. Veterinary services.
10. Cannabis Cultivation Facility
11. Cannabis Dispensary
12. Cannabis Product Manufacturing Facility
13. Cannabis Testing Facility

#### Section 505 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in an Agricultural District (AG): **(Amended August 19, 2021)**

1. Accessory structures;
2. Customary water irrigation systems, other than manure irrigation equipment;

3. Farm drainage systems;
4. Home and farm occupations;
5. Roadside stands;
6. Shelterbelts;
7. Signs, banner;
8. Signs, directional on-site;
9. Signs, directional off-site;
10. Signs, easement and utility;
11. Signs, exterior off-site, pursuant to Article 14;
12. Signs, flag;
13. Signs, name and address plate;
14. Signs, on-site;
15. Signs, real estate;
16. Stock dams; and
17. Swimming Pools;

**Section 506 Permitted Special Uses (Amended August 19, 2021)**

1. Dwellings, single family including modular homes pursuant to Section 516
2. Dwellings, two-family pursuant to Section 516
3. Dwellings, additional farm dwelling, in excess of one (1) pursuant to Section 516 and 1509;
4. Manufactured Homes, pursuant to Section 516 and 1509;
5. Animal Feeding Operations (AFOs) Class B pursuant to Section 519 (2) and Section 519 (3);
6. Concentrated Animal Feeding Operation, Existing are allowed a one-time expansion of 25 % over current operation size if the operation exists on an occupied farmstead of continuous property to the farmstead not to exceed 999 animal units. . The species of animals pertaining to the expansion must be that of the existing operation. Performance standards of Section 519 are applicable to the expansion with exception to the setbacks found in the *Facility Setback Chart* in Section 519(2). All DANR requirements must be met.

7. Agribusinesses are allowed on lots no smaller than five (5) acres. A deed restriction prohibiting any type of residential dwelling shall be required for agribusiness use only.

**Section 507 Conditional Uses (Amended August 19, 2021)**

After the provisions of this Ordinance relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in an Agricultural District (AG):

1. Agricultural, fertilizer, and chemical sales and applications;
2. Agricultural product processing facilities;
3. Aquaculture;
4. Auction yards and barns;
5. Bars;
6. Bed and breakfast operations;
7. Buying stations;
8. Churches;
9. Concentrated Animal Feeding Operations and Concentrated Animal Feeding Operation expansion over 25% of current operation size.
10. Construction services;
11. Day cares, group family home;
12. Exhibition areas;
13. Fairgrounds;
14. Fireworks sales;
15. Game farms;
16. Game lodges;
17. Golf courses;
18. Grain elevators;
19. Indoor shooting/archery ranges;
20. Kennels;
21. Landing Strips;

22. Manufacturing, light;
23. Motor vehicle tracks or play areas;
24. Manure irrigation;
25. Municipal, commercial, or residential central containment, sewage disposal, treatment, or application sites;
26. Open sales areas;
27. Outdoor shooting/archery ranges;
28. Parks;
29. Portable processing plants;
30. Private recreation areas;
31. Private shooting preserves;
32. Quarries, pursuant to Section 1515;
33. Remote fuel depots;
34. Repair shops, auto-body;
35. Repair shops, motor vehicle and equipment;
36. Riding stables;
37. Rodeo arenas;
38. Salvage yards;
39. Sanitary landfills or restricted use sites, permitted by the Department of Environment and Natural Resources (DENR);
40. Spreading, injection, or other application of manure or animal waste generated from a concentrated animal feeding operation not permitted by Yankton County, shall be required to submit a waste management plan for land application of said manure within the Agricultural (AG) District. The waste management plan shall be the same as for a permitted site, pursuant to Section 519(3);
41. Temporary construction facilities; and
42. Towers, pursuant to Article 25 & Article 26;
43. Wildlife and game production areas; and
44. Wind energy systems, pursuant to Article 26.

Section 509 Classification of Unlisted Uses

In order to ensure that the zoning ordinance will permit all similar uses in each district, the Planning Commission and Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a Agricultural District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed. The review shall be heard at a regular meeting of the aforementioned bodies and may be required to adhere to the notification requirements as described in Section 1803(3-5). **(Amended August 19, 2021)**

Section 511 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 509 shall be prohibited.

Section 513 Minimum Lot Requirements (Amended August 19, 2021)

1. The minimum lot area shall be twenty (20) acres;
2. The minimum lot area shall be five (5) acres for any agribusiness as defined herein, pursuant to Section 506(7);
3. The minimum lot width shall be five hundred (500) feet;
4. The Zoning Administrator may allow a smaller minimum lot requirement where an established single-family home exists or where a permit for a single-family home is requested on an existing farmstead site.
5. Lots of record, as defined herein, existing prior to adoption of this ordinance may be developed pursuant to Article 16 and as approved by the Zoning Administrator;

Section 515 Minimum Yard Requirements (Amended August 19, 2021)

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks and patios:

1. There shall be a front yard of not less than a depth of fifty (50) feet;
2. There shall be a rear yard of not less than a depth of fifty (50) feet;
3. There shall be two (2) side yards, each of which shall not be less than fifty (50) feet;
4. Buildings and structures on corner lots as defined herein shall maintain two (2) front yards for the property abutting the road right-of-ways; and
5. Water and sewer or sanitary drainage systems shall be installed by a licensed

installer and shall comply with all applicable South Dakota Department of Agriculture and Natural Resources regulations.

#### **Section 516 New Residence Requirements (Amended August 19, 2021)**

The requirements herein apply to all new residences including but not limited to single family dwellings, two family dwellings, and modular homes.

1. Any new residence must acknowledge that any AFO and/or CAFO operation located within 1.5 miles of the new residence and that is operating at the time of the issuance of the new residence's building permit may expand in the future without regard to setbacks from this new residence. Setbacks for already established residences still apply to expansion of these AFO and/or CAFO operations. This acknowledgement shall be attached to the building permit and include:
  - a. A specific list of all operators of the AFO and/or CAFO operations which are allowed to expand without regard to this residence as noted above;
  - b. A copy of South Dakota's policy to protect agricultural operations from nuisance suits as defined in SDCL 21-10-25.1 through 21-10-25.6; Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production, ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws.
  - c. Be signed by the building permit applicant; and
  - d. A copy is given to all AFO and/or CAFO operators listed. If the AFO and/or CAFO operator sells the operation to a non-family member, this setback exemption from the new residence is not transferrable. Family members noted here include: siblings, children, grandchildren, nieces, and nephews.
2. An additional dwelling unit by definition is allowed within the farmstead upon approval of the building permit application if it is to be occupied by other members of the family, provided the property is not transacted or prepared, platted, or described for transaction; and
3. The Zoning Administrator may allow construction of single and multi-family dwelling units not in conformance with this provision only on those lands organized as a 501(d), non-profit religious and apostolic associations as described in the United States Tax Code, Prior to issuance of a building permit or permission to proceed said entity shall file the Articles of Incorporation and other requested documentation with the Zoning Administrator. Construction activities carried on under this provision shall be in conformance with all other provisions of this ordinance.

#### **Section 517 Traffic Visibility**

1. There shall be no obstructions, such as buildings, structures, grain bins, trees, wind breaks, baled agricultural products, or other objects within fifty (50) feet from the right-of-way.
2. A traffic visibility triangle as defined herein shall be maintained at all road intersections, public and private, driveways, railway crossings, or similar situation as determined by the Zoning Administrator; and
3. No perennial vegetation between the heights of thirty (30) inches and ten (10) feet shall encroach upon the right-of-way at the time of planting or future growth. The Zoning Administrator reserves the right to refer such requests to Township Supervisors, the County Highway Superintendent, or other officials. **(Amended August 19, 2021)**

Section 519 Concentrated Animal Feeding Operation Performance Standards  
**(Amended August 19, 2021)**

1. **Conditional Use Permit Application Requirements.** The following shall be submitted for the consideration of a Concentrated Animal Feeding Operation Conditional Use Permit:
  - a. **Site description information:**
    - i. The owners', managers', management company's or similar entities' name, address and telephone number.
    - ii. A legal description of the site and proposed 911 address for the location.
    - iii. The type and number of animals to be housed at the site.
    - iv. Site diagram of all existing and proposed buildings and structures.
    - v. Information on ability to meet designated setback requirements (Section 519(2)), including maps showing measured distances.
    - vi. Information on the types of soils at the site, and whether there are any shallow aquifers and/or 100-year floodplain designations at or within one half mile of the proposed site.
    - vii. Provide a Farm Service Agency wetland map.
    - viii. Test boring location and test boring results *may* be required. The standards utilized by the South Dakota Department of Environment and Natural Resources for soil borings shall be followed.
  - b. **A facility management plan shall include:**
    - i. The methods utilized to dispose of dead animals shall be identified and shall be in compliance with the South Dakota Animal Industry Board. Temporary dead animal storage or disposal sites shall be a screened substantially built fence to hold up to removal and prevent scavenging, and ~~or~~ located out of site from neighboring dwellings and the adjacent right-of-way.
    - ii. The methods utilized to control pests and flies.
    - iii. A screening and/or buffering section to include the planting of trees and shrubs of adequate size to control wind movement and dispersion of dust and odors generated by the facility. The\_



applicant of any naturally ventilated or open style CAFO must plant a shelter belt of trees between the proposed CAFO and shelterbelt shall run the length of the footprint within 250' of the facility, include a minimum of five rows of trees consisting of both evergreen and deciduous species, be planted in the first year of obtaining a conditional use permit. For three consecutive years, all trees that die must be replaced within one growing season. The shelter belt must maintain 90% survivability while the conditional use permit is active.

- iv. A review of Industry Best Management practices including the use of bio-filters, pit additives, urine-feces separation systems, or other odor reduction technologies. Applicant shall identify which practices will be utilized, subject to approval of Planning Commission and Board of Adjustment.
  - v. A storm water management plan shall provide adequate slopes and drainage to divert storm water from confinement areas, while providing for drainage of water from said area, thereby assisting in maintaining dryer confinement areas to reduce odor production.
  - vi. Road haul routes and road maintenance agreements for both the construction and operation of the facility shall be signed by the applicant and the local road authority and included in the CUP
- c. **Waste Management Plan Requirements.** An operational plan for manure collection, storage, treatment, and use shall be kept updated and implemented. The plan shall include the following:
- i. All CUP applicants must submit and receive approval for a waste management plan to the Department of Environment and Natural Resources prior to obtaining a CUP. The waste management plan will list all fields and acres that are in the waste management plan and shall include expected manure application rates.
  - ii. A state general permit is required if any of the following situations are met.
    - 1 Any CAFO greater than or equal to 1000 animal units.
    - 2 A general permit is required by the South Dakota Department of Environment and Natural Resources.
    - 3 A general permit is required by Yankton County as a condition of approval.
    - 4 The proposed site is located over a mapped shallow aquifer area as depicted on the Department of Environment and Natural Resources First Occurrence of Aquifer Materials in Yankton County, SD (Refer to South Dakota Department of Agriculture and Natural Resources).
  - iii. Proposed maintenance of waste facilities.
  - iv. Number and size of containment areas.
  - v. Timeframe for removal of manure from storage containment.
  - vi. Land application process and/or methods (surface, injection, etc.).

- vii. Legal description and map, including documented proof of area to be utilized for manure application.
  - viii. If the applicant does not own all of the land which will be used for the spreading of waste, the applicant shall provide an enforceable lease, easement, or other written agreement as part of the application. The length of the agreement shall be such that the CAFO has adequate time to make other alternative arrangements in the event that the existing lease, easement, or other written agreement cannot be renewed.
  - d. Prior to construction, such facilities shall obtain a Storm Water Permit for Construction Activities from the South Dakota Department of Environment and Natural Resources. This plan must be implemented upon the start of construction.
  - e. The Yankton County Planning Commission, Board of Adjustment or the Planning Director may require additional information or conditions reasonably related to a concentrated animal feeding operation not contained in these regulations
2. **Facility Setback Requirements.** New Animal Feeding Operations and waste facilities shall be located no closer than the following regulations prescribe. The applicant(s) of an animal feeding operation may request the required setback to any residence other than the applicant, active church, business, or school be lessened. This request shall only be approved after the applicant obtains signed waivers from all property owners within the setback distance. Any authorized person, business or governmental entity that is within the setback distance may waive the setback distance. The written waiver(s) shall be permanently attached to the approved conditional use permit.

<b><i>Facility Setback Chart (Feet)</i></b>		
Class	A	B
Animal Units	500 to 10,000	200 to 499
<b><i>Solid Manure System*</i></b>		
Residence other than owner, active church, business, schools	1.98 feet per A.U. (minimum 1,320) (maximum 1.5 miles)	1,320
Municipalities	2.2 feet per A.U. (minimum 2,640) (maximum 1.5 miles)	2,640
<b><i>Liquid Manure System*</i></b>		
Residence other than owner, active church, business, schools	2.64 feet per A.U. (minimum 1,320) (maximum 1.5 miles)	1,320
Municipalities	2.64 feet per A.U. (minimum 2,640) (maximum 1.5 miles)	2,640
<b><i>Any Style Manure System</i></b>		

Public wells	1,000	1,000
Private well	250	250
Private well (operator's)	150	150
Lakes, rivers and streams	660	660
Right-of-way line	330	330
Property line delineating a change in ownership	660	660
100 year flood plain	PROHIBITED	PROHIBITED

\*Operations that utilize both solid and liquid manure have a blended setback, taking into account setback distances proportional to the number of animal units of each style of manure. Example: An operation w/1000 dry lot beef cattle and 940 AU's of finishing swine would have a setback of  $(1000 \text{ AU} \times 1.98\text{ft.}) + (940 \text{ AU} \times 2.64 \text{ ft.}) = 4462'$

**3. Manure application.** New Animal Feeding Operations and waste facilities shall comply to the following:

- a. A review of weather conditions shall be conducted prior to application to minimize the potential for runoff and to mitigate effects upon neighboring properties.
- b. Animal waste shall be transported no further than five miles from the point of origination by equipment designed for direct application. Animal waste hauled within non-application or transportation equipment shall not be restricted as to distance. Both methods of transportation must comply with federal, state, and local load limits on roads, bridges, and other similar structures.
- c. All liquid manure shall be injected to provide for better agronomic benefits, to reduce the potential for runoff, and to minimize odor. Liquid manure may be surface applied if approved by the Department of Natural Resources for emergency discharge only. Documentation of this approval shall be maintained by the operator and be available upon request by the Planning Department.
- d. If irrigation is used for dewatering a lagoon (gray water) basin, these rules apply:
  - i. Must be used on systems that disperse the liquid no higher than 18" off the ground if no crop is actively growing on the field.
  - ii. If a crop is actively growing on the field, the liquid must then be dispersed below the crop canopy.
  - iii. No runoff or diffused spray from the system onto neighboring property or public right-of-way will be allowed.
  - iv. No irrigation shall be applied when soils are water saturated, frozen, or covered with snow, or when other soil conditions would result in waste runoff.
  - v. No irrigation over FSA designated wetlands.
  - vi. No "big gun" type irrigation systems shall be used for liquid manure or dewatering lagoons or other manure containment systems.
- e. Manure should not be applied over frozen or snow covered ground.
- f. No pipes or drag lines may be permanently installed in the public right-of-way.

- g. The producer, or agent acting on behalf of the producer, shall inspect the land application equipment, land application sites and irrigation equipment, if used, on a daily basis while land application of process wastewater or manure is occurring. This inspection is to ensure that the land application equipment is not leaking and runoff from the land application site is not occurring. If a discharge or leak is found where process wastewater or manure is reaching any surface waters of the state, flowing onto property not owned by the producer, or not included in the nutrient management plan, the producer is responsible for taking immediate steps to stop the discharge or leak and report the leak to the county zoning office, state DENR and the affected landowner. The producer shall keep documentation of these inspections so the Zoning Administrator can review them upon request or during an inspection
- h. A notification section should be formulated by the applicant. It should be a reasonable attempt to include the names, addresses, and phone numbers of all occupied residences and public gathering places, within one-half (1/2) mile of applicant's manure application fields. The preferred hauling and application process should be detailed and include timetables of probable application periods. Application of manure on weekends, holidays, and evenings during the warmer seasons should be avoided whenever possible. Complaints could lead to having to give 48 hour notice in advance of manure applications. Annual notification advising of an upcoming 30 day window should be given.

<b>Manure Application Setback Chart</b>			
	<b>Injection or Incorporated within 24 hours</b>	<b>Surface Applied</b>	<b>Irrigated</b>
Public wells (feet)	1,000	1,000	1,000
Private wells (feet)	250	250	250
Private wells (operator's) (feet)	150	150	150
Lakes, rivers and streams (public drinking supply) (feet)	1,000	1,000	1,000
Lakes, rivers and streams (fisheries) (feet)	250	660	660
All public road right- of-ways (feet)	10	10	100
Municipalities (feet)	660	1,000	2,640
Residence other than operator's (feet)	100	330	750

Section 520 Conditional Use Permit for an Animal Feeding Operation Not Permitted if Applicant Applies for the Permit for the Purpose of Selling, Transferring, or Brokering. **(Amended August 19, 2021)**

The Board of Adjustment shall not grant a Conditional Use Permit for an Animal Feeding Operation, Concentrated Animal Feeding Operation, and/or waste facility if the Applicant is applying for the Permit for the purpose of selling, transferring, or brokering the Permit.

For the purposes of this Ordinance, any sale or transfer of the Permit from the Applicant to any other person or entity within five (5) years of the date that the Permit is issued shall be considered to be prima facie evidence that such Permit was obtained for the purpose of selling, transferring or brokering the Permit. The Board of Adjustment may hear and grant exceptions to this rule in the case of unforeseen life events that may force the sale of an operation.

Any evidence that is presented by any person that any Building Permit and/or Conditional Use Permit for an Animal Feeding Operation, Concentrated Animal Feeding Operation, and/or waste facility was sought for the purpose of selling, transferring, or brokering the Permit shall be considered by the Zoning Administrator, Planning Commission, and/or Board of Adjustment in considering a new application for Conditional Use Permit. It may be the basis for a denial or revocation of the application, building permit, and/or a conditional use permit by the Board of Adjustment.

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## ARTICLE 6

### LOW DENSITY RURAL RESIDENTIAL DISTRICT (R1)

#### Section 601     Intent

The intent of Low Density Rural Residential Districts (R1) is to provide for residential uses of larger lots and other compatible uses in a pleasant and stable environment.

#### Section 603     Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Low Density Rural Residential District (R1):

1. Day cares, family;
2. Dwellings, single-family;
3. Governmental services;
4. Horticulture;
5. Modular homes; and
6. Utility facilities.

#### Section 605     Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Low Density Rural Residential District (R1):

1. An aggregate maximum total floor area of 4,000 square foot accessory building or buildings. Side wall height shall not exceed sixteen (16) feet as measured from the highest point of the finished floor at grade to the highest point of wall framing. **(Amended May 19, 2020)**
2. Home occupations;
3. Signs, banner;
4. Signs, directional on-site;
5. Signs, directional off-site;
6. Signs, easement and utility;
7. Signs, flag;

8. Signs, name and address plate; and
9. Signs, real estate.

#### Section 607      Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Low Density Rural Residential District (R1):

1. Accessory agricultural structures;
2. Bed and breakfasts;
3. Campgrounds;
4. Cemeteries;
5. Home based sales;
6. Greenhouses;
7. Golf courses;
8. Hobby farms;
9. Horticultural sales;
10. Kennels;
11. Manufactured homes, pursuant to Section 1507;
12. Manufacturing, light;
13. Parks;
14. Signs, off-site;
15. Swimming pools; and
16. Towers.
17. One Accessory Structure exceeding 4,000 square feet or Accessory Structures with an aggregate maximum total floor area exceeding 4,000 square feet and/or exceeding a sidewall height of sixteen (16) feet. **(Amended May 19, 2020)**



Section 609      Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a Low Density Residential District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed. The review shall be heard at a regular meeting of the aforementioned bodies and may be required to adhere to the notification requirements as described in Section 1803(3-5).

Section 611      Prohibited Uses and Structures

All uses and structures, which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 609, shall be prohibited.

Section 613      Minimum Lot Requirements

1. The minimum lot area shall be five (5) acres; and
2. The minimum lot width shall be two hundred (200) feet.

Section 615      Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of thirty (30) feet, except when said lot is adjacent to or abutting a arterial or collector right-of-way then the depth shall be fifty (50) feet;
2. There shall be a rear yard of not less than a depth of twenty (20) feet;
3. There shall be two (2) side yards, each of which shall not be less than ten (10) feet; and
4. Buildings and structures on corner lots as defined herein shall maintain two (2) front yards for the property abutting the road right-of-ways.

Section 617      Traffic Visibility

1. A traffic visibility triangle as defined herein shall be maintained at all road intersections, public and private, driveways, railway crossings, or similar situation as determined by the Zoning Administrator; and
2. Structures, perennial, or similar vegetation planted on or immediately adjacent to a road right-of-way public shall be approved in writing by the Zoning Administrator prior to construction or planting. No such vegetation between

the heights of thirty (30) inches and ten (10) feet shall encroach upon the right-of-way at the time of planting or future growth. The Zoning Administrator reserves the right to refer such requests to Township Supervisors, the County Highway Superintendent, or other officials.

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## ARTICLE 7

### MODERATE DENSITY RURAL RESIDENTIAL DISTRICT (R2)

#### Section 701    Intent

The intent of Moderate Density Rural Residential Districts (R2) is to provide for residential uses of moderate lots and other compatible uses in a pleasant and stable environment.

#### Section 703    Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Moderate Density Rural Residential District (R2):

1. Day cares, family;
2. Dwellings, single-family;
3. Governmental services;
4. Horticulture;
5. Modular homes; and
6. Utility facilities.

#### Section 705    Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Moderate Density Rural Residential District (R2):

1. An aggregate maximum total floor area of 2,400 square foot accessory structure or structures. Side wall height shall not exceed fourteen (14) feet as measured from the highest point of the finished floor at grade to the highest point of wall framing. **(Amended May 19, 2020)**
2. Home occupations;
3. Signs, banner;
4. Signs, directional on-site;
5. Signs, directional off-site;
6. Signs, easement and utility;
7. Signs, flag;

8. Signs, name and address plate; and
9. Signs, real estate.

#### Section 707     Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Moderate Density Rural Residential District (R2):

1. Bed and breakfasts;
2. Campgrounds, pursuant to 1521;
3. Churches;
4. Day cares, group family home;
5. Dwellings, multi-family;
6. Dwellings, two family;
7. Manufactured homes, pursuant to Section 1507;
8. Parks;
9. Schools, public;
10. Signs, off-site;
11. Swimming pools; and
12. Towers.
13. One Accessory Structure exceeding 2,400 square feet or Accessory Structures with an aggregate maximum total floor area exceeding 2,400 square feet and/or exceeding a sidewall height of fourteen (14) feet. **(Amended May 19, 2020)**

#### Section 709     Classification of Unlisted Uses

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

### Section 711     Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 709 shall be prohibited.

### Section 713     Minimum Lot Requirements

1. The minimum lot area shall be one (1) acre or forty thousand (40,000) square feet;
2. The minimum lot area for multi-family dwellings in areas of two (2) units shall be one (1) acre or forty thousand (40,000) square feet and an additional five thousand (5,000) square feet for each unit in excess of the first two (2); and
3. The minimum lot width shall be one hundred (100) feet.

### Section 715     Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of thirty (30) feet, except when said lot is adjacent to or abutting a arterial or collector right-of-way then the depth shall be fifty (50) feet;
2. There shall be a rear yard of not less than a depth of twenty (20) feet;
3. There shall be two (2) side yards, each of which shall not be less than ten (10) feet;
4. Buildings and structures on corner lots as defined herein shall maintain two (2) front yards for the property abutting the road right-of-ways.

### Section 717     Traffic Visibility

1. A traffic visibility triangle as defined herein shall be maintained at all road intersections, public and private, driveways, railway crossings, or similar situation as determined by the Zoning Administrator; and
2. Structures, perennial or similar vegetation planted on or immediately adjacent to a road right-of-way public shall be approved in writing by the Zoning Administrator prior to construction or planting. No such vegetation between the heights of thirty (30) inches and ten (10) feet shall encroach upon the right-of-way at the time of planting or future growth. The Zoning Administrator reserves the right to refer such requests to Township Supervisors, the County Highway Superintendent, or other officials.

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## ARTICLE 8

### HIGH DENSITY RURAL RESIDENTIAL DISTRICT (R3)

#### Section 801    Intent

The intent of High Density Rural Residential Districts (R3) is to provide existing concentrated residential subdivisions as recorded with the Register of Deeds and other compatible uses a pleasant and stable environment. Yet, not allow an extension of these areas beyond their respective boundaries as recorded at the time of zoning ordinance adoption.

#### Section 803    Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a High Density Rural Residential Districts (R3):

1. Day cares, family;
2. Dwellings, single-family;
3. Governmental services; and
4. Horticulture;
5. Modular homes;
6. Utility facilities;

#### Section 805    Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a High Density Rural Residential Districts (R3):

1. An aggregate maximum total floor area of 1,600 square foot accessory structure or structures. Side wall height shall not exceed twelve (12) feet as measured from the highest point of the finished floor at grade to the highest point of wall framing. **(Amended May 19, 2020)**
2. Home occupations;
3. Signs, banner;
4. Signs, directional on-site;
5. Signs, directional off-site;



6. Signs, easement and utility;
7. Signs, flag;
8. Signs, name and address plate; and
9. Signs, real estate.

#### Section 807     Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a High Density Rural Residential Districts (R3):

1. Day cares, group family home;
2. Dwellings, multi-family;
3. Dwellings, two family;
4. Manufactured homes, pursuant to Section 1507;
5. Parks;
6. Signs, off-site;
7. Swimming pools; and
8. Towers.
9. One Accessory Structure exceeding 1,600 square feet or Accessory Structures with an aggregate maximum floor area exceeding 1,600 square feet and/or exceeding a sidewall height of twelve (12) feet. **(Amended May 19, 2020)**

#### Section 809     Classification of Unlisted Uses

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

#### Section 811     Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 809 shall be prohibited.

#### Section 813     Minimum Lot Requirements

1. The minimum lot area shall be one-half (1/2) acre or twenty thousand (20,000)

square feet;

2. The minimum lot area for multi-family dwellings shall be one-half (1/2) acre or twenty thousand (20,000) square feet and an additional five thousand (5,000) square feet for each unit in excess of the first two (2); and
3. The minimum lot width shall be seventy five (75) feet.

#### Section 815     Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of thirty (30) feet, except when said lot is adjacent to or abutting an arterial or collector right-of-way then the depth shall be fifty (50) feet;
2. There shall be a rear yard of not less than a depth of twenty (20) feet;
3. There shall be two (2) side yards, each of which shall not be less than ten (10) feet; and
4. Buildings and structures on corner lots as defined herein shall maintain two (2) front yards for the property abutting the road right-of-ways.

#### Section 817     Traffic Visibility

1. A traffic visibility triangle as defined herein shall be maintained at all road intersections, public and private, driveways, railway crossings, or similar situation as determined by the Zoning Administrator; and
2. Structures, perennial or similar vegetation planted on or immediately adjacent to a road right-of-way public shall be approved in writing by the Zoning Administrator prior to construction or planting. No such vegetation between the heights of thirty (30) inches and ten (10) feet shall encroach upon the right-of-way at the time of planting or future growth. The Zoning Administrator reserves the right to refer such requests to Township Supervisors, the County Highway Superintendent, or other officials.

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## ARTICLE 9

### MANUFACTURED HOME PARK DISTRICT (MHP)

#### Section 901     Intent

The intent of the Manufactured Home Park District (MHP) is to preserve and enhance property values by providing designated, distinctive areas in which manufactured homes may be situated as a residential dwelling. It is the intent that this district be a desirable, prominent area providing adequate open space and essentially the same considerations given to citizens of other residential districts.

#### Section 903     Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Manufactured Home Park District (MHP):

1. Dwellings, single family;
2. Manufactured homes, pursuant to Section 1409;
3. Modular homes;
4. Parks; and
5. Utility facilities.

#### Section 905     Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Manufactured Home Park District (MHP):

1. Accessory buildings;
2. Garages;
3. Home occupations;
4. Signs, banner;
5. Signs, directional on-site;
6. Signs, directional off-site;
7. Signs, easement and utility;

8. Signs, flag;
9. Signs, name and address plate; and
10. Signs, real estate.

It shall be unlawful for any person, firm, or corporation to use any van body, truck body, semi-trailer, rail car, “shipping crate”, and/or any vehicle no longer used for its manufactured purpose as a storage shed, storage building, warehouse, or as living quarters. In addition, manufactured homes shall not be for any purpose other than residential living quarters. However, this shall not prevent the lawful parking of vehicles properly licensed, insured, and in regular use for their intended purpose to include ‘RVs’ and camping trailers.

#### Section 907      Conditional Uses

After the provisions relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Manufactured Home Park District (MHP):

1. Day care centers;
2. Day cares, family;
3. Day cares, group family home;
4. Dwellings, two family;
5. Laundry facilities;
6. Self-storage warehouses;
7. Signs, bulletin board;
8. Signs, ground and monument;
9. Signs, mounted wall;
10. Signs, off-site;
11. Signs, portable;
12. Swimming pools; and
13. Towers

#### Section 909      Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or

conditional use in a District shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed.

#### Section 911     Prohibited Uses and Structures

No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. **(Amended May 19, 2020)**

#### Section 913     Minimum Lot Requirements

1. The minimum park size is three (3) acres;
2. The minimum park width is three hundred (300) feet;
3. The minimum lot area for individual manufactured homes shall be four thousand (4,000) square feet;
4. The density of any manufactured home park shall not exceed eight (8) units per gross acre; and
5. The net density of any particular acre shall not exceed ten (10) units per net (gross reduced by required yards, right-of-ways, etc.) acre.

#### Section 915     Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot line. This Section shall apply to all buildings and structures, including but not limited to decks, patios, and garages:

1. The minimum distance required for the separation of a manufactured home from side and rear lot lines shall be ten (10) feet. In no case shall a manufactured home be closer than twenty (20) feet from another manufactured home;
2. The minimum setback distance required from a private drive or public right-of-way shall be thirty (30) feet; and
3. Accessory buildings shall not encroach on minimum yard requirements.

#### Section 917     Manufactured Home Park Application Requirements

The applicant follows the rezoning process pursuant to Articles 16 -21;

1. A request for a change in zoning districts to a Manufactured Home Park District shall set forth the location and legal description of the proposed manufactured home park property;
2. Each application for a manufactured home park shall be accompanied by a

detailed site development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:

- A. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to federal and state highways, and to county, township, or city roads;
  - B. Exterior and interior property or individual lot lines with dimensions and square footage of the proposed park;
  - C. Location and dimensions of all easements and right-of-ways;
  - D. Proposed lot layout, including parking and recreational areas;
  - E. General pedestrian access or transportation plan;
  - F. General utility, water, and sewer plan with proximity and proposed connection to municipal and/or private utilities; and
  - G. Site drainage plan and development impact on culverts, etc.
3. Certification of compliance with all ordinances and regulations regarding manufactured home park licensing and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations.

#### Section 919      Manufactured Home Regulations within a Manufactured Home Park

- 1. Manufactured home developments should be located to avoid the need for excessive traffic movement from the park to pass through an existing single-family residential area or area suitable for future single-family residential development; and
- 2. Access and Right-of-way Requirements:
  - A. All manufactured home spaces must be served from internal private right-of-ways within the manufactured home park and there shall be no direct access from a manufactured home space to a public right-of-way;
  - B. Internal private right-of-ways must be graveled at a minimum and kept in good repair to prevent excessive potholes or pooling of water;
  - C. A minimum of two (2) off right-of-way parking spaces shall be provided for each manufactured home lot; guest parking of one (1) parking space per five (5) manufactured home spaces shall be interspersed throughout the manufactured home park;
  - D. No internal private right-of-way access to public right-of-ways shall be located closer than one hundred (100) feet to any public right-of-way intersection;
  - E. Stop signs shall be placed at all public right-of-way intersections and

Yield signs placed appropriately on internal private right-of-way;

- F. Entrance to manufactured home parks shall have direct connections to a public road and shall be designed to allow free movement of traffic on such public roads; and
- G. Travel surfaces should be of adequate widths to accommodate the contemplated parking and traffic load in accordance with the type of traveled way with twelve (12) feet minimum moving lanes for collector roads, twelve (12) feet minimum moving lanes for minor roads, and eight (8) feet minimum lanes for parallel parking.

3. Other Requirements:

- A. Manufactured homes may be of single or multiple sections and shall not be less than fourteen (14) feet as assembled on the site, as measured across the narrowest portion;
- B. Manufactured homes shall be skirted with materials that are not highly combustible. The skirting shall be installed around the perimeter of the home from the chassis of the manufactured home to the prevailing grade;
- C. The hitch shall be removed;
- D. All electric service shall be underground;
- E. Each manufactured home lot shall be connected to a sanitary sewer system and central water system including individual utility service lines and valves as approved by the Zoning Administrator or their designee;
- F. If individual refuse collection points are not available, each manufactured home park shall provide screened areas or enclosed containers accessible for refuse collection of an adequate size for the number of units served, and shall provide for the disposal of such refuse on a regularly scheduled basis;
- G. Manufactured homes shall be anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design;
- H. Not less than ten (10) percent of the gross site area shall be devoted and maintained as recreational facilities for occupant needs;
- I. No manufactured home shall occupy more than fifty (50) percent of the area of the lot on which it is situated;
- J. In accordance with Section 921 a landscaped buffer area of ten (10) feet in width shall be provided and maintained around the perimeter of the park, except where the park abuts a public right-of-way then the buffer shall be thirty (30) feet. This does not include those places where walks and drives penetrate the buffer;
- K. The manufactured home shall meet or exceed the federal Manufactured



Home Construction and Safety Standards (HUD code); and

- L. Additional development requirements may be prescribed as conditions for approval when determined to be necessary to ensure protection of the neighboring property's character, compatibility with land uses, and health and safety of manufactured home park occupants.

Section 921      Traffic Visibility

1. A traffic visibility triangle as defined herein shall be maintained at all road intersections, public and private, driveways, railway crossings, or similar situation as determined by the Zoning Administrator; and
2. Structures, perennial or similar vegetation planted on or immediately adjacent to a road right-of-way public shall be approved in writing by the Zoning Administrator prior to construction or planting. No such vegetation between the heights of thirty (30) inches and ten (10) feet shall encroach upon the right-of-way at the time of planting or future growth. The Zoning Administrator reserves the right to refer such requests to Township Supervisors, the County Highway Superintendent, or other officials.

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## ARTICLE 10

### COMMERCIAL DISTRICT (C)

#### Section 1001     Intent

The intent of the Commercial District (C) is to provide commercial areas for those establishments that can function most satisfactorily in an area related to a rural or municipal fringe environment requiring major vehicular circulation routes and off right-of-way parking and loading due to the nature of the merchandise handled and the display space required.

#### Section 1003     Permitted Principal Uses and Structures **(Amended October 21, 2021)**

The following principal uses and structures shall be permitted in a Commercial District (C):

1. Arcades;
2. Bars;
3. Day care centers;
4. Financial institutions;
5. Funeral homes;
6. Garages, public;
7. Gasoline stations;
8. Golf courses;
9. Governmental services;
10. Historic sites;
11. Hotels;
12. Indoor archery/shooting ranges;
13. Lockers;
14. Manufacturing, light;
15. Motels;
16. Open sales areas;
17. Parks;

18. Repair shops, auto-body;
19. Repair shops, motor vehicle;
20. Restaurants;
21. Restaurants, drive-in;
22. Restaurants, in-house;
23. Retail sales;
24. Self-storage warehouses;
25. Service establishments;
26. Theaters;
27. Utility facilities;
28. Veterinary clinics;
29. Warehousing facilities; and
30. Wholesale sales.
31. Cannabis Cultivation Facility
32. Cannabis Dispensary
33. Cannabis Product Manufacturing Facility
34. Cannabis Testing Facility

#### Section 1005    Permitted Accessory Uses and Structures

Those accessory uses and structures normally appurtenant to the permitted principal uses and structures shall be permitted in a Commercial District (C) when established in conformance within the space limits of this district.

1. Signs, banner;
2. Signs, directional off-site;
3. Signs, directional on-site;
4. Signs, easement and utility;
5. Signs, flag;
6. Signs, name and address plate;

7. Signs, on-site; and
8. Signs, real estate.

#### Section 1007      Conditional Uses

After the provisions of this resolution relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Commercial District (C):

1. Adult entertainment;
2. Agricultural fertilizer and chemical manufacturing, sales, and applications;
3. Agricultural product processing;
4. Amusement parks; and
5. Asphalt plants;
6. Buying stations;
7. Campgrounds;
8. Concrete plants;
9. Construction services;
10. Dwellings, single-family;
11. Dwellings, two-family;
12. Grain elevators;
13. Manufacturing;
14. Manufacturing, distribution, sale, or storage of flammable, combustible, or hazardous material;
15. Outdoor shooting/archery ranges.
16. Sale and auction yards and barns;
17. Salvage yards;
18. Sanitary landfills and restricted use sites, permitted by DENR;
19. Signs, off-site, pursuant to Article 14;
20. Swimming pools;
21. Tank farms;
22. Towers, pursuant to Article 25 & Article 26;

- 23. Truck or equipment terminals;
- 24. Veterinary services; (**Amended May 19, 2020**)
- 25. Wind energy systems; and (**Amended May 19, 2020**)
- 26. Firework Sales. (**Amended May 19, 2020**)

#### Section 1009      Classification of Unlisted Uses

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

#### Section 1011      Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 1009 shall be prohibited.

#### Section 1013      Minimum Lot Requirements

- 1. The minimum lot area shall be two (2) acres; and
- 2. The minimum lot width shall be one hundred and fifty (150) feet.

#### Section 1015      Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to loading docks, decks, patios, and covered areas:

- 1. There shall be a front yard of not less than a depth of one hundred (100) feet;
- 2. There shall be a rear yard of not less than a depth of fifty (50) feet; and
- 3. Each side yard shall be not less than twenty-five (25) feet.

#### Section 1017      Traffic Visibility

- 1. A traffic visibility triangle as defined herein shall be maintained at all road intersections, public and private, driveways, railway crossings, or similar situation as determined by the Zoning Administrator; and
- 2. Structures, perennial or similar vegetation planted on or immediately adjacent to a road right-of-way public shall be approved in writing by the Zoning

Administrator prior to construction or planting. No such vegetation between the heights of thirty (30) inches and ten (10) feet shall encroach upon the right-of-way at the time of planting or future growth. The Zoning Administrator reserves the right to refer such requests to Township Supervisors, the County Highway Superintendent, or other officials.

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## ARTICLE 11

### LAKESIDE COMMERCIAL DISTRICT (LC)

#### Section 1101     Intent

The intent of the Lakeside Commercial District (LC) is to provide commercial areas for those establishments that can function most satisfactorily in an area directly related to a tourist, outdoor recreation, and residential environment requiring vehicular circulation routes and large off right-of-way parking due to the nature of the customer base and vehicle traffic.

#### Section 1103     Permitted Principal Uses and Structures **(Amended October 21, 2021)**

The following principal uses and structures shall be permitted in a Lakeside Commercial District (LC):

1. Arcades;
2. Bars;
3. Day Cares, family;
4. Day Cares, group family home;
5. Financial institutions;
6. Gasoline stations;
7. Golf courses;
8. Governmental services;
9. Historic sites;
10. Indoor archery/shooting ranges;
11. Open sales areas;
12. Parks;
13. Restaurants;
14. Restaurants, drive-in;
15. Restaurants, in-house;
16. Retail sales;
17. Service establishments;

18. Theaters; and
19. Utility facilities.
20. Cannabis Cultivation Facility
21. Cannabis Dispensary
22. Cannabis Product Manufacturing Facility
23. Cannabis Testing Facility

#### Section 1105     Permitted Accessory Uses and Structures

Those accessory uses and structures normally appurtenant to the permitted principal uses and structures shall be permitted in a Lakeside Commercial District (LC) when established in conformance within the space limits of this district.

1. Signs, banner;
2. Signs, directional off-site;
3. Signs, directional on-site;
4. Signs, easement and utility; and
5. Signs, flag.
6. Signs, name and address plate;
7. Signs, on-site;
8. Signs, real estate;

#### Section 1107     Conditional Uses

After the provisions of this resolution relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Lakeside Commercial District (LC):

1. Amusement parks;
2. Campgrounds;
3. Day care centers;
4. Dwellings, multi-family;
5. Dwellings, single-family;
6. Dwellings, two-family;

7. Exhibition areas;
8. Garages, public;
9. Hotels;
10. Kennels;
11. Motels;
12. Outdoor shooting/archery ranges;
13. Outdoor storage areas;
14. Repair shops, auto-body;
15. Repair shops, motor vehicle;
16. Self-storage warehouses;
17. Signs, off-site, pursuant to Article 14;
18. Swimming pools;
19. Towers, pursuant to Article 25 & Article 26;
20. Veterinary clinics; and
21. Warehousing facilities.

#### Section 1109      Classification of Unlisted Uses

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

#### Section 1111      Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 1109 shall be prohibited.

#### Section 1113      Minimum Lot Requirements

1. The minimum lot area shall be one (1) acre; and
2. The minimum lot width shall be one hundred and fifty (150) feet.

#### Section 1115      Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This

Section shall apply to all buildings and structures, including but not limited to decks, patios, and carports:

1. There shall be a front yard of not less than a depth of seventy-five (75) feet;
2. There shall be a rear yard of not less than a depth of twenty-five (25) feet; and
3. Each side yard shall be not less than twenty-five (25) feet.

Section 1117     Traffic Visibility

1. A traffic visibility triangle as defined herein shall be maintained at all road intersections, public and private, driveways, railway crossings, or similar situation as determined by the Zoning Administrator; and
2. Structures, perennial or similar vegetation planted on or immediately adjacent to a road right-of-way public shall be approved in writing by the Zoning Administrator prior to construction or planting. No such vegetation between the heights of thirty (30) inches and ten (10) feet shall encroach upon the right-of-way at the time of planting or future growth. The Zoning Administrator reserves the right to refer such requests to Township Supervisors, the County Highway Superintendent, or other officials.

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## **ARTICLE 12**

### **RURAL TRANSITIONAL DISTRICT (RT)**

#### Section 1201     Intent

The intent of Rural Transitional Districts (RT) is to protect un-developed and under developed lands lying within or adjacent to expected growth corridors from unstructured or incompatible land uses in order to preserve land best suited for planned development to ensure practicality and service delivery.

#### Section 1203     Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in a Rural Transitional District (RT):

1. Agriculture;
2. Historic sites;
3. Horticulture; and
4. Utility facilities.

#### Section 1205     Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in a Rural Transitional District (RT):

1. Accessory agricultural structures.
2. Customary water irrigation systems, other than manure irrigation equipment;
3. Farm drainage systems;
4. Home and farm occupations;
5. Shelterbelts;
6. Signs, banner;
7. Signs, directional off-site;
8. Signs, directional on-site;
9. Signs, easement and utility;
10. Signs, flag;
11. Signs, name and address plate;

12. Signs, on-site;
13. Signs, real estate;
14. Stock dams; and
15. Temporary/seasonal roadside stands.

#### Section 1207      Conditional Uses

After the provisions of this Ordinance relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in a Rural Transitional District (RT):

1. Dwellings, single family.
2. Individual septic or sewage treatment facilities, pursuant to Section 1513;
3. Manure irrigation;
4. Parks;
5. Portable processing plants;
6. Rural Developments, pursuant to Section 1219;
7. Sanitary landfills or restricted use sites, permitted by the Department of Environment and Natural Resources (DENR);
8. Spreading, injection, or other application of manure or animal waste generated by an Animal Feeding Operation, as defined herein, pursuant to Section 519(11)(12);
9. Temporary construction facilities; and

#### Section 1209      Classification of Unlisted Uses

In order to insure that the zoning ordinance will permit all similar uses in each district, the Planning Commission and Board of Adjustment, upon its own initiative or upon written application, shall determine whether a use not specifically listed as a permitted, accessory, or conditional use in a Rural Transitional District (RT) shall be deemed a permitted, accessory, or conditional use in one or more districts on the basis of similarity to uses specifically listed. The review shall be heard at a regular meeting of the aforementioned bodies and may be required to adhere to the notification requirements as described in Section 1803(3-5).

#### Section 1211      Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 509 shall be prohibited.

### Section 1213     Minimum Lot Requirements

1. The minimum lot area shall be twenty (20) acres;
2. The minimum lot width shall be five hundred (500) feet;
3. The Zoning Administrator may allow a smaller minimum lot requirement where a permit for a single-family home is requested on an existing farmstead site, as defined herein;
4. Lots of record, as defined herein, existing prior to adoption of this ordinance may be developed pursuant to Article 18 and as approved by the Zoning Administrator.
5. An additional dwelling unit is allowed within the farmstead upon approval of the building permit application if it is to be occupied by other members of the family farm unit, provided the property is not transacted or prepared, platted, or described for transaction; and
6. The Zoning Administrator may allow construction of single and multi-family dwelling units not in conformance with this provision only on those lands organized as a 501(d), non-profit religious and apostolic associations as described in the United States Tax Code. Prior to issuance of a building permit or permission to proceed said entity shall file the Articles of Incorporation and other requested documentation with the Zoning Administrator. Construction activities carried on under this provision shall be in conformance with all other provisions of this ordinance.

### Section 1215     Minimum Yard Requirements

All yards must meet the following criteria as measured from the lot lines. This Section shall apply to all buildings and structures, including but not limited to decks and patios:

1. There shall be a front yard of not less than a depth of thirty (30) feet, except when said lot is adjacent to or abutting an arterial or collector right-of-way then the depth shall be fifty (50) feet;
2. There shall be a rear yard of not less than a depth of twenty (20) feet;
3. There shall be two (2) side yards, each of which shall not be less than ten (10) feet;
4. Buildings and structures on corner lots as defined herein shall maintain two (2) front yards for the property abutting the road right-of-ways; and
5. The Zoning Administrator may allow construction of single and multi-family dwelling units not in conformance with this provision only on those lands organized as a 501(d), non-profit religious and apostolic associations as



described in the United States Tax Code. Prior to issuance of a building permit or permission to proceed said entity shall file the Articles of Incorporation and other requested documentation with the Zoning Administrator. Construction activities carried on under this provision shall be in conformance with all other provisions of this ordinance.

#### Section 1217      Traffic Visibility

1. A traffic visibility triangle as defined herein shall be maintained at all road intersections, public and private, driveways, railway crossings, or similar situation as determined by the Zoning Administrator; and
2. Structures, perennial or similar vegetation planted on or immediately adjacent to a road right-of-way public shall be approved in writing by the Zoning Administrator prior to construction or planting. No such vegetation between the heights of thirty (30) inches and ten (10) feet shall encroach upon the right-of-way at the time of planting or future growth. The Zoning Administrator reserves the right to refer such requests to Township Supervisors, the County Highway Superintendent, or other officials.

#### Section 1219      Development Standards

1. All platted lots shall be part of planned development or subdivision;
2. All planned developments or subdivisions shall be platted with a minimum of four platted lots and recorded with the Register of Deeds;
3. The minimum lot area shall be one (1) acre;
4. The minimum lot width shall be two hundred (200) feet;
5. All yards must meet the following criteria, which shall apply to all buildings and structures, including decks, patios, and car ports:
  - a. Front yard of not less than a depth of thirty (30) feet;
  - b. Rear yard of not less than a depth of twenty (20) feet; and
  - c. Each side yard shall not be less than a width of ten (10) feet.
6. The proposed development must have controlled public road access;
7. Planned developments or subdivisions shall not be located within the 100-year floodplain;
8. All lots within a planned development or subdivision shall be served by a Department of Environment and Natural Resources approved water system;
9. A site plan and topographic maps shall be submitted with the building permit

application, said plan and maps shall include, at a minimum:

- a. Proposed site layout;
- b. Storm water drainage;
- c. Roads and streets, including ingress and egress; and
- d. Water and sewer service.

10. Water and sewer or sanitary drainage systems shall be installed by certified plumber and shall comply with all applicable South Dakota Department of Environment and Natural Resources regulations.

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## **ARTICLE 13**

### **PLANNED UNIT DEVELOPMENT (PUD)**

#### Section 1301     Intent

The provisions of this article are to be applied in instances where tracts of land of considerable size are developed, redeveloped or renewed as integrated and harmonious units, and where the overall design of such units is so outstanding as to warrant modification of the standards contained elsewhere in this Ordinance. A planned development, to be eligible under this Article, must be:

1. In accordance with the comprehensive plans of the county, including all plans for redevelopment and renewal;
2. Composed of such uses, and in such proportions, as are most appropriate and necessary for the integrated functioning of the planned development and for the county;
3. So designed in its space allocation, orientation, texture, materials, landscaping and other features as to produce an environment of stable and desirable character, complementing the design and values of the surrounding neighborhood, and showing such unusual merit as to reflect credit upon the developer and upon the county; and
4. A minimum of five (5) acres in land area.

#### Section 1303     Application Procedure

1. An applicant for consideration under the terms of this district, who must be owner, lessee, or the holder of a written purchase option of the tract of land under consideration, shall submit to the County Planning Commission a site plan for the proposed planned unit development. The plan shall indicate:
  - A. The location and extent of the proposed planned unit development, including its relationship to surrounding properties;
  - B. The exact nature and extent of improvements to be developed or erected upon the tract, including contoured site plans, building plans and elevations, and plans for landscaping and paved areas, transportation patterns, and water and sewer services; and
  - C. Such other information as may be required by the County Planning Commission to determine if the proposed planned unit development is consistent with the intent of the district.

2. The County Planning Commission shall, within sixty (60) days of receiving the plan for the proposed planned unit development, consider such plan at a minimum of one public hearing pursuant to Section 1809. Upon consideration, the County Planning Commission shall inform the applicant in writing of its approval or denial of the plan. In the event of denial, the Commission shall inform the applicant of the reason(s) for denial, including any recommended modifications in the plan, which would cause the Commission to reconsider.
3. Upon approval of the plan by the County Planning Commission, it shall forward its written recommendations to the Board of County Commissioners along with a copy of the approved plan, that the tract be designated a Planned Unit Development (PUD) by amendment of the Official Zoning Map.
4. Upon receiving the County Planning Commissioner's written recommendation, the Board of County Commissioners shall consider the proposed development and possible amendment of the Official Zoning Map in accordance with Section 2201.
5. Following the amendment of the Official Zoning Map by the Board of County Commissioners, the County Zoning Administrator may, upon proper application, issue a building permit for construction of the planned unit development in accordance with the approved plan.

#### Section 1305      Subsequent Performance

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

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## **ARTICLE 14**

### **SIGN REGULATIONS**

#### Section 1401 Signs, Billboards, and Other Advertising Structures

Authority: Yankton County's authority to regulate signs, billboards and other advertising structures is specified in South Dakota Codified Law Ch. 31-29.

Intent: The purpose of this Section shall be to establish effective local regulation of outdoor advertising so as to promote the health, safety, and general welfare of those persons using and residing adjacent to public right-of-ways. The following regulations are intended to promote and preserve the natural aesthetics of Yankton County while providing for the convenience of the traveling public, for the promotion of locally available facilities, goods, and services, and to minimize negative impacts on property adjacent to public right-of-ways.

#### Section 1403 General Provisions:

In any zoning district where signs are allowed, a Yankton County Sign Permit shall be required unless otherwise stated. In addition to all applicable state and federal regulations, any sign erected within the unincorporated area of Yankton County shall be required to conform to the following regulations:

1. New Signs
  - A. A Sign Permit shall be required for any new on-premise or off-premise sign installation. At the time of installation, the new sign must conform to all requirements of the Zoning Ordinance at the time of installation. All off-site signs require a Conditional Use Permit.
  - B. The provisions of Section 1805 of the Yankton County Zoning Ordinance apply to all Conditional Use Permits. In addition, due consideration shall be given to the relationship between the sign(s) and the natural horizon/view shed in the area of the proposed sign location.
  - C. The owner of any sign requiring a permit must apply for and obtain a valid permit as per State Law and this Ordinance before construction or placement of the sign occurs. A sign erected or maintained without a permit is a public nuisance and subject to abatement by the State Department of Transportation or Yankton County, as the case may be.
2. No off-site sign shall be erected or placed closer than 1,500 feet from any residential district and/or dwelling unit.
3. Off-site signs shall be located no closer than 1,500 feet from all other off-site signs.

4. No illuminated sign shall be permitted within 1,500 feet of any dwelling unit or residential district without an approved Conditional Use Permit. All illuminated signs shall be installed and maintained so as to minimize spillage of light outside of the sign face.
5. Off-site signs shall not exceed a height of 30 feet. The maximum display area of any off-premise sign located adjacent to a two or more lane highway shall not exceed 250 square feet on each face. The height of the off-site sign shall be measured from the road surface.
6. All off-site and on-site signs shall be placed or erected in conformity with all applicable side and rear yard setback requirements for structures. The minimum front yard setback requirement for on-site or off-site signs shall be five (5) feet from the property line.
7. No signs, including political signs, are allowed to be located in any public right-of-way, public or private access easement. All signs issued by the Yankton County Planning Department for public notice of proposed land use changes are exempt from this requirement.
8. There shall be a 50 foot separation between an off-site sign and an on-site sign, unless agreed to by the sign owner and property owner.
9. All on-site and off-site sign structures may be painted and maintained in muted colors as to blend into the natural surroundings. Colors may include, but not be limited to, brown, black, or tan. Wood sign structure may remain unpainted and allowed to have a natural patina. At no time shall bright or neon colors be used for either wood or metal sign structures.
10. No debris, including, but not necessarily limited to, wood material, posts, metal, paper, plastic, cardboard or other materials from the construction or maintenance of a sign shall be left at the location or vicinity of a sign. Any violation of this section is hereby declared a nuisance and subject to abatement.
11. On-site signs shall not exceed a height of 30 feet. The maximum display area of any on-premise sign shall not exceed 250-square feet on each side. The height of the on-site sign shall be measured from the road surface.
12. On-site signs, which advertise or direct attention to a home occupation shall not exceed six (6) square feet in area, and shall be limited to one such sign per approved home occupation. A home occupation shall be allowed to have one wall sign or one freestanding sign. The freestanding sign shall not be located closer than 17 feet to the nearest street right-of-way line. A Conditional Use Permit may allow for a larger size sign, if appropriate to the area.
13. Each real estate subdivision that has been approved in accordance with the



regulations of the Zoning Ordinance shall be allowed one on-site sign per entrance, not exceeding 100 square feet in area, advertising the sale of property in such subdivision and/or the name of such subdivision. The subdivision sign shall not encroach into a road right-of-way or road easement. The signs should be aesthetically pleasing and blend into the surroundings.

14. In any zoning district, the following signs shall be allowed with no permit:

- A. **Parking Area Permits:** For each permitted or required parking area that has a capacity of more than four cars, one sign, not exceeding four (4) square feet in area, may be allowed at each entrance to or exit from such parking area. In addition, one sign, not exceeding nine (9) square feet in area, is allowed for identifying or designating the conditions of use of such parking area.
- B. **“For Sale” or “For Rent” signs:** Not more than one non-illuminated “For Sale” or “For Rent” sign, not exceeding 32 square feet in area is allowed for the purpose of advertising the sale, rental or lease of the premises on which the sign is located.
- C. **“Under Construction” signs:** For construction on or development of lots, not more than three signs with a combined total area of 70 square feet, stating the names of contractors, engineers or architects, is allowed during the time that construction or development is actively underway.
- D. **“Emergency 911” signs:** Residential locator or E-911 signs.
- E. **“Political Campaign” signs:** Political campaign signs that are temporarily placed on the ground, pending an election, shall not exceed 32 square feet and shall be removed within three days after the election.
- F. **“Directional” signs:** Directional signs shall not exceed 20 square feet.
- G. **“Temporary” signs:** As defined in this Zoning Ordinance.

15. Applications and Permitting

Applications for a Sign Permit shall be made in writing upon forms furnished by the Yankton County Planning Department. No permit shall be issued until each sign application is approved by the Planning Official or the Yankton County Planning Board and Yankton Board of Adjustments in the case of a Conditional Use Permit. At a minimum, the following complete information shall be provided before an application is considered:

- a. Name and address of the sign owner and the contractor.
- b. Name and address of the property owner where the sign is to be located.

- c. The legal description of the proposed sign location.
  - d. Clear and legible drawing of the proposed sign to scale with description of the sign showing construction type and lighting.
  - e. Site plan showing the location and setbacks on the property where the sign is to be located.
  - f. The property owner's notarized signature.
  - g. Global Positioning Systems (GPS) coordinates of proposed sign.
  - h. Other such data and information deemed necessary by the Yankton County Planning Department.
16. No off-site or on-site sign shall be constructed which resembles any official marker erected by a governmental entity or which by reason of position, shape or color would conflict with the proper functioning of any official traffic control device, sign or marker.
17. Owners of on-site and off-site signs are encouraged to allow public service announcements to be located on signs that will display no advertisement for more than thirty calendar days.
18. A vehicle or trailer of any form or type, whether licensed or not or in working condition or not, intended to be used as or in conjunction with an on-site or off-site sign, shall not be located adjacent to any public right-of-way or on private or public property so as to be visible from the public right-of-way.
19. Outdoor Lighting For Outdoor Advertising:

Lighting: Signs may be illuminated subject to the following restrictions:

Signs that contain, include, or are illuminated by any flashing, intermittent (less than six seconds) moving light(s) are prohibited.

- A. Electronic variable message signs giving public information such as, but not limited to, time, date, temperature, weather, or other similar information, and commercial electric variable-message signs which function in the same manner as multiple-face signs are permitted, provided such signs do not interfere with traffic safety, do not change messages less than every six seconds and do not resemble or simulate traffic control or safety devices or signs. Given the commercial and intrusive nature of these signs, their placement shall be limited to Commercial Districts (C).
- B. Signs must be effectively shielded to prevent beams or rays from being directed toward any portion of the traveled ways, and must not be of such intensity or brilliance to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with any driver's operation of a motor vehicle.

- C. No off-site sign shall be lighted after 12:00 midnight, unless otherwise permitted through a Conditional Use Permit.
20. A nonconforming sign or sign structure existing at the time of the adoption of Article 14 of the Zoning Ordinance as amended, may be continued, maintained, and repaired as follows: Any sign or sign structure not required to be removed or until the time of actual removal, may be used and may be repaired if the expense of ordinary and customary maintenance does not exceed fifty percent of the depreciated value of the sign or if the same has not been damaged beyond fifty percent of its depreciated value by an act of God unless special circumstances warrant a variance by the Board of Adjustment, such as, but not necessarily limited to acts of vandalism or an accident.
21. No sign shall exceed two (2) sides. Signs shall have no more than one frontal face (front) and one back face (back) as viewed from one static position.
22. The changing of advertising messages or face on an existing sign shall be allowed without fee or permit. The changing of advertising messages on an existing sign shall be allowed without fee or permit.

#### Section 1405 Enforcement of Sign Ordinance

1. In addition to any and all remedies allowed under the laws of the State of South Dakota and this Zoning Ordinance, a violation of any requirement of this ordinance shall also be subject to the penalties as outlined in Article 23, Section 2303 of the Zoning Ordinance.
2. Unlawful Signs
 

Whenever it shall be determined by the Zoning Administrator that any sign or sign structure has been constructed or erected or is being maintained in violation of the terms of this Zoning Ordinance or has been abandoned, said sign or sign structure is hereby declared to be unlawful. Any sign or sign structure found to be unlawful shall be made to conform to all applicable laws and regulations or shall be removed at the expense of the sign owner or landowner (if the sign owner is unknown and reasonable efforts have been made to locate the sign owner with no success).
3. Removal of Signs
  - A. The Yankton County Board of Commissioners or the Zoning Administrator may cause to be removed any unlawful sign or sign structure. The Yankton County Planning Department shall prepare a written notice which shall describe the sign and specify the violation involved and shall state that if the sign is not removed or the violation or condition is not corrected within 30 calendar days from the date of the notice, the sign shall be removed in accordance with the provision of this Zoning Ordinance at the expense to the

sign owner or landowner (if the sign owner is unknown and reasonable efforts have been made to locate the sign owner with no success).

- B. Service of the notice shall be made upon the sign owner or landowner (as applicable) by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested. If service is made upon the landowner, service shall be to the landowner at their address as it appears on the last equalized assessment role of the County.
- C. Any person receiving notice may appeal the determination of the Zoning Administrator by filing a written notice of appeal to the Yankton County Commissioners within seven (7) days of receipt of the notice. Failure by any person to appeal the notice within that time period shall constitute a waiver of right to an administrative hearing.
- D. The sign owner or landowner, if the sign owner is unknown, shall have One (1) year to remove advertisements for establishments that are no longer in business.

Section 1407     The following types of signs shall be allowed in the following Districts

- 1. Agriculture District (AG) and Rural Transitional District (RT):
  - A. Business signs, excluding all variable electronic lighting as in Section 1403, paragraph 19.
  - B. Advertising signs for agricultural products only. Signs four (4) square feet or less are exempted.
  - C. Off-site signs, upon issuance of a Conditional Use Permit, as regulated in Article 18, Section 1805 - Conditional Use Permits.
  - D. Community signs.
- 2. Rural Residential District (R1, R-2, R-3):
  - A. Business signs, excluding all variable electronic lighting as in Section 1403, paragraph 19.
  - B. Community signs.
- 3. Planned Unit Development District (PUD)
  - A. Business signs, excluding all variable electronic lighting as in Section 1403, paragraph 19.
  - B. Off-site signs provided they are permitted in the conditions of PUD approval or upon issuance of a Conditional Use Permit, as regulated in Article 18, Section 1805 - Conditional Use Permits.

- C. Community signs.
- 4. Lakeside Commercial Districts (LC)
  - A. Business signs, excluding all variable electronic lighting as in Section 1403, paragraph 19.
  - B. Off-site signs, upon issuance of a Conditional Use Permit, as regulated in Article 18, Section 1805 - Conditional Use Permits.
  - C. Community signs.
- 5. Commercial (C):
  - A. Business signs.
  - B. Off-site signs, upon issuance of a Conditional Use Permit, as regulated in Article 18, Section 1805 - Conditional Use Permits.
  - C. Community signs.

Section 1409 Permits and Fees

Permits and fees for signs shall be as determined by the Yankton County Commission pursuant to Article 17 – Sections 1721 - 1735.

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## ARTICLE 15

### SUPPLEMENTARY DISTRICT REGULATIONS

#### Section 1501    Accessory Buildings

No accessory building shall be erected in any defined setback and no separate accessory building shall be erected within five (5) feet of any other building. It shall be unlawful for any person, firm, or corporation in the following Yankton County Zoning Districts: Low Density Rural Residential (R1), Moderate Density Rural Residential (R2), High Density Rural Residential (R3), Manufactured Home Park (MHP), Lakeside Commercial (LC), Rural Transitional (RT), Planned Unit Development (PUD) to use any van body, truck body, semi-trailer, rail car, “shipping crate”, and/or any vehicle no longer used for its manufactured purpose as a storage shed, storage building, warehouse, or as residential living quarters. It shall be unlawful to use manufactured homes for any use other than residential living quarters. However, this shall not prevent the lawful parking of vehicles properly licensed, insured, and in regular use for their intended purpose to include ‘RVs’ and camping trailers.

#### Section 1503    Erection of More than One Principal Structure on a Lot

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

#### Section 1505    Manufactured Homes

No camping unit, mobile, or manufactured homes shall be parked and occupied in any district for more than forty-eight (48) hours, except upon a special permit issued by the Zoning Administrator. Such permit shall be issued for a period not to exceed fourteen (14) days and shall not be renewable within the same calendar year. Provided, however, a permit may be issued for parking and occupying a camping unit, mobile, or manufactured home on land owned by the occupant or occupants, during the construction of a house thereon or for a period not exceeding one (1) year and which shall be renewable for an additional period not exceeding one (1) year. However, if material progress with site development or house construction is not made within forty-five (45) days from the issuance of a permit, or if site or construction work ceases for a consecutive period of forty-five (45) days, said permit shall become void. This Section shall not be applicable when a manufactured home is used for agricultural-related (nonhuman habitation) purposes.

#### Section 1507    Manufactured Home Performance Standards I

Manufactured homes placed within the applicable zoning district, shall comply with the following requirements:

1. The roof shall be shingled with conventional roofing products;
2. The pitch of the main roof shall be not less than one (1) foot of rise for each three (3) feet of horizontal run;
3. The exterior walls shall be encased with conventional house siding; flat or corrugated sheet metal is prohibited;
4. The manufactured home shall be placed on and anchored to a permanent foundation constructed of wood or masonry. At a minimum, the foundation shall include frost footings, piers, and anchor bolts as prescribed with the manufactured home's design. The foundation shall be inspected and approved by the Zoning Administrator prior to placement of the home;
5. A semi-permanent structure replicating an exterior foundation wall shall form a complete enclosure around the perimeter of the home from the lower edge to the ground. The design and materials list shall be approved by the Zoning Administrator prior to placement of the home;
6. The minimum width of the main body of the manufactured home as assembled on the site shall not be less than twenty (20) feet, as measured across the narrowest portion;
7. The running gear and hitch shall be removed;
8. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design;
9. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards; and
10. Prior to placement of home on the foundation, the County Zoning Administrator must approve the foundation and exterior foundation wall.

Nothing contained in this Regulation shall prevent a permanent manufactured home from being placed on an established farmstead, to be used as a secondary residence, so long as it is connected to the existing farm operation on non-deeded land.

#### Section 1509    Manufactured Home Performance Standards II

Manufactured homes placed within the applicable zoning district, shall comply with the following requirements:

1. The roof shall be shingled with conventional roofing products;
2. The pitch of the main roof shall be not less than one (1) foot of rise for each three (3) feet of horizontal run;
3. The exterior walls shall be encased with conventional house siding; flat or



corrugated sheet metal is prohibited;

4. The minimum width of the main body of the manufactured home as assembled on the site shall not be less than fourteen (14) feet, as measured across the narrowest portion;
5. The manufactured home shall be skirted with a material which is not highly combustible and installed around the perimeter of the home from the bottom of the home to the ground;
6. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design; and
7. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards.

Nothing contained in this Regulation shall prevent a permanent manufactured home from being placed on an established farmstead, to be used as a secondary residence, so long as it is connected to the existing farm operation on non-deeded land.

#### Section 1511 Existing Trailer Park Performance Standards

Prior to any changes, replacement, modification, addition, or increase to any existing Trailer Parks, as defined herein, the owner of said property shall provide, at a minimum, a site development plan pursuant to Section 1723.

The Zoning Administrator and Planning Commission shall review the plan. No activity as mentioned herein shall continue until the Planning Commission has approved said plan. The Planning Commission shall have the discretion to review the plan at a meeting format of their choice.

In addition, existing Trailer Parks shall comply with the following standards:

1. The minimum distance required for the separation of a manufactured home from side and rear lot lines shall be ten (10) feet. In no case shall a manufactured home be closer than twenty (20) feet from another manufactured home;
2. The minimum setback distance required from a public right-of-way shall be thirty (30) feet; and
3. It shall be unlawful to use manufactured homes for any use other than residential living quarters. It will also be unlawful for any person, firm, or corporation to use any van body, truck body, semi-trailer, rail car, "shipping crate", and/or any vehicle no longer used for its manufactured purpose as a storage shed, storage building, warehouse, or as living quarters.

#### Section 1513 Individual Septic System Performance Standards

Individual septic systems or similar systems proposed for lots one (1) acre or less in

size or where the concentration of development shall merit such review as determined by the Zoning Administrator, prior to construction or development of a lot:

- 1 Soil suitability;
- 2 Percolation test; and
- 3 Impact of proposed system on existing systems within the area.

Section 1515 Quarries and/or Mining

All mining activity shall be conducted in accordance with SDCL 45-6.

Section 1519 Right-of-Way Preservation Standards

No structure shall be permitted to occupy any right-of-way or future public right-of-way. Right-of-way or future public right-of-way shall include a minimum of a sixty six (66) foot corridor centered on each one quarter ( $\frac{1}{4}$ ) line and each one sixteenth ( $\frac{1}{16}$ ) line. This section shall apply to legally established sections within the township and range system. This section shall be subject to the Planning Commission's and Board of Adjustment's determination of applicability and implementation.

Section 1521 Campgrounds

Any campgrounds shall be no less than five (5) acres in size and be of contiguous or abutting lands.

Section 1525 Camping Units

No camping unit as defined herein shall be parked and occupied upon a lot and not within a designated campground for a period greater than fourteen (14) days within a calendar year unless in accordance with Section 1505. Any camping unit placed with the intent to occupy said unit for a period greater than fourteen (14) days within a calendar year and not pursuant to Section 1505 shall obtain a conditional use prior to occupying said camping unit on the fifteenth or greater day. This Section shall apply whether the camping unit is placed for a continuous period or intermittently throughout a calendar year.

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## ARTICLE 16

### NONCONFORMANCE

#### Section 1601    General

Within the districts established by this Ordinance or amendments that may later be adopted, there exists

1. Lots;
2. Structures;
3. Uses of land and structures; and
4. Characteristics of use.

Which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment; it is the intent to permit these nonconformities to continue until they are removed. It is further the intent that nonconformities shall not be used as grounds for adding other structures or uses prohibited elsewhere in the same district. **(Amended May 19, 2020)**

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently.

#### Section 1603    Nonconforming Lots of Record

In any district in which, single family dwellings, manufactured; or modular homes are permitted, these structures and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. This provision shall apply even though such lots fail to meet requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of other yard requirements shall be obtained only through action of the Planning Commission and Board of Adjustment, pursuant to Sections 1807 and 1907. **(Amended May 19, 2020)**

#### Section 1605    Nonconforming Uses of Land (or Land with Minor Structures Only)

Where at the time of passage of this revised Ordinance lawful use of land exists, which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding

one thousand (1,000) dollars, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged in any way that increases its nonconformance; (**Amended May 19, 2020**)
2. No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If any such nonconforming use of land ceases, for any reason, for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and
4. No additional structure, not conforming to the requirement of this Ordinance, shall be erected in connection with such nonconforming use of land.

#### Section 1607    Nonconforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance, that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Any structure specifically identified as a permitted principal use in a district, under the terms of this Ordinance, shall be deemed a conforming use without further action. Said structure shall be subject to all remaining provisions of this Ordinance. As a conforming use the structure is entitled to the administrative and legislative provisions identified herein;
2. No such nonconforming structure may be enlarged or altered in any way, which increases its nonconformity, but any structure, or portion thereof, may be altered to decrease its nonconformity;
3. A structure shall be allowed to expand provided such expansion does not further extend the nonconformity beyond the nonconforming plane of the existing structures; (**Amended May 19, 2020**)
4. Such structure may be moved only to decrease its nonconformance.  
(**Amended May 19, 2020**)

#### Section 1609    Nonconforming Uses of Structures or of Structures and Premises in Combination

If the nonconforming use involving individual structures with a replacement cost of one thousand (1,000) dollars or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the district under the terms of this Ordinance, the nonconforming use may be continued so long as it remains otherwise lawful,

subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or moved; **(Amended May 19, 2020)**
2. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any previously unoccupied land outside such building or facility; **(Amended May 19, 2020)**
3. A structure shall be allowed to expand provided such expansion does not further extend the nonconformity beyond the nonconforming plane of the existing structures; **(Amended May 19, 2020)**
4. If no structural alterations are made, any nonconforming use of a structure or structure and premises may, as a conditional use, be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance;
5. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;
6. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for a period of more than one (1) year (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located; and
7. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

**Section 1611    Uses Under Conditional Use Provisions are Conforming Uses**

Any use, which is permitted as a conditional use in a district, under the terms of this Ordinance, shall be deemed a conforming use in such district without further action. A nonconforming use can never be allowed in a defined district without a change in the district definition or boundaries. As a conforming use the structure is entitled to the administrative and legislative provisions identified herein.

***THIS PAGE RESERVED FOR FUTURE USE***

## ARTICLE 17

### ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

#### Section 1701     Yankton County Zoning Administrator

An administrative official who shall be known as the Zoning Administrator and who shall be designated by the Yankton County Commission shall administer and enforce this ordinance. They may be provided with the assistance of such other persons as the County Commission may direct.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, they shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. They shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by the Ordinance to insure compliance with or to prevent violation to its provisions. The Zoning Administrator shall report all actions to the Planning Commission and County Commission at the next general meeting of each.

#### Section 1703     Right of Entry

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

#### Section 1705     Planning Commission Appointment and Terms

The Yankton County Commission shall appoint a Planning Commission, as provided in SDCL 11-2-2. The County Planning Commission shall consist of an odd number of members, including at least one (1) county commissioner. The term of each of the appointed members of the County Planning Commission shall be for three (3) years; provided, that when the Planning Commission is first appointed, the lengths of the terms shall be varied so that no more than one-third (1/3) of the terms shall expire in the same year. Any appointed member of the County Planning Commission may be removed for cause, after hearing prior to the expiration of their term by a majority vote of the elected members of the Board of County Commissioners. Administrative officials of the county may be appointed as ex officio members of the commission.

The Planning Commission shall adopt rules necessary for the conduct of its affairs



and keeping with the provisions of this Ordinance including the selection of a Chairperson and Vice-Chairperson. The Commission shall have a quorum present prior to conducting official business. A quorum shall be defined as fifty one (51) percent of the Commission's total membership. The term of the Chairman and Vice-Chairman shall be for one (1) year. The Planning Commission shall keep a record of all proceedings. Meetings shall be regularly scheduled and held at the call of the Chairman, at such other times as the Planning Commission may determine, but in no event, shall the Commission meet less than once (1) every three (3) months. All meetings of the Planning Commission shall be open to the public except as provided by SDCL 1-25-5. Those meetings designated as public hearings shall allow for testimony from all interested parties.

#### Section 1707      Planning Commission Voting Requirements

The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be filed with the County Auditor. All votes shall be by simple majority of the members present. An abstention vote shall not be considered as a vote in the positive or negative. The Planning Commission shall adopt from time to time, additional regulations, as it may deem necessary to carry appropriate provisions of this Ordinance into effect. No official action or vote shall be acted upon without a quorum present in accordance with Section 1705.

#### Section 1709      Planning Commission Amendment and Rezoning Duties

Upon notification of a request for an amendment or rezone or any part thereof the Planning Commission shall schedule a public hearing. The Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the County Commission at least ten (10) days in advance of the County Commission meeting at which the application is being considered.

#### Section 1711      Planning Commission Variance and Conditional Use Duties

The Planning Commission shall review all applications for variances or conditional uses at an official public hearing of the Commission. Notice of the time and place of the hearing shall be given pursuant to Section 1803 (3-5). Any person may appear and support or protest the pending action. In hearing conditional use and variance applications, the Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommendation. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

#### Section 1713      Board of Adjustment Appointment and Terms

The Yankton County Commission shall serve as the Board of Adjustment. The Board of Adjustment is hereby designated to hear all requests for variances, conditional uses and appeals.

The County Auditor shall act, as secretary to the Board of Adjustment when acting in zoning cases, but shall take no part in the deliberations. Meetings of the Board of Adjustment acting in zoning cases shall be held at the call of the Chairperson and at such other times, as the Board shall determine.

All meetings of the Board of Adjustment shall be open to the public. Those meetings designated as public hearings shall allow for testimony from all interested parties. The Board, acting in zoning cases, shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent, or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the County Auditor by 5:00 P.M. the following business day and shall be a public record.

#### Section 1715 Board of Adjustment Voting Requirements

The Board of Adjustment shall, upon a vote of two-thirds (2/3) (4 of 5) of the full membership of the Board of Adjustment, overrule the Zoning Administrator or grant conditional uses or variances to the terms of this ordinance.

#### Section 1717 Board of Adjustment Appeal, Variance, and Conditional Use Duties

Upon notification of a request for an appeal, variance, conditional use, or any part thereof the Board of Adjustment shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 1903. Any person may appear and support or protest the pending action. The Board shall discuss the application and formulate a decision. The decision should be in the form of a motion clearly stating the Board's decision and the reasons supporting said decision. All requests shall be in accordance with Articles 18, Article 19 and Article 20. Appeals of a Board decision shall be done pursuant to Section 2101.

#### Section 1719 County Commission Amendment and Rezoning Duties

The County Commission may amend, supplement, change, modify, or repeal any regulation, restriction, boundary, or enforcement provision established in the zoning ordinance or Zoning Map. The County Commission shall forward a copy of the proposed changes to the Planning Commission for public review and comment pursuant to Section 1809. Upon receipt of the comments from the Planning Commission the County Commission shall provide a notice of public hearing pursuant to Section 2003. The County Commission shall thereafter either adopt or reject such amendment, supplement, change, modification, or repeal. If adopted the County Commission shall publish a notice of fact of adoption once in a legal newspaper of the County and take effect on the twentieth day after its publication. (SDCL 11-2-30)

#### Section 1721 Building Permits

No construction shall commence on any building or structure, which meets any one (1) of the criteria listed below without a permit therefore, issued by the Zoning

Administrator. A building permit shall not be issued by the Zoning Administrator except in conformity with the provisions of this Ordinance, unless they received a written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this Ordinance. All building permits are subject to the appeal process; therefore, any work begun prior to the appeal period shall be at the owner's risk.

Building permits are required in the following instances:

1. For any structure or building in which the structure or building is erected, partially erected, moved, added to, or structurally altered;
2. For any structure or building in which the use for that structure or building is significantly changed; or
3. For any structure or building, regardless of cost, if additional land or area is required for the improvements to be sited on.

An exemption/exception from a building permit does not automatically preclude the activity from the remaining zoning regulations. Exceptions to building permits shall be:

1. Remodeling, improvements, or maintenance provided such activity does not include structural alterations or require additional land or space;
2. Concrete slabs on grade;
3. Fences, corrals, and windbreaks pursuant to Section 517;
4. Semi-portable agricultural structures; and
5. A (one) one hundred twenty (120) square foot accessory building without a sub-grade foundation.

#### Section 1723 Applications for Building Permits, Conditional Uses, Variances, and Amendments

All applications for building permits, conditional uses, variances, amendments, and rezoning must be signed or approved in writing by the owner of record. In the event the owner of record has a binding purchase agreement contingent on the approval of the building permit, conditional use, or variance the potential purchaser may submit and sign all documents required for application. All applications for building permits shall be accompanied by a site plan.

The site development plan shall be drawn to scale and indicate the following:

1. Location and topography of the proposed structure(s), including adjacent property owners and proximity to federal, state highways, and to county, township, or city roads;
2. A north arrow;

3. The actual dimensions and shape of the lot to be built upon;
4. The exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration;
5. Property lines and square footage of the proposed structure(s);
6. Location and dimensions of all easements and right-of-ways;
7. General road and pedestrian walkway plan;
8. General utility and sewer plans with proximity and proposed connection to central or individual services; and
9. Site drainage plan and development impact on culverts, etc.

Refer to document entitled Site Plan Requirements for a detailed example of a site plan.

The application shall include such other information as may be lawfully required by the Zoning Administrator, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, rental units, or animal units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of, this Ordinance. The Zoning Administrator shall return one (1) copy of the application to the applicant after they shall have marked such copy either as approved or disapproved and attested to same by their signature on such copy.

If a building permit is refused, the Zoning Administrator shall state the reasons for such refusal in writing. The Zoning Administrator shall retain the original and one (1) copy of the application, similarly marked. The issuance of a building permit shall in no case be construed as waiving any provisions of this Ordinance.

#### Section 1725      Expiration of Building Permits, Conditional Uses and Variances

The building permit shall expire if the work described in any building permit, conditional use, or variance has not begun within one hundred eighty (180) days from the date of issuance.

The building permit shall also expire if the work described in any building permit, conditional use, or variance has not been completed within two (2) years from the date of issuance.

#### Section 1727      Construction and Use to be as Provided in Application, Plans, Permits, and Application for Zoning Compliance

Building permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 2303 of this

ordinance.

Section 1729     Schedule of Fees, Charges, and Expenses

The Yankton County Commission shall establish a schedule of fees, charges, and expenses and a collection procedure for variances, conditional uses, amendments, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Yankton County Commission. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 1731     Building Permit in a Conspicuous Place

All building permits issued by the Zoning Administrator must be placed along the property's frontage to be visible from the nearest public access point. If a property does not have a road frontage, then such permits shall be placed upon the available right-of-way and upon the property in a conspicuous location within 5 working days of receipt of the building permit and must remain for the duration of the construction of work described.

Section 1733     Reserved for future use

Section 1735     Bad Actor Legislation

The Yankton County Commission may reject an application for any permit filed for a building permit, variance, conditional use, amendment, rezoning, or otherwise for the reasons and on the grounds set forth in SDCL 1-40-27, as revised and amended. Such rejection shall be based upon a specific finding by the Commission that the applicant has engaged in the activity identified in the aforesaid statute. The burden on the Commission to make the specific finding provided for herein shall be by a preponderance of the evidence.

***THIS PAGE RESERVED FOR FUTURE USE***

## **ARTICLE 18**

### **PLANNING COMMISSION**

#### Section 1801 Powers and Duties

The Planning Commission shall have the power to hear requests for conditional uses, variances, amendments, change in zone, and other official actions as authorized.

#### Section 1803 Notification

1. The applicant will meet with the Zoning Administrator to discuss requirements of Sections 1723 and Section 1729;
2. Applicant, along with Zoning Administrator, will prepare First and Second Notification letters and accompanying affidavit;
3. Notice of the hearing date shall be given at least ten (10) days in advance by publication in a legal newspaper of the county;
4. A good faith effort must be made by the applicant to notify all property owners of land in accordance with the following provisions:
  - A. Projects within lands zoned Agriculture shall notify all property owners lying within two thousand six hundred forty (2,640) feet of the property on which the appeal is pending.
  - B. Projects within lands not zoned Agriculture shall notify all property owners lying within one thousand three hundred twenty (1,320) feet of the property on which the appeal is pending.

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 shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date and supported by affidavit certifying that the required mailing was completed. The affidavit shall be provided to the Planning Department at least seven (7) days prior to the Planning Commission meeting.

5. A notification sign furnished by Yankton County shall be posted on the property by the applicant upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along the property's access frontage so as to be visible from the nearest public access point. If a property does not have a road frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said signs shall be not less than one hundred and eighty-seven (187) square inches in size. It shall be unlawful for any person to

remove, mutilate, destroy, or change such posted notice prior to such hearings;  
**(Amended May 19, 2020)**

Section 1805      Conditional Uses

The Planning Commission shall have the power to hear and make recommendations, in accordance with the provisions of this Ordinance, upon conditional uses. The Commission shall not review a conditional use request unless and until all documents required for said use have been satisfactorily completed and all required fees have been paid in full. The Planning Commission shall review all conditional use applications at an official public hearing of the Commission. Prior to hearing a request for a conditional use the following requirements shall be met.

1. The applicant shall specifically cite, within the application the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested;
2. Notice of public hearing shall be given, as in Section 1803 (3-5);
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
4. The Planning Commission shall make a finding and recommendation that it is empowered under the section of this Ordinance described in the application, to include:
  - A. Recommend granting of the conditional use;
  - B. Recommend granting with conditions; or
  - C. Recommend denial of the conditional use.
5. Before any conditional use is decided, the Planning Commission shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district;
  - C. Refuse and service areas, with particular reference to the items in (A) and (B) above;
  - D. Utilities, with reference to locations, availability, and compatibility;



- E. Screening and buffering with reference to type, dimensions, and character;
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- G. Required yards and other open spaces; and
- H. General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest.

#### Section 1807     Variances

The Planning Commission shall have the power to hear requests for variances from this Ordinance in instances where strict enforcement would cause unnecessary hardship, and to recommend approval only in accordance with this ordinance. The Commission shall not review a variance unless and until all documents required for application for said request have been satisfactorily completed and all required fees have been paid in full.

1. No such variance shall be recommended for approval by the Planning Commission unless it finds:
  - A. The strict application of the ordinance would produce undue hardship;
  - B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and
  - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.
2. No variance shall be recommended for approval unless the Planning Commission finds the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance.
3. A recommendation of approval concerning a variance from the terms of this ordinance shall not be founded by the Planning Commission unless and until:
  - A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district;

- B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
  - C. The special conditions and circumstances do not result from the actions of the applicant; and
  - D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district.
4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
  5. Notice of public hearing shall be given, as in Section 1803 (3-5).
  6. The public hearing shall be held. Any party may appear in person for by agent or by attorney.
  7. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for a variance; the Commission shall further make a finding that the reasons set forth in the application justify the recommendation of granting the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Planning Commission shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
  8. In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance.
  9. Under no circumstances shall the Planning Commission recommend granting a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

#### Section 1809     Amendments and Rezoning

The Planning Commission shall have the power to hear and make recommendations, in accordance with provisions of this Ordinance, on requests for amendment or change in zoning. A petition for an amendment or change in zoning will not be acted

upon until:

1. All documents required for application for said request have been satisfactorily completed and all required fees have been paid in full.
2. The individual petitioner provides a completed amendment or change in zone request. Said request must clearly state:
  - A. Special conditions and circumstances exist which require the land to be rezoned;
  - B. The special conditions and circumstances do not result from the actions of the applicant; and
  - C. The granting of the amendment or change in zoning will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the area.
3. Notice of public hearing shall be given, as in Section 1803 (3-5).
4. The public hearing shall be held. Any party may appear in person or by agent or attorney.
5. The Planning Commission shall make findings that the requirements of this Section have been met by the applicant for an amendment or change in zone, to include:
  - A. The reasons set forth in the application justify a recommendation to approve the amendment or change in zone;
  - B. The amendment or change in zone will make possible the reasonable use of the land, building, or structure;
  - C. A recommendation to grant the amendment or change in zone will be in harmony with the general purpose and intent of this ordinance; and
  - D. A recommendation of approval will not be injurious to the neighborhood, or otherwise detrimental to the public welfare as presented and testified to by the applicant.
6. No petition for amendment or change in zone shall be recommended for approval unless the Planning Commission finds that the condition, situation or the intended use of the property concerned is unique, required, or necessary as to make reasonably practicable the amendment or change in zone.
7. Before any amendment or petition for rezoning is recommended for approval, the Planning Commission shall make written findings certifying compliance with:
  - A. The Comprehensive Plan;

- B. Specific rules governing land uses;
- C. Zoning district regulations; and
- D. Satisfactory provision and arrangement has been made concerning the following, where applicable:
  - 1. Certification of compliance with all ordinances and regulations regarding licensing and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations;
  - 2. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - 3. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and the economic, noise, glare or odor effects of the amendment or rezone on adjoining properties and properties generally in the district;
  - 4. Refuse and service areas, with particular reference to the items in (A) and (B) above;
  - 5. Utilities, with reference to locations, availability, and compatibility;
  - 6. Screening and buffering with reference to type, dimensions, and character;
  - 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
  - 8. Required yards and other open spaces; and
  - 9. General compatibility with adjacent properties and other property in the district.
- 8. In recommending approval of any petition for amendment or change in zone, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this ordinance.

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## ARTICLE 19

### BOARD OF ADJUSTMENT

#### Section 1901      Powers and Duties

The Board of Adjustment shall have the power to hear requests for variances, conditional uses and appeals of a decision rendered by the Zoning Administrator.

#### Section 1903      Appeals

The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of competent jurisdiction on application or notice to the officer for whom the appeal is taken and on due cause shown. Prior to hearing an appeal, the following requirements shall be completed.

1. The Board of Adjustment and appellant shall act upon appeals pursuant to Section 2101.
2. Any person aggrieved by a decision of the Zoning Administrator shall file a written intent to appeal with the Zoning Administrator within ten (10) working days after the building permit has been issued in accordance with Section 1731. A full written appeal must be filed with the Zoning Administrator within five (5) additional working days.
3. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed was taken;
4. Notice of the hearing date shall be given at least ten (10) days in advance by publication in a legal newspaper of the county;
5. A good faith effort must be made by the appellant to notify the applicant, and all property owners in accordance with the following provisions:
  - A. Projects within lands zoned Agriculture shall notify all property owners lying within two thousand six hundred forty (2,640) feet of the property on which the appeal is pending.
  - B. Projects within lands not zoned Agriculture shall notify all property owners lying within one thousand three hundred twenty (1,320) feet of the property on which the appeal is pending.

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 shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date and supported by affidavit certifying that the required mailing was completed. The affidavit shall be provided to the Planning Department at least seven (7) days prior to the Planning Commission meeting.

6. A notification sign furnished by Yankton County shall be posted by the applicant on the property upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along the property’s access frontage so as to be visible from the nearest public access point. If a property does not have a road frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said signs shall be not less than one hundred and eighty seven (187) square inches in size. It shall be unlawful for any person to remove, mutilate, destroy, or change such posted notice prior to such hearings; **(Amended May 19, 2020)**
7. The Zoning Administrator shall present the decision to the Board of Adjustment for review; and
8. The Board of Adjustment shall uphold, overrule, or amend the decision pending before the Board.
9. Upon exhaustion of the administrative appeal process as described herein recourse shall be to the Court of competent jurisdiction pursuant to Section 2101.

#### Section 1905      Conditional Uses

The Board of Adjustment shall have the power to hear and decide, in accordance with the provisions of this ordinance, requests for conditional uses or for decisions upon other special questions upon which the Board of Adjustment is authorized by this ordinance to pass; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this ordinance. Prior to hearing a request for a conditional use the following requirements shall be met.

1. The applicant shall specifically cite, within the application the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested;
2. The Planning Commission has reviewed the application pursuant to Section 1805 of this Ordinance;
3. Notice of public hearing shall be given, as in Section 1803 (3-5);
4. The public hearing shall be held. Any party may appear in person, or by agent or attorney;
5. The Board of Adjustment shall make a finding that it is empowered under the

section of this Ordinance described in the application to:

- A. Grant the conditional use;
  - B. Grant with conditions; or
  - C. Deny the conditional use.
6. Before any conditional use is issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
- A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - B. Off right-of-way parking and loading areas where required; with particular attention to the items in (A) above and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district;
  - C. Refuse and service areas, with particular reference to the items in A and B above;
  - D. Utilities, with reference to locations, availability, and compatibility;
  - E. Screening and buffering with reference to type, dimensions, and character;
  - F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
  - G. Required yards and other open spaces; and
  - H. General compatibility with adjacent properties and other property in the district and that the granting of the conditional use will not adversely affect the public interest.

#### Section 1907      Variances

The Board of Adjustment shall have the power to hear requests for variances from this Ordinance in instances where strict enforcement would cause unnecessary hardship, and to grant such variances only when the following provisions apply:

- 1. No such variance shall be authorized by the Board of Adjustment unless it finds:
  - A. The strict application of the ordinance would produce undue hardship;



- B. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - C. The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and
  - D. The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.
2. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance.
  3. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
    - A. A written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district;
    - B. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
    - C. The special conditions and circumstances do not result from the actions of the applicant; and
    - D. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district.
  4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
  5. The Planning Commission has reviewed the application pursuant to Section 1807 of this Ordinance.
  6. Notice of public hearing shall be given, as in Section 1803 (3-5).
  7. The public hearing shall be held. Any party may appear in person for by agent or by attorney.

8. The Board of Adjustment shall make findings that the requirements of this Section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
9. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 2303 of this ordinance.
10. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

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## ARTICLE 20

### COUNTY COMMISSION

#### Section 2001     Powers and Duties

The County Commission shall have the power to hear requests for rezoning and amendment of the Zoning Ordinance.

#### Section 2003     Amendments or Changes in Zone

The County Commission shall have the power to hear and decide, in accordance with provisions of this ordinance, petitions for amendment or change in zoning. A petition for change in zoning will not be decided until:

1. The individual petitioner provides a completed amendment or change in zone request. Said request must clearly state:
  - A. Special conditions and circumstances exist which require the land to be rezoned;
  - B. The special conditions and circumstances do not result from the actions of the applicant; and
  - C. The granting of the amendment or change in zoning will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the area.
2. The Planning Commission has reviewed the application pursuant to Section 1809 of this Ordinance.
  1. Notice of public hearing shall be given, as in Section 1803 (3-5).
  2. The public hearing shall be held. Any party may appear in person or by agent or attorney.
  3. The County Commission shall make findings that the requirements of this Section have been met by the applicant for an amendment or change in zone to include:
    - A. The reasons set forth in the application justify the granting of the amendment or change in zone;
    - B. The amendment or change in zone will make possible the reasonable use of the land, building, or structure;
    - C. The granting of the amendment or change in zone will be in harmony with the general purpose and intent of this ordinance; and
    - D. Approval of the request will not be injurious to the neighborhood, or otherwise

detrimental to the public welfare as presented and testified to by the applicant.

4. No petition for amendment or change in zone shall be authorized unless the County Commission finds that the condition, situation or the intended use of the property concerned is unique, required, or necessary as to make reasonably practicable the amendment or change in zone.
5. Before any amendment or petition for rezoning is approved, the County Commission shall make written findings certifying compliance with:
  - A. The comprehensive plan;
  - B. Specific rules governing land uses;
  - C. Zoning district regulations; and
  - D. Satisfactory provision and arrangement has been made concerning the following, where applicable:
6. Certification of compliance with all ordinances and regulations regarding licensing and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations;
7. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
8. Off right-of-way parking and loading areas where required; with particular attention to the items in (D(1)) above and the economic, noise, glare or odor effects of the amendment or rezone on adjoining properties and properties generally in the district;
9. Refuse and service areas, with particular reference to the items in (1) and (2) above;
10. Utilities, with reference to locations, availability, and compatibility;
11. Screening and buffering with reference to type, dimensions, and character;
12. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
13. Required yards and other open spaces; and
14. General compatibility with adjacent properties and other property in the district.
15. In granting any petition for amendment or change in zone, the County Commission may prescribe appropriate conditions and safeguards in

conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the amendment or change in zone is granted, shall be deemed a violation of this ordinance and punishable under Section 2303 of this ordinance.

#### Section 2005

If the County Commission or Planning Commission has authorized a study to be conducted or has held or has scheduled a hearing for the purpose of considering adoption or amendment of the Yankton County Zoning Ordinance or if new territory for which plans or controls have not been adopted is annexed, the County Commission may adopt an interim ordinance applicable to all or part of its jurisdiction for the purpose of protecting the planning process and the health, safety and welfare of its citizens. The interim ordinance may regulate, restrict, or prohibit any use, development, or subdivision within the jurisdiction or a portion thereof for a period not to exceed one year from the date it is effective.

1. No interim ordinance may halt, delay, or impede a presumptively valid application filed prior to the effective date of the interim ordinance. The County Commission may extend the interim ordinance after a public hearing if necessary based upon Section 2005 (1)(A)(B). The public hearing must be held at least 15 days but no more than 30 days before the expiration of the interim ordinance, and notice of the hearing must be published at least ten days before the hearing. The interim ordinance may be extended for the following conditions and durations:
  - A. Up to an additional 120 days following the receipt of the final approval or review by a federal, state or metropolitan agency when the approval is required by law and the review or approval has not been completed and received by the county at least 30 days before the expiration of the interim ordinance; or
  - B. Up to an additional 120 days following the completion of any other process required by a state statute, federal law, or court order, when the process is not completed at least 30 days before the expiration of the interim ordinance.

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## **ARTICLE 21**

### **DUTIES ON MATTERS OF APPEAL**

Section 2101    Duties of Zoning Administrator, Board of Adjustment, and Courts on  
Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that such questions shall be presented to the Board of Adjustment. Upon exhaustion of the administrative appeal process as described herein recourse shall be to the Court of competent jurisdiction.



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## **ARTICLE 22**

### **AMENDMENTS OR REZONING**

#### Section 2201     Regulations

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed, provided that such modification or repeal in each instance be proposed in an ordinance presented to the governing body for adoption in the same manner and upon the same notice as required for the adoption of the original ordinance. Any amendment or rezoning request shall be made in accordance with the provisions of Sections 1709, 1719, 1809, and 2003.

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

1. Notice of the hearing date shall be given at least ten (10) days in advance by publication in a legal newspaper of the county;
2. A good faith effort must be made to send written notice to the appellant, applicant, and all property owners of land in accordance with the following provisions:
  - A. Projects within lands zoned Agriculture shall notify all property owners lying within two thousand six hundred forty (2,640) feet of the property on which the appeal is pending.
  - B. Projects within lands not zoned Agriculture shall notify all property owners lying within one thousand three hundred twenty (1,320) feet of the property on which the appeal is pending.

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 shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date and supported by affidavit certifying that the required mailing was completed. The affidavit shall be provided to the Planning Department at least seven (7) days prior to the Planning Commission meeting;

3. A notification sign shall be posted on the property upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along all along the property's road frontage so as to be visible from the road. If a property does not have a road frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said

signs shall be not less than one hundred and eighty seven (187) square inches in size. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearings;

4. The Planning Commission shall hold the Public Hearing, review the proposed amendment(s) with regards to Section 1809 and make recommendations to the County Commission;
5. Notice of the time and place of the County Commission hearing shall be given pursuant to Section 1803 (3-5);
6. The County Commission shall hold the Public Hearing, review the proposed amendment(s) with regards to Section 2003 and by resolution or ordinance deny or pass the recommendations;
7. If the changes are adopted the Planning Commission shall prepare a complete copy of the changes;
8. Once the summary is prepared the States Attorney shall review the complete copy and forward the changes to the County Auditor for publishing; and
9. The changes must be published once in the in the County's legal newspaper(s). The changes will take effect 20 days after publication.

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## **ARTICLE 23**

### **VIOLATIONS, COMPLAINTS, PENALTIES, AND REMEDIES**

#### Section 2301    Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Administrator. The Zoning Administrator shall record properly such complaint with the Board of Adjustment and investigate and take action thereon as provided by this Ordinance.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, they shall notify, in writing by certified mail with return receipt, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The party responsible for the violation shall respond within seven (7) working days from receipt of the letter; otherwise, they will be considered in violation and punishable under Section 2303.

#### Section 2303    Penalties for Violations

The owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist, or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be subject to any or all of the following:

1. A fine not to exceed two hundred (200) dollars for each violation;
2. Imprisonment for a period not to exceed thirty (30) days for each violation; or
3. By both fine and imprisonment; and
4. An action for civil injunctive relief, pursuant to SDCL 21-8.

In addition, all costs and expenses involved in the case shall be paid by the defendant; each day such violation continues shall be a separate offense.

Any architect, engineer, builder, contractor, agent, or other person, who commits, participates in, assists in or maintains such violation may each be found guilty of a violation of the Ordinance and be subject to the same penalties herein provided.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, the Zoning Administrator or a designee as determined by the County Commission may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent

the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

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## **ARTICLE 24**

### **LEGAL STATUS PROVISIONS**

#### Section 2401     Separability

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

#### Section 2403     Purpose of Sub-Titles

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

#### Section 2405     Effective Date

This Ordinance shall take effect and be in force from and after its adoption.



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## ARTICLE 25

### SITING OF WIRELESS TELECOMMUNICATION FACILITIES (Entire Article Change)

#### Section 2501    Intent

The intent of this Section is to insure that the placement, construction or modification of Wireless Telecommunication Facilities is consistent with the County's land use policies and to minimize the impact of Wireless Telecommunication Facilities, establish a fair and efficient process to review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and to protect the health, safety and welfare of the County of Yankton.

#### Section 2502    Definitions

For the purposes of this Section, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

1. **"Accessory Facility or Structure"** means an accessory facility or structure serving or being used in conjunction with Wireless Telecommunications Facilities, and located on the same property or lot as the Wireless Telecommunications Facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.
2. **"Applicant"** means any Wireless service provider submitting an Application for a Conditional Use Permit for Wireless Telecommunications Facilities.
3. **"Application"** means all necessary and appropriate documentation that an Applicant submits in order to receive a Conditional Use Permit for Wireless Telecommunications Facilities.
4. **"Antenna"** means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.
5. **"Board of Adjustment"** means the Yankton County Commission shall serve as the Board of Adjustment.
6. **"Co-location"** means the use of an existing Tower or structure to support Antennae for the provision of wireless services. A replacement tower that is

constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonable short timeframe after the new tower is constructed.

7. **“Commercial Impracticability” or “Commercially Impracticable”** means the inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be “commercially impracticable” and shall not render an act or the terms of an agreement “commercially impracticable”.
8. **“Completed Application”** means an Application that contains all information and/or data necessary to enable an informed decision to be made with respect to an Application.
9. **“FAA”** means the Federal Aviation Administration, or its duly designated and authorized successor agency.
10. **“FCC”** means the Federal Communications Commission, or its duly designated and authorized successor agency.
11. **“Height”** means, when referring to a Tower or structure, the distance measured from the preexisting grade level to the highest point on the Tower or structure, even if said highest point is an Antenna or lightening protection device.
12. **“Modification” or “Modify”** means, the addition, removal or change of any of the physical and visually discernable components or aspects of a wireless facility, such as antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any visually discernable components, vehicular access, parking and/or an upgrade or change out of equipment for better or more modern equipment. Adding a new wireless carrier or service provider to a Telecommunications Tower or Telecommunications Site as a co-location is a modification. A Modification shall not include the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without adding, removing or changing anything.
13. **“NIER”** means Non-Ionizing Electromagnetic Radiation.
14. **“Person”** means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.
15. **“Personal Wireless Facility”** See definition for ‘Wireless

Telecommunications Facilities’.

16. **“Personal Wireless Services” or “PWS” or “Personal Telecommunications Service” or “PCS”** shall have the same meaning as defined and used in the 1996 Telecommunications Act.
17. **“Planning Commission”** means The Planning Commission of Yankton County. The term Planning Commission shall be synonymous with Planning and Zoning Commission and Commission, but shall not include Board of Adjustment or Zoning Board.
18. **“Repairs and Maintenance”** means the replacement of any components of a wireless facility where the replacement is identical to the component being replaced or for any matters that involve the normal repair and maintenance of a wireless facility without the addition, removal or change of any of the physical or visually discernable components or aspects of a wireless facility that will add to the visible appearance of the facility as originally permitted.
19. **“Conditional Use Permit”** means the official document or permit by which an Applicant is allowed to file for a building permit to construct and use Wireless Telecommunications Facilities as granted or issued by the County.
20. **“Stealth” or “Stealth Technology”** means to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.
21. **“State”** means the State of South Dakota.
22. **“Telecommunications”** means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.
23. **“Telecommunication Site”** See definition for Wireless Telecommunications Facilities.
24. **“Telecommunications Structure”** means a structure used in the provision of services described in the definition of ‘Wireless Telecommunications Facilities’.
25. **“Temporary”** means, temporary in relation to all aspects and components of this Section, something intended to, or that does not exist for more than ninety (90) days.
26. **“Tower”** means any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

27. **“Wireless Telecommunications Facilities”** means and includes a **“Telecommunications Site”** and **“Personal Wireless Facility”**. It means a structure, facility or location designed, or intended to be used as, or used to support Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures, including, but not limited to buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for Antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, Personal Communications Services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

Section 2503      **Wireless Telecommunication Facilities established as Conditional Uses in Yankton County**

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the County’s health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Section, the County hereby adopts an overall policy with respect to a Conditional Use Permit for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

1. Requiring a Conditional Use Permit for any new, co-location or modification of a Wireless Telecommunications Facility.
2. Implementing an Application process for person(s) seeking a Conditional Use Permit for Wireless Telecommunications Facilities.
3. Establishing a policy for examining an application for and issuing a Conditional Use Permit for Wireless Telecommunications Facilities that is both fair and consistent.
4. Promoting and encouraging, wherever possible, the sharing and/or co-location of Wireless Telecommunications Facilities among service providers.
5. Promoting and encouraging, wherever possible, the placement, height and quantity of Wireless Telecommunications Facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and

circumstances.

6. That in granting a Conditional Use Permit, the County has found that the facility shall be the most appropriate site as regards being the least visually intrusive among those available in the County.

Section 2504      Exceptions from a Conditional Use Permit for Wireless Telecommunications Facilities

1. No Person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of, Wireless Telecommunications Facilities as of the effective date of this Ordinance without having first obtained a Conditional Use Permit for Wireless Telecommunications Facilities. Notwithstanding anything to the contrary in this section, no Conditional Use Permit shall be required for those non-commercial exceptions noted in Section 2505.
2. All legally permitted Wireless Telecommunications Facilities, constructed as permitted, existing on or before the effective date of this Section shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing Wireless Telecommunications Facility will require the complete facility and any new installation to comply with this Section.
3. Any Repair and Maintenance of a Wireless Facility does not require an Application for a Conditional Use Permit.

Section 2505   Exclusions   The following shall be exempt from this Article:

1. Fire, police and highway departments or other public service facilities owned and operated by the local government and located in Yankton County.
2. Any facilities expressly exempt from the County's siting, building and permitting authority.
3. Over-the-Air reception Devices including the reception antennas for direct broadcast satellites (DBS), multichannel multipoint distribution (wireless cable) providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
4. Facilities exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications.
5. Facilities exclusively for providing unlicensed spread spectrum technologies (such as IEEE 802.11a, b, g (Wi-Fi) and Bluetooth) where the facility does not require a new tower.

Section 2506      Conditional Use Permit Application and Other Requirements

1. All Applicants for a Conditional Use Permit for Wireless Telecommunications Facilities or any modification of such facility shall comply with the requirements set forth in this Section. The Planning Commission, pursuant to Section 1805 of the Yankton County Zoning Ordinance, is the officially designated agency or body of the County to whom applications for a Conditional Use Permit for Wireless Telecommunications Facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to recommending the granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities to the Yankton County Board of Adjustment. The Board of Adjustment shall have the power to hear and decide, pursuant to Section 1905 of the Yankton County Zoning Ordinance, the granting of Conditional Use Permits. The County may at its discretion delegate or designate other official agencies or officials of the County to accept, review, analyze, evaluate and make recommendations to the Planning Commission with respect to the granting or not granting or revoking Conditional Use Permits for Wireless Telecommunications Facilities.
2. The County may reject applications not meeting the requirements stated herein or which are otherwise incomplete.
3. No Wireless Telecommunications Facilities shall be installed, constructed or modified until the Application is reviewed and approved by the County, and the Conditional Use Permit has been issued.
4. Any and all representations made by the Applicant to the County on the record during the Application process, whether written or verbal, shall be deemed a part of the Application and may be relied upon in good faith by the County.
5. An Application for a Conditional Use Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.
6. The Applicant must provide documentation to verify it has the right to proceed as proposed on the Site. This would require an executed copy of the lease with the landowner or landlord or a signed letter acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.
7. The Applicant shall include a statement in writing:
  - A. That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, and in compliance with all conditions of the Conditional Use Permit, without exception, unless specifically granted relief by the County in writing, as well as all applicable and permissible local codes, ordinances, and regulations,

including any and all applicable County, State and Federal Laws, rules, and regulations; and

- B. That the construction of the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.
8. Where a certification is called for in this Section, such certification shall bear the signature and seal of a Registered Professional Engineer licensed in the State.
  9. In addition to all other required information as stated in this ordinance, all applications for the construction or installation of new Wireless Telecommunications Facilities or modification of an existing facility shall contain the information hereinafter set forth.
    - A. A descriptive statement of the objective(s) for the new facility or modification including and expanding on a need such as coverage and/or capacity requirements;
    - B. Documentation that demonstrates and proves the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the County. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites that demonstrate a significant gap in coverage and/or if a capacity need, including an analysis of current and projected usage;
    - C. The name, address and phone number of the person preparing the report;
    - D. The name, address, and phone number of the property owner and Applicant, and to include the legal name of the Applicant. If the site is a tower and the owner is different that the applicant, provide name and address of the tower owner;
    - E. The postal address and tax map parcel number of the property;
    - F. The Zoning District or designation in which the property is situated;
    - G. Size of the property stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines;
    - H. The location of the nearest residential structure;
    - I. The location, size and height of all existing and proposed structures on the property which is the subject of the Application;
    - J. The type, locations and dimensions of all proposed and existing landscaping, and fencing;



- K. The azimuth, size and center-line height location of all proposed and existing antennae on the supporting structure;
  - L. The number, type and model of the Antenna(s) proposed with a copy of the specification sheet;
  - M. The make, model, type and manufacturer of the Tower and design plan stating the Tower's capacity to accommodate multiple users;
  - N. A site plan describing the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
  - O. The frequency, modulation and class of service of radio or other transmitting equipment;
  - P. The actual intended transmission power stated as the maximum effective radiated power (ERP) in watts;
  - Q. Signed documentation such as the "Checklist to Determine Whether a Facility is Categorically Excluded" to verify that the Wireless Telecommunication Facility with the proposed installation will be in full compliance with the current FCC RF Emissions guidelines (NIER). If not categorically excluded, a complete RF Emissions study is required to provide verification;
  - R. A signed statement that the proposed installation will not cause physical or RF interference with other telecommunications devices;
  - S. A copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities; and
  - T. A copy of the geotechnical sub-surface soils investigation, evaluation report and foundation recommendation for a proposed or existing Tower site and if existing Tower or water tank site, a copy of the installed foundation design.
10. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the proposed new Tower or existing structure intended to support wireless facilities is in compliance with Federal Aviation Administration Regulation Part 77 and if it requires lighting. This requirement shall also be for any existing structure or building where the application increases the height of the structure or building. If this analysis determines, that an FAA determination is required, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided with the application.
11. Application for New Tower

- A. In the case of a new Tower, the Applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing Tower(s) or the use of alternative buildings or other structures within the County. Copies of written requests and responses for shared use shall be provided to the County in the Application, along with any letters of rejection stating the reason for rejection;
  
- B. In order to better inform the public, in the case of a new Telecommunication Tower, the Applicant shall, prior to the public hearing on the application, hold a “balloon test”. The Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot in diameter brightly colored balloon at the maximum height of the proposed new Tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised by the Applicant seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in the County. The Applicant shall inform the County, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 am and 4:00 pm on the dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date may be on a weekday. A report with pictures from various locations of the balloon shall be provided with the Application;
  
- C. The Applicant shall examine the feasibility of designing the proposed Tower to accommodate future demand for at least four (4) additional commercial applications, for example, future co-locations. The Tower shall be structurally designed to accommodate at least four (4) additional Antenna Arrays equal to those of the Applicant, and located as close to the Applicant’s Antenna as possible without causing interference. This requirement may be waived, provided that the Applicant, in writing, demonstrates that the provisions of future shared usage of the Tower is not technologically feasible, is Commercially Impracticable or creates an unnecessary and unreasonable burden, based upon:
  - 1. The foreseeable number of FCC licenses available for the area;
  - 2. The kind of Wireless Telecommunications Facilities site and structure proposed;
  - 3. The number of existing and potential licenses without Wireless Telecommunications Facilities spaces/sites; and
  - 4. Available space on existing and approved Towers.
  
- D. The owner of a proposed new Tower, and his/her successors in interest,

shall negotiate in good faith for the shared use of the proposed Tower by other Wireless service providers in the future, and shall:

1. Respond within 60 days to a request for information from a potential shared-use Applicant;
  2. Negotiate in good faith concerning future requests for shared use of the new Tower by other Telecommunications providers;
  3. Allow shared use of the new Tower if another Telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the Tower or equipment to accommodate a shared user without causing electromagnetic interference; and
  4. Failure to abide by the conditions outlined above may be grounds for revocation of the Conditional Use Permit.
12. The Applicant shall provide certification with documentation (structural analysis) including calculations that the Telecommunication Facility Tower and foundation and attachments, rooftop support structure, water tank structure, and any other supporting structure as proposed to be utilized are designed and will be constructed to meet all local, County, State, and Federal structural requirements for loads, including wind and ice loads.
13. If proposal is for a co-location or modification on an existing Tower, the applicant is to provide signed documentation of the Tower condition such as an ANSI report as per Annex E, Tower Maintenance and Inspection Procedures, ANSI/TIA/EIA-222F or most recent version. The inspection report must be performed every three (3) years for a guyed tower and five (5) years for monopoles and self-supporting towers.
14. All proposed Wireless Telecommunications Facilities shall contain a demonstration that the Facility be sited so as to be the least visually intrusive reasonably possible, given the facts and circumstances involved and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the Wireless Telecommunications Facility.
15. If a new Tower, proposal for a new Antenna attachment to an existing structure, or modification adding to a visual impact, the Applicant shall furnish a Visual Impact Assessment, which shall include:
- A. If a new Tower or increasing the height of an existing structure is

proposed, a computer generated “Zone of Visibility Map” at a minimum of one mile radius from the proposed structure, with and without foliage shall be provided to illustrate locations from which the proposed installation may be seen;

- B. Pictorial representations of “before and after” (photo simulations) views from key viewpoints both inside and outside of the County as may be appropriate, including but not limited to State highways and other major roads; State and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at the pre-application meeting. Provide a map showing the locations of where the pictures were taken and distance from the proposed structure; and
  - C. A written description of the visual impact of the proposed facility including; and as applicable the Tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.
16. The Applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related equipment and structures of the proposed Wireless Telecommunications Facility.
  17. The Wireless Telecommunications Facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the County.
  18. All utilities at a Wireless Telecommunications Facilities site shall be installed underground and in compliance with all Laws, Ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.
  19. At a Telecommunications Site, an access road, turn-around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
  20. All Wireless Telecommunications Facilities shall be constructed, operated, maintained, repaired, provided for removal of, modified or restored in strict compliance with all current applicable technical, safety and safety-related

codes adopted by the County, State, or United States, including but not limited to the most recent editions of the ANSI Code, National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

21. A holder of a Conditional Use Permit granted under this Section shall obtain, at its own expense, all permits and licenses required by applicable Law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the County or other governmental entity or agency having jurisdiction over the applicant.
22. There shall be a pre-application meeting. The purpose of the pre-application meeting will be to address issues that will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site.
23. An Applicant shall submit to the County the number of completed Applications determined to be needed at the pre-application meeting. Written notification of the Application shall be provided to the legislative body of all adjacent municipalities as applicable and/or requested.
24. The holder of a Conditional Use Permit shall notify the County of any intended Modification of a Wireless Telecommunication Facility and shall apply to the County to modify, relocate or rebuild a Wireless Telecommunications Facility.

#### Section 2507      Location of Wireless Telecommunications Facilities

1. Applicants for Wireless Telecommunications Facilities shall locate, site and erect said Wireless Telecommunications Facilities in accordance with the following priorities, one (1) being the highest priority and six (6) being the lowest priority.
  1. On existing Towers or other structures on County owned properties;
  2. On existing Towers or other structures on other property in the County;
  3. A new Tower on County-owned properties;
  4. A new Tower on properties in areas zoned for Commercial use;
  5. A new Tower on properties in areas zoned for Agricultural use; and

6. A new Tower on properties in areas zoned for Residential use.
2. If the proposed site is not proposed for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the Applicant if the permit were not granted for the proposed site.
  3. An Applicant may not by-pass sites of higher priority by stating the site proposed is the only site leased or selected. An Application shall address co-location as an option. If such option is not proposed, the Applicant must explain to the reasonable satisfaction of the County why colocation is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting co-location shall not be a valid basis for any claim of Commercial Impracticability or hardship.
  4. Notwithstanding the above, the County may approve any site located within an area in the above list of priorities, provided that the County finds that the proposed site is in the best interest of the health, safety and welfare of the County and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.
  5. The Applicant shall submit a written report demonstrating the Applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site of lower priority, a detailed written explanation as to why sites of a higher priority were not selected shall be included with the Application.
  6. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the County may disapprove an Application for any of the following reasons.
    - A. Conflict with safety and safety-related codes and requirements;
    - B. Conflict with the historic nature or character of a neighborhood or historical district;
    - C. The use or construction of Wireless Telecommunications Facilities which is contrary to an already stated purpose of a specific zoning or land use designation;
    - D. The placement and location of Wireless Telecommunications Facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the County, or employees of the service provider or other service providers; and
    - E. Conflicts with the provisions of this Ordinance.

Section 2508     Shared Use of Wireless Telecommunications Facilities and Other Structures

1. The County, as opposed to the construction of a new Tower, shall prefer locating on existing Towers or others structures without increasing the height. The Applicant shall submit a comprehensive report inventorying existing Towers and other suitable structures within two (2) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing Tower or other suitable structure cannot be used.
2. An Applicant intending to locate on an existing Tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the Applicant.
3. Such shared use shall consist only of the minimum Antenna Array technologically required to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.

Section 2509     Height of Telecommunications Tower(s)

1. The Applicant shall submit documentation justifying the total height of any Tower, Facility and/or Antenna requested and the basis therefore. Documentation in the form of propagation studies must include all backup data used to perform at requested height and a minimum of ten (10') feet lower height to allow verification of this height need. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the County, to the extent practicable, unless good cause is shown.
2. No Tower constructed after the effective date of this amended Section, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with County, State, and/or any Federal statute, law, local law, County Ordinance, code, rule or regulation.

Section 2510     Visibility of Wireless Telecommunications Facilities

1. Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Law.
2. Towers shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this Ordinance.
3. If lighting is required, Applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and Federal regulations.

Section 2511     Security of Wireless Telecommunications Facilities

All Wireless Telecommunications Facilities and Antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All Antennas, Towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
2. Transmitters and Telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

#### Section 2512     Signage

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation or to control exposure to RF radiation within a given area. A sign of the same size is also to be installed to contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site as applicable is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

#### Section 2513     Lot Size and Setbacks

All proposed Towers and any other proposed Wireless Telecommunications Facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed Tower or Wireless Telecommunications Facility structure plus ten percent (10%) of the height of the Tower or structure, or the existing setback requirement of the underlying Zoning District, whichever is greater. Any Accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

#### Section 2514     Retention of Expert Assistance and Reimbursement by Applicant

1. The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any site inspections.
2. An Applicant shall deposit with the County funds sufficient to reimburse the County for all reasonable costs of consultant and expert evaluation and consultation to the County in connection with the review of any Application including where applicable, the lease negotiation, the pre-approval evaluation, and the construction and modification of the site, once permitted. The initial deposit shall be \$8,500.00. The placement of the \$8,500.00 with the County shall precede the pre-application meeting. The County will maintain a separate



escrow account for all such funds. The County's consultants/experts shall invoice the County for its services related to the Application. If at any time during the process this escrow account has a balance less than \$2,500.00, the Applicant shall immediately, upon notification by the County, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the County before any further action or consideration is taken on the Application. In the event that the amount held in escrow by the County is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall, upon request of the Applicant, be promptly refunded to the Applicant.

3. The total amount of the funds needed as set forth in subsection (B) of this section may vary with the scope (lease negotiations and/or review) and complexity of the project, the completeness of the Application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

#### Section 2515     Public Hearing and Notification Requirements

Notice of public hearing shall be given pursuant to Section 1803 (3-5)

1. Prior to the approval of any Application for a Conditional Use Permit for Wireless Telecommunications Facilities, a Public Hearing shall be held by the County, notice of which shall be published in the newspaper general circulation in the County no less than ten (10) calendar days prior to the scheduled date of the Public Hearing. In order that the nearby landowners are notified, the Applicant shall notify all landowners whose property is located within two thousand six hundred forty feet(2,640) feet of any property line of the lot or parcel on which the new Wireless Telecommunications Facilities are proposed to be located. A list of property owners that lie within the notification area shall be furnished to the applicant by Yankton County.
2. There shall be no Public Hearing required for an Application to co-locate on an existing Tower or other structure or a modification at an existing site, as long as there is no proposed increase in the height of the Tower or structure, including attachments thereto.
3. The County shall schedule the Public Hearing referred to in Subsection (A) of this section once it finds the Application is complete, the County, at any stage prior to issuing a Conditional Use Permit, may require such additional information as it deems necessary.

#### Section 2516     Action on an Application for a Conditional Use Permit for Wireless Telecommunications Facilities

1. The County will undertake a review of an Application pursuant to this Article in a timely fashion, consistent with its responsibilities, and shall act within a

reasonable period of time given the relative complexity of the Application and the circumstances, with due regard for the public's interest and need to be involved, and the Applicant's desire for a timely resolution.

2. The County may refer any Application or part thereof to any advisory, other committee or commission for a non-binding recommendation.
3. After the Public Hearing and after formally considering the Application, the County may approve, approve with conditions, or deny a Conditional Use Permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the granting of the Permit shall always be upon the Applicant.
4. If the County approves the Conditional Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such approval in writing within ten (10) calendar days of the County's action, and the Conditional Use Permit shall be issued within thirty (30) days after such approval. Except for necessary building permits, and subsequent Certificates of Compliance, once a Conditional Use Permit has been granted hereunder, no additional permits or approvals from the County, such as site plan or zoning approvals, shall be required by the County for the Wireless Telecommunications Facilities covered by the Conditional Use Permit.
5. If the County denies the Conditional Use Permit for Wireless Telecommunications Facilities, then the Applicant shall be notified of such denial in writing within ten (10) calendar days of the County's action.

Section 2517      Extent and Parameters of Conditional Use Permit for Wireless Telecommunications Facilities

The extent and parameters of a Conditional Use Permit for Wireless Telecommunications Facilities shall be as follows:

1. Such Conditional Use Permit shall not be assigned, transferred or conveyed without the express prior written notification to the County.
2. Such Conditional Use Permit may, following a hearing upon due prior notice to the Applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the Conditional Use Permit, or for a material violation of this Ordinance after prior written notice to the holder of the Conditional Use Permit.

Section 2518      Application Fee

At the time that a Person submits an Application for a Conditional Use Permit for a new Tower, such Person shall pay a non-refundable application fee of \$5,000.00 to the County. If the Application is for a Conditional Use Permit for co-locating on an existing Tower or other suitable structure, where no increase in height of the Tower or

structure is required, the non-refundable fee shall be \$2,500.00.

#### Section 2519      Performance Security

The Applicant and the owner of record of any proposed Wireless Telecommunications Facilities property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least \$75,000.00 for a Tower facility and \$25,000 for a co-location on an existing tower or other structure and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Conditional Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that, which existed prior to the issuance of the original Conditional Use Permit.

#### Section 2520      Reservation of Authority to Inspect Wireless Telecommunications Facilities

In order to verify that the holder of a Conditional Use Permit for Wireless Telecommunications Facilities and any and all lessees, renters, and/or licensees of Wireless Telecommunications Facilities, place and construct such facilities, including Towers and Antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, Laws, Ordinances and regulations and other applicable requirements, the County may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, Towers, Antennas and buildings or other structures constructed or located on the permitted site.

#### Section 2521      Liability Insurance

1. A holder of a Conditional Use Permit for Wireless Telecommunications Facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the Conditional Use Permit in amounts as set forth below.
  - A. Commercial General Liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate;
  - B. Automobile Coverage: \$1,000,000 per occurrence/ \$2,000,000 aggregate; and
  - C. Workers Compensation and Disability: Statutory amounts.
2. For a Wireless Telecommunications Facility on County property, the Commercial General Liability insurance policy shall specifically include the County and its officers, Councils, employees, committee members, attorneys, agents and consultants as additional insureds.

3. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with an A.M. Best's rating of at least A.
4. The insurance policies shall contain an endorsement obligating the insurance company to furnish the County with at least thirty-(30) day's prior written notice in advance of the cancellation of the insurance.
5. Renewal or replacement policies or certificates shall be delivered to the Zoning Administrator at least fifteen (15) days before the expiration of the insurance that such policies are to renew or replace.
6. Before construction of a permitted Wireless Telecommunications Facilities is initiated, but in no case later than fifteen (15) days after the granting of the Conditional Use Permit, the holder of the Conditional Use Permit shall deliver to the County a copy of each of the policies or certificates representing the insurance in the required amounts.

#### Section 2522    Indemnification

1. Any application for Wireless Telecommunication Facilities that is proposed for County property, pursuant to this Ordinance, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the Law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the County, and its officers, Councils, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said Facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the County, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the County.
2. Notwithstanding the requirements noted in subsection (A) of this section, an indemnification provision will not be required in those instances where the County itself applies for and secures a Conditional Use Permit for Wireless Telecommunications Facilities.

#### Section 2523    Fines

1. In the event of a violation of this Ordinance or any Conditional Use Permit

issued pursuant to this Ordinance, the County may impose and collect, and the holder of the Conditional Use Permit for Wireless Telecommunications Facilities shall pay to the County, fines or penalties as set forth below.

2. The holder of a Conditional Use Permits failure to comply with provisions of this Ordinance shall constitute a violation of this Ordinance and shall subject the Applicant to the code enforcement provisions and procedures as provided in Article 23, Section 2303 of the Yankton County Zoning Ordinance and an action for civil injunctive relief, pursuant to SDCL 21-8.
3. Notwithstanding anything in this Ordinance, the holder of the Conditional Use Permit for Wireless Telecommunications Facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this Ordinance or any section of this Ordinance. An attempt to do so shall subject the holder of the Conditional Use Permit to termination and revocation of the Conditional Use Permit. The County may also seek injunctive relief to prevent the continued violation of this Ordinance, without limiting other remedies available to the County.

#### Section 2524     Default and/or Revocation

If a Wireless Telecommunications Facility is repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this Ordinance or of the Conditional Use Permit, then the County shall notify the holder of the Conditional Use Permit in writing of such violation. A Permit holder in violation may be considered in default and subject to fines as in Section 24 and if a violation is not corrected to the satisfaction of the County in a reasonable period of time the Conditional Use Permit is subject to revocation.

#### Section 2525     Removal of Wireless Telecommunications Facilities

1. Under the following circumstances, but not limited to the following circumstances, the County may determine that the health, safety, and welfare interests of the County warrant and require the removal of Wireless Telecommunications Facilities.
  - A. Wireless Telecommunications Facilities with a permit have been abandoned (i.e. not used as Wireless Telecommunications Facilities) for a period exceeding ninety consecutive (90) days or a total of one hundred-eighty (180) days in any three hundred-sixty five (365) day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days;
  - B. Permitted Wireless Telecommunications Facilities fall into such a state of disrepair that it creates a health or safety hazard; and
  - C. Wireless Telecommunications Facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required Conditional Use Permit, or any other

necessary authorization and the Conditional Permit may be revoked.

2. If the County makes such a determination as noted in subsection (A) of this section, then the County shall notify the holder of the Conditional Use Permit for the Wireless Telecommunications Facilities within forty-eight (48) hours that said Wireless Telecommunications Facilities are to be removed, the County may approve an interim temporary use agreement/permit, such as to enable the sale of the Wireless Telecommunications Facilities.
3. The holder of the Conditional Use Permit, or its successors or assigns, shall dismantle and remove such Wireless Telecommunications Facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or Commercial Impracticability, within ninety (90) days of receipt of written notice from the County. However, if the owner of the property upon which the Wireless Telecommunications Facilities are located wishes to retain any access roadway to the Wireless Telecommunications Facilities, the owner may do so with the approval of the County.
4. If Wireless Telecommunications Facilities are not removed or substantial progress has not been made to remove the Wireless Telecommunications Facilities within ninety (90) days after the Permit holder has received notice, then the County may order officials or representatives of the County to remove the Wireless Telecommunications Facilities at the sole expense of the owner or Conditional Use Permit holder.
5. If, the County removes, or causes to be removed, Wireless Telecommunications Facilities, and the owner of the Wireless Telecommunications Facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the COUNTY may take steps to declare the Wireless Telecommunications Facilities abandoned, and sell them and their components.

#### Section 2526    Relief

Any Applicant desiring relief, waiver or exemption from any aspect or requirement of this Ordinance may request such at the pre-application meeting, provided that the relief or exemption is contained in the submitted Application for either a Conditional Use Permit, or in the case of an existing or previously granted Conditional Use Permit a request for modification of its Tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the Applicant to prove. The Applicant shall bear all costs of the County in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the Applicant demonstrates by clear and convincing evidence that, if granted the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the County, its residents and other service providers.

#### Section 2527 Adherence to State and/or Federal Rules and Regulations

1. To the extent that the holder of a Conditional Use Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of such a Conditional Use Permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
2. To the extent that applicable rules, regulations, standards, and provisions of any State or Federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a Conditional Use Permit for Wireless Telecommunications Facilities, then the holder of such a Conditional Use Permit shall conform the permitted Wireless Telecommunications Facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of twenty-four (24) months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

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## ARTICLE 26

### WIND ENERGY CONVERSION SYSTEMS (WECS)

#### Section 2601 Definitions

For the purposed of this ordinance, certain terms and words are hereby defined.

Aggregate Project shall mean projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also part of the aggregate project.

Commercial WECS shall mean a wind energy conversion system of equal to or greater than 100kWh in total nameplate generating capacity.

Construction means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Fall Zone shall mean the area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.

Feeder Line shall mean any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation serving the wind energy conversion system.

High voltage transmission line means a conductor of electric energy and associated facilities.

Large electric power facilities mean high voltage transmission lines.

Meteorological Tower shall mean, for purposes of this regulation, a tower which is erected primarily to measure wind speed and directions plus other data relevant to siting a Wind Energy Conversion System. Meteorological towers do not include towers and equipment used by airports, the South Dakota Department of Transportation, or other applications to monitor weather conditions.

Person shall mean an individual, partnership, joint venture, private, or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Route means the location of a high voltage transmission line between two end-points. The route may have a variable width of up to 1.25 miles.

Rotor Diameter shall mean the diameter of the circle described by the moving rotor blades.

Rotor Radius shall mean one-half ( $\frac{1}{2}$ ) the diameter of the moving rotor blade.

Substations shall mean any electrical facility to convert electricity produced by wind turbines to a voltage greater than 35,000 KV for interconnection with high voltage transmission lines.

WECS Total Height shall mean the highest point, above ground level, reached by a rotor tip or any other part of the Wind Energy Conversion System.

WECS Tower shall mean the vertical structures that support the electrical, rotor blades, or meteorological equipment.

Transmission Line shall mean the electrical power lines that carry voltages of at least 69,000 volts (69 KV), and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

Utility shall mean any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipally utility.

Small Wind Energy Conversion System shall mean a wind energy conversion system consisting of a Horizontal-Axis Wind Turbine (HAWT), a Vertical-Axis Wind Turbine (VAWT), which may include a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kWh and, which is primarily intended to reduce on-site consumption of utility power.

Large Wind Energy Conversion System (WECS) shall mean an electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations and meteorological towers that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

Wind Turbines shall mean any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

### **Small Wind Energy Conversion Systems (WECS)**

#### **Section 2602 Intent**

It is the intent of this Section to promote the safe, effective, and efficient use of small wind energy conversion systems installed to reduce the on-site consumption of utility supplied electricity.

#### **Section 2603 Requirements**

Small wind energy conversion systems shall be considered as a Conditional Use Permit with an exemption provided in 1. i. in this ordinance.

1. Requirements as set forth below shall be met:
  - a. The maximum height of a rooftop mounted WECS, including the turbine blades, is ten (10) feet in height above the roof line of the structure.
  - b. High Density Rural Residential District (R3) shall allow rooftop mounted WECS only.
  - c. Moderate Density Rural Residential District (R2) shall allow rooftop mounted WECS only.
  - d. Low Density Rural Residential District (R1), meeting (or exceeding) district requirement of five (5) acre lots, shall have total WECS height limit of thirty (30) feet.
  - e. Rural Transitional District (RT) shall allow rooftop mounted WECS only.
  - f. Planned Unit Development (PUD), meeting (or exceeding) requirement of five (5) acre lots, shall have total WECS height limit of thirty (30) feet.
  - g. Lakeside Commercial Districts (LC) shall allow rooftop mounted WECS only.
  - h. Commercial District meeting (or exceeding) district requirements of one (1) acre shall have total WECS height limit of thirty (30) feet with exception provided in Section 2605.
  - i. The Agriculture District (AG) may qualify for an administrative building permit meeting (or exceeding) district requirement of twenty (20) acre lots and shall have total WECS height limit less than eighty (80) feet. All other WECS in Agriculture District are provided in Section 2605.
2. Setbacks
  - a. No part of the wind system structure may be sited closer to structures, property lines and/or right(s)-of-way than 1.1 times the height of the wind turbine measured from the ground surface to the tip of the blade when in a fully vertical position.

3. Access
  - a. Tower climbing apparatus located no closer than eight (8) feet from the ground
  - b. A locking anti-climb device installed on the tower
  - c. Enclosure of the tower by a fence at least six (6) feet high with locking portals, when climbing apparatus is less than eight (8) feet from the ground.
4. Noise
  - a. Small wind energy systems shall not exceed 55 dBA, measured at the closest point on the closest property line from the base of the system.
  - b. The noise level may be exceeded during short-term events such as utility outages and/or severe windstorms.
5. Approved Wind Turbines
  - a. Small wind turbines, horizontal-axis wind turbine (HAWT) or a vertical-axis wind turbine (VAWT), must have been approved under the Emerging Technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.
6. Compliance with Building and Zoning Codes
  - a. Applications for small wind energy conversion systems shall be accompanied by standard drawings of the wind turbine structure, including the tower base, footings and required setbacks.
  - b. An engineering analysis of the tower showing compliance with all electrical codes of the State of South Dakota certified by a professional engineer licensed and certified in South Dakota shall also be submitted.
  - c. The manufacturer frequently supplies this analysis.
7. Compliance with FAA Regulations
  - a. Small wind energy conversion systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.
8. Compliance with National Electrical Code
  - a. Permit applications for small wind energy conversion systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
  - b. The manufacturer frequently supplies this analysis.
9. Utility Notification
  - a. No small wind energy conversion system shall be installed until evidence has been given that the utility company has been

informed of the customer's intent to install an interconnected customer-owned generator,

- b. Off-grid systems shall be exempt from this requirement.

10. Warning information

- a. Information related to the maximum power output, nominal voltage and maximum current and emergency shut-down procedures for the WECS shall be posted near the base of the tower in a visible location.

11. Site Reclamation

- a. When a small WECS has been condemned or has fallen into obvious disrepair, or has become a violation of some other local, state, or federal law and/or is no longer able to operate or upon earlier termination of operation of the small WECS, the permittee shall have the obligation, at the permittee's sole expense, to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment within 120 days upon notification from the County.
- b. If deemed appropriate, the County may stipulate through the conditional use that the small WECS shall be removed at the owner's expense, upon the rezoning of the subject property to a zoning classification in which wind energy systems are not allowed as either a permitted use or a conditional use.

12. Federal and State Requirements

- a. All WECS shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WECS.

**Large or Commercial Wind Energy Conversion Systems (WECS)**

Section 2604 Intent

It is the intent of this Section to promote the safe, effective, and efficient use of commercial/utility grade wind energy systems within Yankton County.

Section 2605 Requirements

Large or Commercial wind energy conversion systems shall be permitted as a Conditional Use Permit in the Agricultural District (AG) and in the Commercial District (C) only. Certain requirements as set forth below shall be met:

1. Applicability

The requirements of these regulations shall apply to all WECS facilities, including private facilities, with a single tower height of greater than

eighty (80) feet, rated capacity of more than 100 kWh and used primarily for off-site consumption of power.

2. Federal and State Requirements

All WECS shall meet or exceed standards and regulations of the Federal Aviation Administration and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WECS.

3. Mitigation Measures

- a. Site Clearance. The permittees shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation, and maintenance of the WECS.
- b. Topsoil Protection. The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.
- c. Compaction. The permittees shall implement measures to minimize compaction of all lands during all phases of the project's life and shall confine compaction to as small an area as practicable.
- d. Livestock Protection. The permittees shall take precautions to protect livestock during all phases of the project's life.
- e. Fences. The permittees shall promptly replace or repair all fences and gates removed or damaged during all phases of the project's life unless otherwise negotiated with the affected landowner.
- f. Roads: 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 state, county or township 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 written agreements with the appropriate state, county or township 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 WECS components. The permittees shall provide the County Zoning Administrator with such written agreements.

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 material that meets or exceeds South Dakota D.O.T. specifications for aggregate base course. 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.

Private Roads. The permittees shall promptly repair private roads or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.

Control of Dust. The permittees shall utilize all reasonable measures and practices of construction to control dust.

#### 4. 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 County Zoning Administrator. 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 re-vegetation 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. A storm water runoff permit, if required, shall be obtained from the South Dakota D.E.N.R.

#### 5. Setbacks

- a. Wind turbines shall meet the following minimum spacing requirements.
  - i. Distance from existing off-site residences, business and public buildings shall be one thousand three hundred and twenty feet (1,320) feet. Distance from on-site or lessor's residence shall be one thousand (1,000) feet.
  - ii. Distance from right-of-way (ROW) of public roads shall be 500 feet or one point one (1.1) times the height of the wind turbines depending upon which is greater, measured from the ground surface to the tip of the blade when in a fully vertical position.
  - iii. Distance from any property line shall be 500 feet or one point one (1.1) times the height of the wind turbines depending upon which is greater, measured from the ground surface to the tip of the blade when in a fully vertical position unless wind easement has been obtained from adjoining property owner.

6. Electromagnetic Interference

The permittees shall not operate the WECS so as to cause microwave, television, radio, or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law. In the event such interference is caused by the WECS or its operation, the permittees shall take the measures necessary to correct the problem.

7. Lighting

Towers shall be marked as required by the Federal Aviation Administration (FAA). There shall be no lights on the towers other than what is required by the FAA. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.

8. Access

- a. Tower climbing apparatus shall be located no closer than twelve (12) feet from the ground unless locking anti-climb device is installed on the tower.

9. Turbine Spacing

The turbines shall be spaced no closer than three (3)-rotor diameters (RD) measurement of blades tip to tip. If required during final micro siting of the turbines to account for topographic conditions, up to 10 percent of the towers may be sited closer than the above spacing but the permittees shall minimize the need to site the turbines closer.

10. Footprint Minimization

The permittees shall design and construct the WECS to minimize the amount of land that is impacted by the WECS. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers, and monitoring systems shall to the greatest extent feasible be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected landowner.

11. Electrical Cables

The permittees shall place electrical lines, known as collectors and communication cables underground when located on private property. Collectors and cables shall also be placed within or immediately adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner. This paragraph does not apply to feeder lines.

12. Feeder Lines

The permittees shall place overhead electric lines, known as feeders, on public rights-of-way if a public right-of-way exists. Changes in routes may be made as long as feeders remain on public rights-of-way



and approval has been obtained from the governmental unit responsible for the affected right-of-ways. If no public right-of-way exists, the permittees may place feeders on private property. When placing feeders on private property, the permittees shall place the feeder in accordance with the easement negotiated with the affected landowner. The permittees shall submit the site plan and engineering drawings for the feeder lines before commencing construction.

13. Decommissioning/Restoration/Abandonment/Removal Bond

a. Decommissioning Plan

Within 120 days of completion of construction, the permittees shall submit to the County Zoning Administrator 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 for the resources necessary to fulfill these requirements. The County Zoning Administrator may at any time request the permittees to file a report with the County Zoning Administrator 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 County Zoning Administrator which shall show the locations of all such foundations. All such agreements between the permittees and the affected landowner shall be submitted to the County Zoning Administrator 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 permittees shall advise the County Zoning Administrator of any turbines that are abandoned prior to termination of operation of the

WECS. The County Zoning Administrator may require the permittees to decommission any abandoned turbine.

d. Performance Security

The Applicant and the owner of record of any proposed large or commercial Wind Energy Conversion System property site shall, at its cost and expense, be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount of at least two (2) percent of the cost of the aggregate project for a WECS and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this Ordinance and conditions of any Conditional Use Permit issued pursuant to this Ordinance. The full amount of the bond or security shall remain in full force and effect throughout the term of the Conditional Use Permit and/or until any necessary site restoration is completed to restore the site pursuant to 9(a) (above.)

14. Height from Ground Surface

The minimum height of blade tips, measured from ground surface when a blade is in fully vertical position, shall be twenty-five (25) feet.

15. Towers

- a. Color and Finish. The finish of the exterior surface shall be non-reflective and non-gloss.
- b. All towers shall be singular tubular design.

16. Noise

Noise level shall not exceed 60 dB, including constructive interference effects, measured at the closest point on the closest property line from the base of the system.

17. Permit Expiration

All permits shall become void if no substantial construction has been completed within three (3) years of issuance.

18. Required Information for Permit

- a. Boundaries of the site proposed for WECS and associated facilities on United States Geological Survey Map or other map as appropriate.
- b. Map of easements for WECS.
- c. Map of occupied residential structures, businesses, and public buildings within a 2-mile radius.
- d. Map of sites for WECS, access roads and utility lines.
- e. Location of other WECS in general area.
- f. Project schedule.

g. Mitigation measures.

19. Technical Issues and Expert Review

WECS and equipment facilities may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Zoning Administrator, Planning Commission, Board of Adjustment, and/or the County Commission may require the applicant to pay reasonable costs for a third party technical study of a proposed facility. Selection of expert(s) to review will be at the sole discretion of the County.

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## **ARTICLE 27**

### **HIGHWAY 52 CORRIDOR OVERLAY DISTRICT**

#### **Section 2701 - PURPOSE**

Yankton County offers one of the most scenic drives in South Dakota. The view from Chalkstone Hill is spectacular and the corridor ends at beautiful Lewis and Clark Lake. This rich natural environment should be complemented by a vibrant built environment. The Highway 52 Corridor Overlay District (HC) provides basic guidelines that promote quality design along the most visible and heavily traveled road corridor in the Yankton County zoning jurisdiction: Highway 52 from the City of Yankton to Lewis and Clark Lake. The Highway 52 Corridor Overlay District is intended to: Encourage development design that strengthens the physical character and image of Yankton County; Support the value of property and quality of development in the major highway corridor; set basic requirements for good site design and development, building design, landscaping, and signage without discouraging creativity and flexibility in design; permit safe and convenient transportation access and circulation for motorized and non-motorized vehicles, and for pedestrians; manage the impact of commercial and industrial development on adjacent residential neighborhoods.

#### **Section 2703 – PROHIBITED USES**

The uses permitted in the Highway 52 Corridor Overlay District (HC) shall be the same as those permitted by the underlying base zoning district except as provided by this section. The following uses shall be prohibited within the Highway 52 Corridor Overlay District:

- Hazardous waste storage;
- Manufacturing as stated in the Definitions section of the Yankton County Zoning Ordinance, except by a conditional use permit;
- Mobile home, modular home, and manufactured home sales;
- Mobile home parks;
- Pawn shops, as stated in the Definitions section of the Yankton County Zoning Ordinance;
- Residential houses (exclude all rural residential districts);
- Salvage or junk yard operations and transfer stations, as a primary use;
- Tow lots, as a primary use.

#### **Section 2705 - HIGHWAY CORRIDOR OVERLAY DISTRICT BOUNDARIES (HC)**

The Highway Corridor Overlay District (HC) applies to the following areas:

- Land within 650 feet south and north side of the centerline of Highway 52 within the planning jurisdiction of Yankton County.
- The eastern terminus of the Corridor Overlay District is the intersection of Highway 52 and lower Chalkstone Road.
- The western terminus of the Corridor Overlay District is the intersection of Highway 52 and Welkom Avenue. This area shall include all property zoned Lakeside Commercial on the north side of Highway 52.

### **Section 2707 - PROJECT APPLICATION AND EXCEPTIONS**

The Highway 52 Corridor Overlay District (HC), its development guidelines, and other provisions, apply to the following:

Any new development requiring a building permit built on land within the boundaries of the Highway 52 Corridor Overlay District after the effective date of this Regulation, except any land that was platted prior to the adoption of this Overlay District. Replats, lot line adjustments, and lot consolidations of such platted properties shall remain excepted. Phased Developments, such as Planned Unit Developments, shall mean property that was, at a minimum, preliminary platted and at least a part of the property within the preliminary plat was final platted. This Overlay District shall include phased developments, such as Planned Unit Developments, if new development occurs within the boundaries of the District as outlined in Section 105.

The requirements of the Highway 52 Corridor Overlay District apply to any rehabilitation, repair, addition(s) or enlargement(s) of a building in place or under construction on a site as of the effective date of this Regulation. The requirements of the HC Overlay District do not apply to any building under construction on a site as of the effective date of this regulation necessitated by casualty loss.

### **Section 2709 - DESIGN GUIDELINES FOR COMMERCIAL AND OFFICE USES**

Site Design Guidelines

#### **(A) BUILDING LOCATION AND ORIENTATION**

1. Facades with principal entrances shall be oriented to the project's primary street or to an active pedestrian or public zone within the site. The primary street for a development is Highway 52, Timberland Drive, Deer Boulevard, or a collector (frontage) street that fronts the development. The site plan shall determine orientation of the principal entrance.

2. Developments at intersections shall identify or emphasize their corners with significant landscaping or similar public feature. In a corner situation, a public feature may include a sign as referred to in Part E of this Section.
3. A clearly delineated pathway or route should connect all principal building or business entrances to any sidewalks or trails on streets adjacent to the project.



#### (B) PEDESTRIAN ACCESS

1. Developments shall provide a continuous walkway connection at least 5 feet in width from the public sidewalk to the customer entrances of all principal buildings on the site. Developments adjacent to multi-use trails shall provide a direct connection from the trail to the development's internal pedestrian circulation system. For trails that are proposed in the county's comprehensive plan, trail master plan, or other adopted county document but are not yet constructed, the development plan shall make provisions for a connection to the trail, and shall be responsible for constructing the connection when the trail becomes available.
2. Multi-building developments shall provide clear and safe walkways at least 5 feet in width that connect all buildings on the site. Buildings not intended for routine customer access or intended solely for drive-up services are excluded from this requirement.
3. Where the required walkways specified in this section cross drives, parking aisles, or other vehicular ways, the crosswalks shall be distinguished from driving surfaces by the use of durable, low-maintenance surface materials such as concrete or brick pavers; scored, colored concrete; or painted concrete.
4. Pedestrian connections to adjacent developments shall be provided.

#### (C) VEHICULAR ACCESS

1. Developments shall make maximum use of internal cross-easements and shared access points when possible.
2. Main driveways and drive aisles shall provide a continuous system that connects to the main site entrance.

#### (D) PARKING

1. Parking shall be grouped into parking blocks that are divided by pedestrian paths, landscaping, or buildings.
2. A maximum of 400 parking stalls may be located in any one parking block.



#### (E) SIGNS

All permanent signs shall be designed, constructed and maintained in accordance with the following standards:

1. Attached signs shall be located above the building entrance, storefront opening, or at other locations that are compatible with the architectural features of the building. All signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame or structure. All signs shall be maintained in a safe and legible condition at all times, including the replacement of defective or damaged parts, painting, repainting, cleaning and other services required for maintenance of the signs. All signs with an electronic message display capability shall have internal ambient light monitors installed which automatically adjust brightness to the level defined in this chapter. If a sign is not so maintained, then the owner shall be notified in writing and required to remove the sign or to immediately bring the sign into compliance.
2. All lots abutting Highway 52 shall use monument or ground signs, shall not exceed fifteen feet (15) in height and shall not exceed 120 square feet on each side. Each pole sign shall not exceed thirty (30) feet in height and one hundred twenty (120) square feet on each side for electronic signs and / or one hundred twenty (120) square feet for traditional text / graphics signs. Multi-tenant business sign shall not exceed two (2) square feet / one (1) linear foot of street frontage with maximum of four hundred (400) square feet on each side.
3. All lots abutting Highway 52 exterior building on-site signs shall not exceed two (2) square feet / one (1) linear foot of structure frontage with maximum total of two hundred (200) square feet of signage for each structure.
4. Illuminated signs shall be so shielded, shaded or directed so that the light intensity shall not adversely affect the surrounding or facing premises nor adversely affect the safe vision of operators of vehicles on private or public roads. No illumination, including traditionally illuminated signs, shall exceed a



brightness level of 0.3 foot candles above ambient light at the nearest property line of abutting property.

5. A landscaped base area shall be provided for all signs appropriate to the mass and height of the sign. All areas within 5 feet of the base of any sign shall be landscaped. The landscaped area may include trees, shrubs, flowering perennials, ornamental tall grass, fountains, water features, decorative stonework, planters, sculpture, decorative paving, turf grass, loose stone, and mulch.
6. All banner signs will require a special permit for a period not exceeding sixty (60) days in a calendar year for a fee of \$50.00 for each sign permit. A banner sign permit for a period not exceeding three (3) days in a calendar year for a fee of \$25.00 for each sign permit.
7. All property in the Hwy 52 Corridor Overlay District in existence as of the date of this amended Overlay Ordinance which is not in compliance with the requirements of Article 27, Section E: Signs, #6, shall be made to comply with all such regulations within twelve (12) months of the date of this amendment to the Corridor Overlay District.
8. Lots not abutting the designated highway are allowed signs as regulated by Article 14 of the Yankton County Zoning Ordinance.

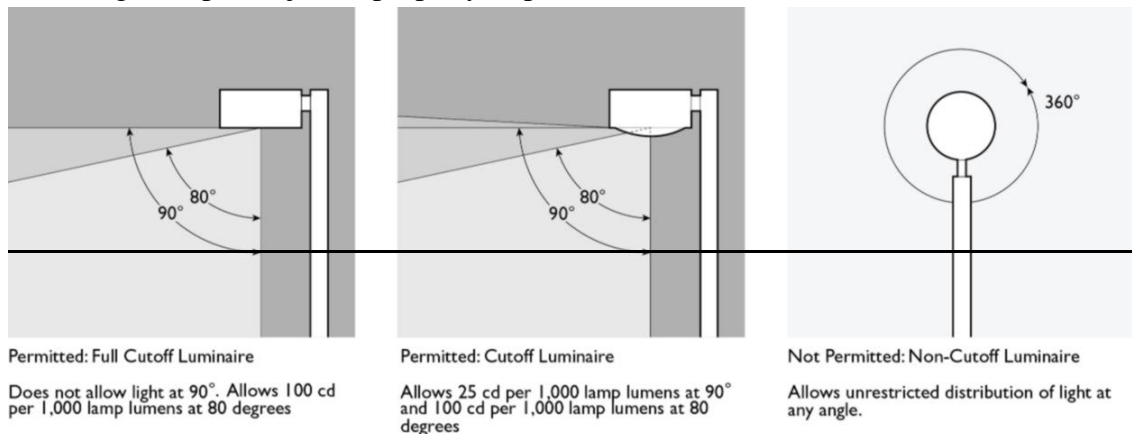


#### (F) SCREENING

Developments shall provide year-round screening of outdoor storage, utility meters, HVAC equipment, trash collection and processing. Utility meters, HVAC, and trash collection, outdoor storage and processing shall be screened to its full vertical height. Trash enclosure gates shall furnish a steel frame with decorative steel or wood covering, or another design acceptable to the Zoning Administrator. Screening shall be integrated into the overall design of buildings and landscaping and fully contain the visual impact of these service functions from adjacent public streets and neighboring properties.

#### (G) LIGHTING

1. All lighting used to illuminate an off-street parking area, sign or other structure shall be arranged so as to deflect light away from any adjoining property through fixture type and location. When lighting is mounted to the underside of canopies, these lights shall be recessed so that the visible light source is no lower than the plane of the underside of the canopy.
2. The maximum height of lighting standards shall be 30 feet, unless the County grants a specific exception as part of the application approval process.
3. Exterior lighting of buildings shall be limited to illuminating devices hooded (bulb type/non-glare) in such a manner that the direct beam of any light sources will not glare upon adjacent property or public streets.



Source: IESNA

## **Section 2711 - ARCHITECTURAL GUIDELINES**

### **(A) MASS AND SCALE FOR BUILDINGS**

1. Variations in the vertical plane of the building shall be incorporated into the mass of the building at significant entrances or along walls that front plazas or other significant pedestrian features. Methods of variation may include towers, pediments, or façade articulations or variations; changes in the horizontal plane; or enhancements in color and materials, consistent with the overall design of the building.
2. Primary building facades shall meet one of the following guidelines:
  - a. Facades shall incorporate projections or recesses in the wall plane.
  - b. Facades shall display a pattern of color change, texture change, material change, or expression of structural bays with an offset of at least 12 inches from the ruling plane of the facade.
3. The Yankton County Board of Commissioners may waive these guidelines if the applicant demonstrates an alternative building design that in the Board's opinion provides visual interest and scale to the building.

### **(B) ARCHITECTURAL ELEMENTS**

1. Front facades facing a primary street shall have visible, clearly defined customer entrances that include at least three of the following elements: canopies or porticos, overhangs, recesses or projections, arcades, raised cornice parapets over the entrance door, distinctive roof forms, arches, outdoor patios or plazas, display windows, or integral planters.
2. Front facades shall utilize variations in color, horizontal planes, materials, patterns, height, or other techniques to provide visual interest and scale to buildings.
3. All rear and side facades abutting an arterial or collector shall use a simplified expression of the materials and design used on the front facade.

#### (C) BUILDING MATERIALS

1. Permitted exterior building materials shall be high quality, durable materials that include, but are not limited to, brick, native or manufactured stone, wood, concrete, cement and/or architectural metals.
2. Materials on all sides of the building shall complement the front facade.
3. These guidelines are not intended to inhibit creativity and innovation in building design.

#### (D) ROOF FORMS

1. Buildings with slightly sloped roofs to drain shall incorporate parapets on all facades that face a public street or residential district. Variations in parapet height and articulation of cornice lines may be used to add interest.
2. Roof forms shall be designed to express various building functions or features, such as entrances.
3. Visible roof materials shall include clay or concrete tile, split shakes, tern metal, architectural grade asphalt shingles, asphalt shingles, fiberglass shingles, architectural metals, copper, natural or synthetic slate, or similar durable materials.



### **Section 2713 - LANDSCAPE STANDARDS FOR ALL USES**

1. Building Perimeter Walls

Shrubs, or other landscape materials, shall be planted / placed within 15 feet of the foundation of the primary structure along each building facade at the rate of at least 20 shrubs per 50 lineal feet of building facade except for sides or rear of building used for loading or service areas. Foundation plantings may be clustered to provide visual interest.



## 2. Roadway Frontage

Along highway frontage there shall be a minimum 10-ft. wide landscape strip, continuous along the frontage except for perpendicular crossings for driveways and utilities. The landscape strip shall be planted with shade trees (6 ft. tall, 2" caliper, dbh, at time of planting, and not less than 20 ft. tall at maturity) planted not more than 50 ft. on center, and shrubbery forming an intermittent hedge not less than 3 ft. in height designed to provide an adequate screen. Landscape berms, earthen mounds designed to provide visual interest, screen undesirable views, and/or decrease noise, may be incorporated into the landscape design.



## 3. Outdoor Sales Display Areas

Along highway frontage there shall be a minimum 10-ft. wide landscape strip, continuous along the frontage except for perpendicular crossings for driveways and utilities. The landscape strip shall be planted in a bed of ground cover, sod, landscape mulch and/or low shrubbery.

## 4. Outdoor Storage Areas



Along highway frontage there shall be a minimum 10-ft. wide landscape strip, continuous along the frontage except for perpendicular crossings for driveways and utilities. The landscape strip shall be planted in a bed of ground cover, sod, landscape mulch and/or low shrubbery.

5. Customer Parking Lot Landscaping

- a. Each parking area of over 25 spaces shall include landscaped islands within the parking area equivalent to not less than 5 - 10 percent with Planning Director discretion of the total paved area of the parking lot, not including pervious paving surfaces.
- b. Landscaping in parking lots shall contain at least 1 shade tree (minimum of 6 ft. tall and 2" caliper dbh at time of planting and 20 ft. tall at maturity) for each 100 square feet of landscaping. Shade trees shall be planted in a bed of ground cover, sod, landscape mulch and/or low shrubbery.



6. Perimeter Landscaping

- a. Where parking lots abut adjacent residentially zoned or residentially used property, a transitional buffer is required.
- a. Where parking lots abut public streets other than the Highway, a landscape strip is required.
- b. Appropriate shade tree species for landscaping parking lots include the following:
  1. White Swamp Oak
  2. Various ornamental crab apple cultivars
  3. Ginkgo (Variety: President, Autumn Gold, male gender)
  4. Accolade Elm
  5. Amur Maple
  6. Autumn Blaze Maple
  7. Various Linden cultivars
  8. Various Spruce cultivars
  9. Various Birch cultivars
  10. Other indigenous species approved by the Zoning Administrator.

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**ARTICLE 28**  
**(Formerly Ordinance #20)**  
**Amended June 16, 2020**

**SUBDIVISION REGULATION**

**DEFINITIONS**

Arterial Road- A principal traffic artery which is more or less continuous across the County.

Building –

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

Building – A structure having a roof supported by columns or walls for housing, shelter; or enclosure of persons, animals, movable personal property or property of an kind.

Building, Principle – A building in which is conducted the principle use of the lot on which it is situated. In a residential district any dwelling is deemed to be the principle building on the lot which it is situated. The principle dwelling shall meet Yankton County Zoning Ordinance #16, Article 15, Section 1527 Principle Dwelling Performance Standards.

Building, Accessory – A building which is subordinate, and the use of which is incidental to that of the principle building, structure or use on the same lot.

Collector Road - A road which carries traffic from local roads to arterial roads and highways, including the principle entrance roads of a residential development and roads for circulation in such development.

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

County - Yankton County, South Dakota.

County Commission - A duly elected governing body of Yankton County.

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

**Publically Dedicated Property-** A grant of land deeded to the public for their perpetual use.

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

**Double Frontage Lot-** A lot which abuts a road on two opposite sides (not a corner lot).

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

**Final Subdivision Plan -** The plan shall include final drainage and grading plans and an erosion control plan.

**Frontage Road -** A road generally located adjacent and parallel to an arterial road, used only for access to abutting property providing limited access to the arterial road.

**Highway Superintendent -** The person appointed by the County Commission to direct the operations of the County Highway Department.

**Local Road -** A road intended to provide access to arterial and collector roads from individual properties in a subdivision and to provide right-of-way for various utilities but not intended to be used for through traffic.

**Lot -** A lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and including such yards and other open spaces as are herein required. Such parcel shall have frontage on an improved public right-of-way, or approved private right-of-way, and may consist of a single lot of record; a portion of a lot of record; a combination of complete lots of record, of complete lots of record and portions of lots of record; in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance, unless approved by the County Commission.

**Major Road Plan -** The transportation plan adopted as part of the Comprehensive Plan by the County Commission.



**Monument** - A boundary marker of concrete, enduring stone or material, permanently planted and firmly fixed in the ground placed so that the top of the monument is flush with natural ground. The monument shall meet current professional survey standards.

**Planning Commission** - The Yankton County Planning Commission, a body of persons having the power to hear and make recommendations to the Board of Adjustment or County Commission, based on Findings of Fact, in accordance with provisions of the Subdivision Ordinance, on requests for conditional use permit, variance, amendment or change in zoning. The term Planning Commission shall be synonymous with Planning and Zoning Commission and Commission, but shall not include Board of Adjustment or Zoning Board.

**Plat** - A map, or representation on paper, depicting a piece of land subdivided into lots, parcels, tracts or blocks, including roads, right of ways, commons, and public grounds, if any, all drawn to scale and complete and showing all irrevocable offers of dedication.

**Preliminary Plan** – A map depiction consisting of the preliminary subdivision plan, and showing the preliminary drainage and grading plan.

**Preliminary Subdivision Plan** – Maps, drawings and /or writings indicating the proposed layout of the lots, blocks, and public rights-of- way within a subdivision.

**Private Roadway** – An access that has not been dedicated, but rather reserved as private access to property. The access shall be owned and maintained by the property owners which it serves, and shall be the full width of the easement including the driving surface and ditches.

**Replat** - A map depiction changing an approved or recorded subdivision plat which affects any road layout, area reserved for public use, or lot line.

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

**Structure** –

Anything constructed or erected which requires location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings and manufactured homes. This definition does not include semi-portable agricultural structures.

Anything manufactured or constructed by humans, as opposed to that occurring in nature, which is affixed, anchored, or otherwise attached to or below surface of the ground.

Anything manufactured or constructed by humans, as opposed to that occurring in nature, which is attached, to something else having been affixed, anchored, or otherwise attached to or below the surface of the ground.

Structure, Accessory – A structure which is subordinate to a principle building and the use of which is incidental to that of the principle use on the same lot.

Subdivision - The division of a parcel of land into more than two (2) lots; or parcels less than twenty (20) acres in size platted for the purpose of transfer of ownership, or building development, whether future or immediate; or any division of land involving a new road regardless of parcel size or the number of parcels. (SDCL 11-3-8)

Unconventional Septic Systems – All septic systems which are not defined as “On-site wastewater system – a system designed to contain, distribute, or treat wastewater on or near the location where the wastewater is generated, including sewers, septic tanks and absorption fields”.

Zoning Administrator - An official of the County, hired by the Yankton County Commission, to administer and enforce the Subdivision Regulations and other provisions of the Yankton County Zoning Ordinance. This official may be given administrative authority to approve future plats in a subdivision after a final subdivision plan has been approved by the Yankton County Board of Adjustment or Yankton County Commission.

## GENERAL PROVISIONS

### Section 2801 Title (Amended June 16, 2020)

These regulations shall be referred to as the Subdivision Regulation Ordinance of Yankton County, South Dakota.

### Section 2802 Purpose (Amended June 16, 2020)

It is the purpose of this ordinance to regulate the subdivision of land so as to provide coordination of roads with other subdivisions and transportation plans; to set aside adequate areas for public uses, water and sanitation facilities, drainage and flood control; to foster efficient and orderly growth compatible with the natural environment; to prevent unauthorized land subdivision; to protect and provide for the public health, safety, and general welfare of the County; and to conform with the comprehensive plan.

**Section 2803 Jurisdiction (Amended June 16, 2020)**

- A) These subdivision regulations shall apply to all subdivisions of land, as described herein, located within the unincorporated area of the county.
- B) It shall be unlawful for any person having control of any land within the jurisdiction of the County to subdivide or lay-out such land in lots less than twenty (20) acres, unless by plat, in accordance with the laws of the State of South Dakota and the regulations contained herein.
- C) No land shall be subdivided until the owner or developer has submitted the preliminary plan, if required, to the Planning Commission for its approval.
- D) No plat shall be recorded in the office of the Register of Deeds and no lots shall be sold from such plat unless and until approved as herein provided. The Register of Deeds shall not record any document of any sale or transfer of unplatted property except in accordance with this ordinance.

**Section 2804 Conformity With Other Plans (Amended June 16, 2020)**

In addition to the requirements established herein, all subdivision plans and plats shall comply with the following laws, rules, and regulations:

- A) The Comprehensive Plan for the County and the policies set forth therein.
- B) The Zoning Ordinance of the County.
- C) Other plans which may be or have been adopted that would affect the subdivision and use of the land. An example is the Flood Damage Prevention ordinance.

**Section 2805 Interpretation, Abrogation and Severability (Amended June 16, 2020)**

- A) In interpreting and applying the provisions of this Ordinance, these regulations are the minimum requirements for the promotion of public safety, health, and general welfare. It is not the intent of this Ordinance to uphold, repeal, abrogate or impair any existing easement, covenant, or deed restriction, or non-conforming lots of record at the effective date of adoption or amendment of the Subdivision Ordinance, where these provisions conflict or overlap.
- B) Should any provision of this ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the ordinance as a whole or any portion thereof.

**Section 2806 Amendments (Amended June 16, 2020)**

For the purpose of providing for the health, safety and general welfare of the community, the County Commission may from time to time amend the provisions imposed by these subdivision regulations.(SDCL 11-2-30) Public hearings on all

proposed amendments shall be held by the Planning Commission and the County Commission in the manner prescribed by law. (SDCL 11-2-18)

**Section 2807 Fees (Amended June 16, 2020)**

- A) The developer shall pay to the Planning Department a fee as set by the County Commission for the final subdivision plan, including all plats to be filed with the Register of Deeds at this approval period. All additional plats submitted after the initial final subdivision plan shall pay a fee as set by the County Commission for each plat shown on the final subdivision plan. Prior to release of the plat, the developer shall also pay for the cost of all road signs as specified in Section 2826 (C). **(Amended June 16, 2020)**
- B) A fee as set by the County Commission shall be charged for the filing of a subdivision variance. **(Amended June 16, 2020)**

**ENFORCEMENT**

**Section 2808 Powers and Duties (Amended June 16, 2020)**

- A) The Zoning Administrator is hereby authorized to administer and enforce this ordinance. Any appropriate actions may be taken by law or in equity to prevent any violation of this ordinance, to prevent unlawful construction, to recover damages, to correct or abate a violation, or to prevent illegal occupancy of a building, structure, or premises. These remedies shall be in addition to the penalties described below.
- B) In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

**Section 2809 Variations and Exceptions (Amended June 16, 2020)**

Whenever the tract to be subdivided is of such unusual size or shape, or is surrounded by such development or unusual conditions that the strict application of this ordinance would result in real difficulties or substantial hardship or injustice, the Planning Commission, after a report detailing the exception or variance by the Zoning Administrator, may recommend and the County Commission may approve modifications in the requirements so that the developer may develop the property in a reasonable manner, but so that, at the same time, the public welfare and interests of the County are protected and the general intent and spirit of this ordinance are preserved.

**Section 2810 Violations (Amended June 16, 2020)**

- A) No person, firm, or corporation shall transfer or sell any parcel either by reference to, exhibition of, or by the use of a final subdivision plan before such lot or subdivision has been approved by the County in accordance with this ordinance and has been filed with the County Register of Deeds.

- B) The subdivision of any lot or any parcel of land, by the metes and bounds description for the purpose of sale (pursuant to SDCL 43-21-1), transfer or lease, with the intent of evading the terms of this ordinance shall not be permitted.
- C) No zoning or building permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of this ordinance.

#### Section 2811 Penalties (Amended June 16, 2020)

Any person, firm, or corporation violating the provisions of this ordinance shall be guilty of a Class 2 Misdemeanor and shall be punished pursuant to SDCL 7-18A-2. Each and every day that the violation continues may constitute a separate offense.

### SUBDIVISION PLANS IN GENERAL

#### Section 2812 Plat Required (Amended June 16, 2020)

Whenever any subdivision of land into a lot or lots less than twenty (20) acres is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the developer, owner, or authorized agent shall apply for and secure approval of such proposed subdivision in accordance with the procedures set forth below.

#### Section 2813 Recording, Use and Selling (Amended June 16, 2020)

- A) No plat of any subdivision shall be allowed to be recorded with the Register of Deeds or have any validity until it has been approved in the manner prescribed by this ordinance. If any such unapproved plat is recorded, it is invalid and the County Commission shall institute proceedings to have the plat stricken from the records.
- B) No owner, or agent of the owner, of any land located within a subdivision shall transfer or sell any land by reference to, exhibition of, or by the use of a subdivision plan before a plat of said land has been approved and recorded in the manner prescribed herein.
- C) No local agency shall issue any permit or grant any approval necessary to develop any real property which has been divided, or which has resulted from a division, in violation of the provisions of this Ordinance if it is found that such real property is contrary to the public health, safety, or welfare. The authority to deny such a permit shall apply whether the applicant was the owner of record at the time of such violation or whether the applicant is the current owner of record or a vendee of the current owner pursuant to a contract of sale with, or without, actual or constructive knowledge of the violations at the time of acquisition of his interest in said real property.

#### Section 2814 Plat Approval Process (Amended June 16, 2020)

All proposed subdivision plats must be approved. **(Amended June 16, 2020)**

- A) Preliminary and Final Plats/Plans - The final plan shall consist of the proposed plat, Latitude/Longitude on a minimum of two connections to roads or section lines, an electronic submittal of the plat in either AutoCAD (dwg format) or an ESRI (Shapefile format), the final drainage and grading plan, and the final erosion control plan. The plat shall provide the information indicated in Section 2820 and shall require the approval of the Planning Commission and County Commission. **(Amended June 16, 2020)**

Flood Designated Areas. When located within flood prone areas as designated on the Flood Insurance Rate Map (FIRM), all subdivision proposals:

1. Shall be consistent with the need to minimize flood damage;
2. Shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
3. Shall have adequate drainage provided to reduce exposure to flood damage and shall not put additional burden on adjacent land owners; and
4. Shall provide base flood elevation data for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less). **(Amended June 16, 2020)**

#### Replats

If the land proposed for platting is a resubdivision, it shall require a preliminary plan and a plat of the resubdivision, requiring the same review and approval procedures as the preliminary plan and the plat. The Zoning Administrator may waive the requirements for a preliminary plan. **(Amended June 16, 2020)**

#### Filing Fee

The developer shall pay to the Planning Department a fee as set by the County Commission for the final subdivision plan, including all plats to be filed with the Register of Deeds at this approval period. All additional plats submitted after the initial final subdivision plan shall pay a fee as set by the County Commission for each plat shown on the final subdivision plan. Prior to release of the plat, the developer shall also pay for the cost of all road signs as specified in Section 2826 (C). **(Amended June 16, 2020)**

### PRELIMINARY PLAN

#### Section 2815 Information Required **(Amended June 16, 2020)**

Whenever a preliminary plan is proposed, the developer shall submit a plan at standard, defined scale no smaller than 8 ½" X 11" and no larger than 15" X 26". The preliminary plan shall be submitted to the Planning Department and shall contain the following:

### A) Preliminary Subdivision Plan

- 1) The name of the proposed subdivision and location by quarter section, section, township and range. Subdivision names shall not duplicate, be the same spelling, or alike in pronunciation with any existing subdivision located in the same section, unless it is an extension of or adjoining an existing subdivision. All subdivision names shall be subject to approval by the Zoning Administrator.
- 2) The names of all adjacent subdivisions and their platting pattern. Adjoining unplatted land shall be labeled as such.
- 3) The correct legal description. Notations stating acreage, scale, and north arrow.
- 4) The owner, developer, and surveyor's names and telephone numbers.
- 5) Vicinity map, showing locations of the preliminary plan and surrounding property.
- 6) Exterior boundaries of the proposed subdivision referenced to a corner marker of the U.S. Public Land Survey, corner marker of adjacent subdivision or existing survey plat and the total acreage encompassed thereby.
- 7) The location and width of all proposed and existing road rights-of-way, existing structures, easements, railroad rights-of-way, standard survey notations, topography and aerial maps/photographs.
- 8) Existing contours at vertical intervals not greater than ten feet. A lesser interval may be required in those cases where the character or topography of the land is difficult to determine.
- 9) A systematic lot and block numbering pattern, lot lines and road names.
- 10) The dimensions and acreage of all lots.
- 11) Latitude/Longitude on a minimum of two connections to roads or section lines, an electronic submittal of the plat in either AutoCAD (dwg format) or an ESRI (Shapefile format) (**Amended June 16, 2020**)

### B) Other Preliminary Plans.

Generally, the following plans shall be submitted in conjunction with the preliminary plan:

- 1) Preliminary Drainage and Grading. The existing drainage pattern for the area should be generally shown along with any proposed cut and fill operations which would alter the existing drainage patterns.
- 2) Erosion Control. In any proposed subdivision in which an area greater than five acres will be disturbed, or in areas where topographic features are such that erosion, siltation or temporary runoff problems may occur, a site plan shall be required showing how these problems will be resolved.
- 3) Wastewater and Septic System. All unconventional septic systems will provide specific details as required by South Dakota Codified Law (chapter 34A-2) and South Dakota Administrative Rules (chapter 74:53:01).

#### Section 2816 Approval of Preliminary Plan (Amended June 16, 2020)

After the preliminary plan has been recommended for approval or disapproval by the Planning Commission, it shall be kept on file in the office of the Zoning Administrator. Approval of the preliminary plan shall indicate approval of the development concept only, and it does not constitute an acceptance or approval of the subdivision plan; therefore, no zoning or building permits shall be issued based on the approval of the preliminary plan.

#### Section 2817 Effective Period of Preliminary Approval (Amended June 16, 2020)

The approval of a preliminary plan shall be effective for a period of 18 months with a single extension of 18 months, at the end of which time approval of the subdivision plat or a portion thereof must have been obtained from the County Commission. Any plan which has not received approval for all or a portion of it within the period of time set forth herein, shall be null and void, and the developer shall be required to resubmit a new plan for preliminary approval subject to any new subdivision regulations.

#### Section 2818 Revisions to Preliminary Plan (Amended June 16, 2020)

Minor amendments to an approved preliminary plan may be made at the discretion of the Zoning Administrator and Highway Superintendent.

### FINAL PLANS AND THE PLAT

#### Section 2819 Final Plans (Amended June 16, 2020)

Following the approval of the Preliminary Plan, if the developer wishes to proceed, final drainage, grading and erosion control plans shall be submitted to the Zoning Administrator and Highway Superintendent for review and approval. Any or all of these plans may be deleted at the Zoning Administrator's discretion.



**Section 2820 The Plat (Amended June 16, 2020)**

Two copies and one reproducible Mylar of the plat shall be submitted to the Zoning Administrator for review and approval. If the plat is not approved by the Zoning Administrator within ten (10) days of submittal, the plat shall be presented to the County Commission for action. The plat should be drawn at a scale of 100 feet to an inch from an accurate survey and on one or more sheets whose dimensions are as required by State Law. If more than two sheets are required, an index sheet of the same dimension shall be attached and filed. Plats which describe large agricultural tracts may be drawn at a scale of 200, 300, 400 or 600 feet to the inch. The plat shall contain the following information:

- A) The name of the proposed subdivision and location by quarter section, section, township and range. Each plat shall be titled as follows: (Name) Addition in the      quarter, Section     , T      N, R      W of the 5th P.M., Yankton County, South Dakota.
- B) Scale and north arrow.
- C) The names of all adjacent subdivisions, all lot and block lines, type of easements, and rights- of-way.
- D) A systematic lot and block numbering pattern, lot lines and road names, and the square footage or acreage of all lots.
- E) The location and width of all proposed and existing rights-of-way, easements and private roadways.
- F) The boundary lines of the area being subdivided with accurate angles or bearings and distances tying the perimeter boundaries to the nearest section corner, other previously described subdivision, or other recognized permanent monuments which shall be accurately described on the plat.
- G) Location of all monuments and permanent control points, and all survey pins, either set or located.
- H) The location and description of any portions of the property intended to be dedicated or granted for public use.
- I) All dimensions, linear and angular, necessary for locating the boundaries of the subdivision lots, roads, easements and type of easement, and any other areas for public or private use. Linear dimensions are to be given to the nearest 1/100 of a foot.
- J) The radii, chords, length of curve, points of tangency, and central angles for all curvilinear roads and radii for rounded corners.
- K) Acknowledgment of the owner or owners of the plat of any restrictions, including dedication of all public roads, alleys, parks, or other open spaces shown thereon and the granting of easements required.

- L) All formal irrevocable offers of dedication for all public roads and other uses as required.
- M) Certificates as specified in Article 11.
- N) Latitude/Longitude on a minimum of two connections to roads or section lines, an electronic submittal of the plat in either AutoCAD (dwg format) or an ESRI (Shapefile format) (**Amended June 16, 2020**)

#### Section 2821 Road Names (**Amended June 16, 2020**)

- A) Roads obviously in alignment with existing roads shall bear the names of those roads.
- B) Provisions:

No road names shall be used which duplicate, be the same in spelling or alike in pronunciation with any other existing roads. Road names shall not exceed 12 letters, including spaces. Road name suffixes shall be applied as follows:

Street - a road running east and west

Avenue - a road running north and south

Road - a road running east and west or north and south but which is not appropriate to name as a street or avenue

Lane - a road running northeast to southwest

Drive - a road running northwest to southeast

Trail - a road which wanders in different directions

Circle - all cul-de-sacs

Court - a road with two openings which enters and exits on the same road

Place - all private roads

### REPLATS AND PLAT VACATIONS

#### Section 2822 Replats (**Amended June 16, 2020**)

If the land proposed for platting is a resubdivision, it shall require a final plan of the subdivision, requiring the same review and approval procedures, including the fees, as the original final plans. However, if the resubdivision meets the following requirements, then it may be submitted as a plat. (**Amended June 16, 2020**)

- A) The perimeter of the tract being replatted shall not be altered by the replat.
- B) The previous platting lines shall be shown on the plat.
- C) Latitude/Longitude on a minimum of two connections to roads or section lines, an electronic submittal of the plat in either AutoCAD (dwg format) or an ESRI (Shapefile format). **(Amended June 16, 2020)**

**Section 2823 Vacation of Plats (Amended June 16, 2020)**

Any plat or any part of a plat intended to be vacated shall be governed by the requirements of SDCL11-3.

## LOTS AND BLOCKS

**Section 2824 Blocks (Amended June 16, 2020)**

- A) The length, width, and shape of blocks shall be determined with regard to:
  - 1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.
  - 2) The need for convenient access, circulation, and safety of traffic.
  - 3) Topographic conditions.
- B) Block lengths shall generally not exceed 1300 feet in length and shall be normally wide enough to provide for two tiers of lots of an appropriate depth.

**Section 2825 Lots (Amended June 16, 2020)**

- A) Lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing permits to build on all lots in compliance with the zoning regulations.
- B) The minimum lot width required by the zoning regulations shall be measured along the building setback line.
- C) Corner lots for residential use shall have extra width to permit adequate building setbacks from both roads.
- D) All interior lot lines should be a straight line or a series of straight lines. Curved interior lot lines may be allowed where topography, waterways or other circumstances require curved lot lines.
- E) Side lot lines may be at right angles to roads except on curves where they are

radial, or when otherwise approved.

- F) Double frontage and reverse frontage lots shall be avoided except where essential to separate a development from traffic arteries, or to overcome specific disadvantages of topography and orientation. Driveways for such lots shall have access only to an interior subdivision road. Where double frontage lots are used, an extra lot depth or width shall be required to provide for an extra setback to offset the impact of higher traffic volumes.
- G) Plats for residential development adjacent to functioning railroad rights-of-way shall provide additional lot depth or width to provide for sufficient setback to offset the impact of the railroad traffic.
- H) Each lot shall abut a dedicated public right-of-way, approved private roadway or have an appropriate easement to a public road.
- I) Minimum lot size required by the zoning regulations shall not include any public right-of-way.

#### MINIMUM ROAD IMPROVEMENTS AND DESIGN STANDARDS

##### Section 2826 Arrangement and Design (Amended June 16, 2020)

- A) Roads shall be related appropriately to the topography.
- B) All new subdivision roads shall be properly integrated with the existing system of roads. There should be a road connecting adjacent subdivisions where topographical and land use considerations permit.
- C) In order to maintain consistent signage throughout the County, it shall be the County's responsibility to erect road signs at all road intersections, both public and private, within the new subdivision. The owner or developer shall pay the County for all material and installation costs as determined by the Highway Superintendent.
- D) Proposed collector roads shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions.
- E) The arrangement of all collector roads shall be such as not to cause hardship to adjoining landowners when they plat their own land and seek access to the roads.
- F) All subdivision roads shall be permanently dedicated as public rights-of-way or shown as private roadways. For the dedication of public right-of-way, the plat shall include a certificate for township acceptance of the road dedication. An owner's certificate shall describe the legal responsibilities for construction, repair and maintenance of said roads and be filed with the final subdivision plan with the Yankton County Planning Department (see Section 2836). **(Amended June 16, 2020)**

G) When the traffic impact of one or more proposed property developments indicates that the public safety can be better served by the use of access easements, the following requirements shall apply:

- 1) The access easement shall provide for perpetual unobstructed access to the area it serves, and prohibit the erection of any structure within or adjacent to the access area which would interfere with the use of the access easement by the public or any governmental agency.
- 2) Access easements shall be indicated on the plat.
- 3) Any plat which shows an access easement as a means of access shall provide language in the owner's certificate (see Section 2836) reserving the easement area for perpetual unobstructed access. **(Amended June 16, 2020)**

**Section 2827 Minimum Road Right-of-Way (Amended June 16, 2020)**

- A) Roads shall have a minimum publicly dedicated right-of-way of 66 feet. An easement of 46 feet shall be reserved for private roadways. A maximum right-of-way of 100 feet may be required on roads designated as arterial and collector.
- B) Cul-de-sacs will be required where, due to physical constraints, they are necessary for the reasonable development of the subdivision. The minimum radius of a turnaround at the end of a cul-de-sac shall be within the 66 feet right of way. This shall also apply to private roadways with the minimum radius of a turnaround at the end of a cul-de-sac within the 46 feet right of way.

**Section 2828 Subdivision Road Standards (Amended June 16, 2020)**

- A) Access from individual lots within a subdivision onto an arterial road shall be prohibited. Frontage roads are not encouraged but may be considered when special circumstances exist.
- B) Driveway spacing and sight distance requirements shall be in accordance with SDDOT standards.
- C) Minimum width of the driving surface shall be 24 feet. Ditches and driveways shall have a maximum inslope of 4:1 in accordance with specifications of the Yankton County Highway Department.
- D) The subdivision roads may have a gravel driving surface. The subdivision roads shall be constructed in accordance with the specifications of the Yankton County Highway Department.
- E) Gravel roads shall have an initial three inch lift of gravel spread over the driving surface. This lift shall be allowed to settle over one winter season. A second three inch lift of gravel shall be spread over the driving surface within

one year of the first lift. Asphalt and Portland cement concrete surfaces shall be constructed in accordance with specifications of the Yankton County Highway Department.

- F) Culverts under roadways shall be R.C.P. Culverts under driveways shall be either R.C.P. or C.M.P. All culverts shall be in accordance with the specifications of the Yankton County Highway Department.
- G) The minimum culvert diameter shall be 12 inches.
- H) A cross slope (crown) shall be provided on all roads at a rate of .02 feet per foot.
- I) The road ditch shall be constructed in accordance with the specifications of the Yankton County Highway Department.
- J) Seeding of ditches and other erosion protection measures shall be employed after grading is completed to minimize erosion.

**Section 2829 Private Roadways (Amended June 16, 2020)**

- A) Private roadways shall be indicated on the plat.
- B) Any private roadway approved by the County shall provide permanent unobstructed access to the area it serves. The erecting of any structure within the private roadway easement which would in any way interfere with the use of such private roadway by the public or any governmental agency will not be permitted.
- C) The Owner's Certificate in accordance with Section 2836 shall reserve the private road for permanent unobstructed access to abutting property and establishing private responsibility for maintenance of the roads. **(Amended June 16, 2020)**
- D) All road standards specified in Section 2836 shall also apply to private roadways constructed in accordance with the specifications of the Yankton County Highway Department. **(Amended June 16, 2020)**

**Section 2830 Intersections (Amended June 16, 2020)**

- A) Acute angles at road intersections are to be avoided in so far as possible, but in no case will an angle of less than 80 degrees be permitted.
- B) Not more than two roads shall intersect at one point unless specifically approved.
- C) Intersection offsets of less than 250 feet shall be avoided.

**GRADING AND DRAINAGE**

**Section 2831 Grading Plan (Amended June 16, 2020)**

The final grading plan for the subdivision shall be submitted to and approved by the Zoning Administrator and Highway Superintendent.

**A) Final Site Grading Plan**

The grading plans shall show the contours with intervals acceptable to the Zoning Administrator. The site grading plan shall also show the drainage arrows for each lot.

**B) Final Road Grading Plan**

The road grading plan shall show all proposed roads, drainage arrows, and location and size of culverts.

**Section 2832 Drainage Plan (Amended June 16, 2020)****A) All drainage is subject to the approval of the Zoning Administrator and Highway Superintendent. The plan shall provide the following information:**

- 1) Existing contour lines and any major alteration of the existing drainage pattern. The contour interval shall be of such detail that the final drainage pattern is adequately illustrated.
- 2) The boundaries of all drainage easements.
- 3) Individual lot drainage shall be coordinated with the general surface drainage pattern for the area. Drainage shall be designed so as to avoid a concentration of storm drainage water from each lot to adjacent lots.
- 4) Surface water shall not be carried across or around any intersection.
- 5) Driveways shall not inhibit or restrict the flow of surface water. It shall be the responsibility of each lot owner to install and maintain a culvert under the driveway when construction commences.

**EROSION CONTROL PLAN****Section 2833 Specifications (Amended June 16, 2020)**

Stripping of vegetation, regrading and cut and fill operations should be kept to a minimum, as should the amount of land and the duration of exposure. Whenever feasible, development plans should be made in conformance with topography in order to create the least erosion potential. Similarly, as much as possible natural vegetation shall be retained, protected and supplemented. Every effort shall be made to retain the natural vegetation on all ditches and drainage ways. Ditches and drainage ways will not be disturbed without the approval of the Zoning Administrator. Erosion control plans shall show:

- A) The Zoning Administrator shall require a “General Permit for Storm Water Discharges Associated with Construction Activities” from South Dakota Department of Environment and Natural Resources when the development creates exposure greater than one (1) acre.
- B) The Zoning Administrator shall require proof of compliance from the South Dakota Department of Environment and Natural Resources before any building permits shall be approved.

**Section 2834 Existing Features (Amended June 16, 2020)**

Existing natural features which would add value to residential development or to the community as a whole, such as trees, water courses, and similar irreplaceable assets, should be preserved in the design of the subdivision.

**CERTIFICATES REQUIRED**

**Section 2835 Certificates for Preliminary Subdivision Plans (Amended June 16, 2020)**

Certificates shall be attached to the preliminary plan in the following form:

**OWNER'S CERTIFICATE**

We do hereby certify that we are the owners of all land included in the above plat and that said plat has been made at our request and in accordance with our instructions for the purposes (indicated herein), and that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations.

We hereby dedicate to the public for public use forever, the streets, roads, alleys and parks and public grounds, if any, as shown on said plat, including all sewers, culverts, bridges, water distribution lines, sidewalks and other improvements on or under the streets, roads, alleys, parks and public grounds, whether such improvements are shown or not. We also hereby grant easements to run with the land for water, drainage, sewer, gas, electric, telephone or other public utility lines or services under, on or over those strips of land designated hereon as easements.

If the plat does not include a certificate for Township Acceptance of Road Dedication, include:

We also certify that construction and maintenance, including snow removal, of (name of roads) as shown on said plat shall be provided by (name) in accordance with the covenants filed with the Yankton County Register of Deeds, and said roads shall be kept and preserved at all times in a good condition of repair and maintenance. This shall remain in effect until a public entity accepts the maintenance of said roads.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.



\_\_\_\_\_  
Name

Property Owners

**OWNER'S CERTIFICATE FOR PRIVATE MAINTENANCE OF FACILITIES**

We do hereby certify that we are the owners of all land included in the above plat and that said plat has been made at our request and in accordance with our instructions for the purposes (indicated herein), and that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations.

We also certify that ownership and maintenance of streets, roads, and alleys, parks and other open space, drainage ways and detention areas, if any, as shown on said plat, and any improvements thereto, shall be provided by the (Name) Homeowners Association except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. We also hereby grant easements to run with the land for water, drainage, sewer, gas, electric, telephone or other public utility lines or services under, on or over those strips of land designated hereon as easements.

If private roadways are shown, include:

I further grant and certify that the roadway(s) shown as (Names of private roads) are private roadways which are hereby reserved as a permanent unobstructed access. Said roadways are for vehicular and pedestrian travel for the purpose of access to the abutting property. It is understood that the Owner, their lessees and assignees have the responsibility with respect to maintaining said private roadway. Said grant is to run with the land. As no dedication to the public is being made of said private roadways, the Owners, their lessees and assignees, of the property platted as (Name of subdivision), shall at their own cost and expense keep and preserve said private roadways at all times in a good condition of repair and maintenance, and clear of snow and other obstructions and neither erect nor permit erection of any improvements of any kind within said private roadways which might interfere in any way with the proper maintenance, use, repair, reconstruction and patrolling of said private roadways. This shall remain in effect until a public entity accepts the roadways as a public dedication.

If access easements are shown, include:

We further grant and certify that the access easement is hereby created as a perpetual common unobstructed access in favor of the lots abutting on it. The easement is for vehicular and pedestrian travel for the purpose of access to the abutting property. The owner, their lessees and assignees shall maintain the easement area. They shall, at their own expense, keep the easement area in good repair and maintenance and clear of snow and other obstructions. No improvements of any kind may be erected within the easement area which might interfere in any way with the proper maintenance, use, repair, reconstruction and patrolling of the access easement. This covenant shall run with the land.

Section 2836 Certificates for Final Subdivision Plans (Amended June 16, 2020)SURVEYOR'S CERTIFICATE

I, \_\_\_\_\_ (Name), a Registered Land Surveyor of the State of South Dakota do hereby certify that I did on or before \_\_\_\_\_ (Date), survey that parcel of land described as \_\_\_\_\_ (Legal Description).

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL)

\_\_\_\_\_  
Registered Land Surveyor

OWNER'S CERTIFICATE

We do hereby certify that we are the owners of all land included in the above plat and that said plat has been made at our request and in accordance with our instructions for the purposes \_\_\_\_ (indicated herein) \_\_\_\_, and that the development of this land shall conform to all existing applicable zoning, subdivision and erosion and sediment control regulations.

We hereby dedicate to the public for public use forever, the streets, roads, alleys and parks and public grounds, if any, as shown on said plat, including all sewers, culverts, bridges, water distribution lines, sidewalks and other improvements on or under the streets, roads, alleys, parks and public grounds, whether such improvements are shown or not. We also hereby grant easements to run with the land for water, drainage, sewer, gas, electric, telephone or other public utility lines or services under, on or over those strips of land designated hereon as easements.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name

Property Owners

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned officer, appeared (name), known to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same for the purposes therein contained.

In witness thereof, I have hereunto set my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My commission expires:

\_\_\_\_\_  
Notary Public, Yankton County, South Dakota

CERTIFICATE OF STREET AUTHORITY (Amended June 16, 2020)

The location of existing access roads abutting or approaches entering the State/County/Township Road, is hereby approved. Any change in the existing access shall require additional approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
State/County/Township Road Authority

#### COUNTY PLANNING COMMISSION APPROVAL

Approval of the final plan of (Subdivision Name) Addition is hereby granted by the Yankton County Planning Commission on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Chair, County Planning Commission  
Yankton County, South Dakota

#### COUNTY COMMISSION APPROVAL

I hereby certify that the final plan of (Subdivision Name) Addition was duly submitted to the Yankton County Board of County Commissioners, and that after due consideration the Board approved said final plan at its meeting held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Chairman County Commission  
Yankton County, South Dakota

#### COUNTY AUDITOR CERTIFICATE

I do hereby certify that the above certificate of approval is true and correct including the signature thereon.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
County Auditor  
Yankton County, South Dakota

#### DIRECTOR OF EQUALIZATION

I, the Director of Equalization of Yankton County, South Dakota, do hereby certify that a copy of the above final plan has been filed in my office.

\_\_\_\_\_  
Director of Equalization  
Yankton County, South Dakota

COUNTY TREASURER'S CERTIFICATE

I, Treasurer of Yankton County, South Dakota, hereby certify that all taxes which are liens upon any land shown in the above plat as shown by the records of my office, have been paid in full.

\_\_\_\_\_  
Treasurer  
Yankton County, South Dakota

REGISTER OF DEEDS

Filed for record this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_, at \_\_\_\_ O'clock, \_\_ M., and recorded in book \_\_\_\_ of plats on page \_\_\_\_.

\_\_\_\_\_  
Register of Deeds  
Yankton County, South Dakota