



# Lake County Zoning Ordinance

03/03/26

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**DISCLAIMER:**

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

**SOURCE:**

The source of this document is Lake County Ordinance 26-01. Amendments to Ordinance 26-01 are included as a history note appearing in brackets at the end thereof. The absence of such a note indicates that the section reflects Ordinance 26-01 adopted on February 3, 2026.

**ARTICLE I**  
**SHORT TITLE AND APPLICATION**

**Section 101. Title.** This Ordinance may be known and may be cited and referred to as the “Lake County Zoning Ordinance” to the same effect as if the full title were stated.

**Section 102. Jurisdiction.** Pursuant to SDCL 11-2, 1967, as amended, the provisions of this Ordinance shall apply within the unincorporated areas of Lake County, South Dakota, as established on the map entitled “The Official Zoning Map of Lake County, South Dakota.”

**Section 103. Provisions of Ordinance Declared to be Minimum Requirements.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, Ordinances, regulations, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

Section 104. Purpose. The Zoning Ordinance is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity and general welfare. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

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

## ARTICLE II DEFINITIONS

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

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

**Actual Construction.** Means that construction materials are being permanently placed and the construction work is proceeding without undue delay.

**Adjacent Property.** Any lot, parcel, or property bordering by means of adjoining, abutting, or intersecting a specified lot boundary, and those lots immediately across a public right-of-way from a specified lot (see Adjacent Property Illustration).

### Adjacent Property Illustration



**Adjoining Landowner.** The owner of adjacent or contiguous property for which an action by the Zoning Official, Board of Adjustment, Planning Commission or County Commission is being considered. Property shall be considered as adjoining even though it may be separated from the property of the petitioner by a public road or highway or touches only a corner of the property (see Adjacent Property Illustration).

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

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

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

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

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

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

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

**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 pursuant to this Ordinance who:

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.

**Agribusiness.** A business operation embracing the handling, storage, processing and distribution of agricultural products including agrichemicals, farm machinery, equipment, supplies, wholesale and distribution, processing, marketing, retail sales and/or the manufacture of ag-related farm machinery, equipment, and supplies. Such uses shall comply with Section 1239.

**Agricultural 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, soybean processing facilities, cheese plants, milk processors, packing plants and rendering facilities. Such uses shall comply with Section 1239.

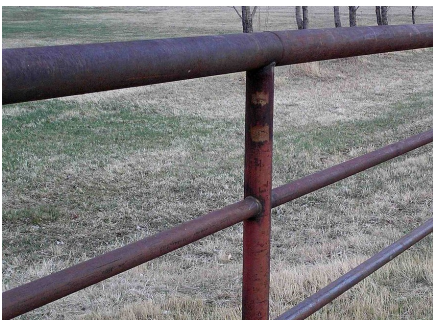
**Agriculture.** The use of land for agricultural purposes including farming, dairying, raising, breeding, or management of livestock, poultry, or honeybees, truck gardening, forestry, horticulture, floriculture, viticulture, and the necessary accessory uses for packaging, treating or storing the produce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

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

**Alley.** A narrow service way providing a secondary means of access to abutting property.

**Alter or alteration.** Any change, addition or modification in construction or occupancy.

**Animal and Farm Fence.** Means a fence erected for the purpose of containing livestock, enclosing crops, water areas (excluding private swimming pools), woodlots, buildings, fields or laneways for the operation of agriculture. Common examples may include but are not limited to the images below:



**Animal Feeding Operation Structure.** An anaerobic lagoon, formed manure storage structure, egg wash water storage structure, earthen manure storage basin or animal confinement building.

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

**Animal Unit.** (See Article XII).

**Animal Manure Management Facilities.** Any structure or facility utilized for the storage of manure associated with a concentrated animal feeding operation.

**Antenna Support Structure.** Any building or structure other than a tower which can be used for location of telecommunications facilities.

**Antique Car.** An antique car must be at least twenty-five (25) years of age or older.

**Applicant.** An individual, a corporation, a group of individuals, partnership, joint venture, trust organization or association, owners, business or their representatives who request or seeks application approval under the terms of this ordinance.

**Application.** The process by which the applicant submits a request to use. Develop, construct, build, modify upon such parcel of land. Application includes all written documentation, verbal statements, and representations, in whatever form or forum, made by an applicant to Lake County concerning such a request.

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

**Array/Solar Array.** Is the collection of two or more connected solar modules or panels.

**Automotive Tow Business.** A business engaged in removing or delivering to public or private property a motor vehicle, or an item that was being transported or towed by a motor vehicle, by towing, carrying, hauling, or pushing, including automotive service stations or an auto repair shop that has a tow truck and repairs vehicles on-site and shall comply with Section 1219.

**Back Lots.** All lots not immediately adjacent to a lake in Lake Park Districts.

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

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

**Bed and Breakfast (B & B's).** A private single-family residence, which is used to provide limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding properties and must comply with Section 1222.

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

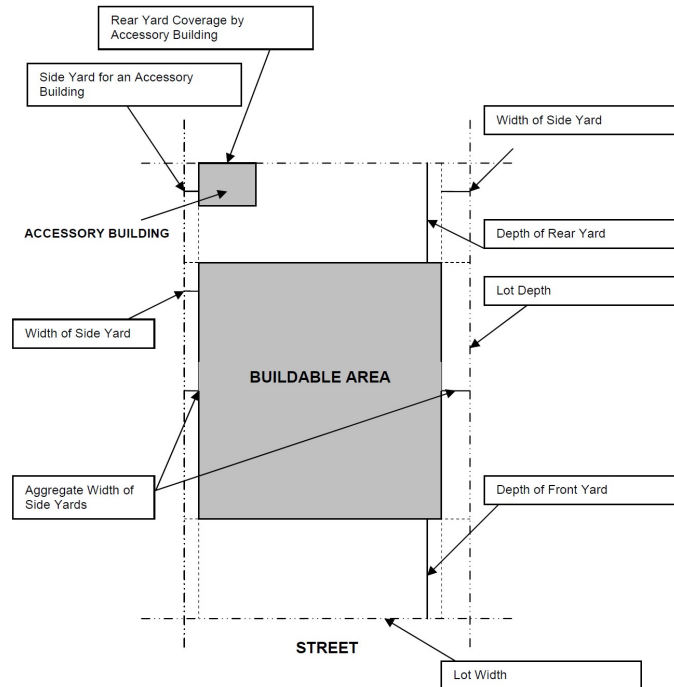
**Board of County Commissioners.** The governing body of Lake County.

**Boathouse.** An accessory structure used for the personal storage of watercraft and associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts

**Buildable Area.** The buildable area of a lot is the space remaining after the minimum setback requirements of this Ordinance have been complied with. The diagram below illustrates the buildable area of a hypothetical lot. This diagram is for reference only. Setbacks and other requirements vary from district to district. (see illustration below).

## Buildable Area Illustration

\*Rear yard in the LP districts is the lake front.



**Building.** The word building includes the word structure (permanent or temporary) and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings and is designed for the support, shelter and protection of persons, animals, or property.

**Buildings, Height of.** The vertical distance from the grade to the peak (highest point of the structure).

**Campground.** A commercial recreation facility open to the public, for a fee, upon which two (2) or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters.

**Cannabis (or Marijuana).** In addition to any definition in SDCL chapter 34-20G, all parts of any plant of the genus cannabis, whether growing or not, in its natural and unaltered state except for drying or curing, and crushing or crumbling; 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.

**Cannabis Cultivation Facility.** In addition to any definition in SDCL chapter 34-20G, this term is further defined as a legally licensed entity that acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells cannabis and related supplies to a cannabis establishment.

**Cannabis Dispensary.** In addition to any definition in SDCL chapter 34-20G, this term is further defined as 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.

**Cannabis Establishment.** A cannabis cultivation facility, a cannabis testing facility, a cannabis product manufacturing facility, or a cannabis dispensary.

**Cannabis Product Manufacturing Facility.** In addition to any definition in SDCL chapter 34-20G, this term is further defined as a legally licensed entity that acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells cannabis products to a cannabis dispensary.

**Cannabis Products.** 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.

**Cannabis Testing Facility.** In addition to any definition in SDCL chapter 34-20G, this term is further defined as a legally licensed entity authorized to analyze the safety and potency of cannabis.

**Cemetery.** An area set apart for or containing graves, tombs, or funeral urns for human remains.

**Cemetery, Pet.** Any land, place, structure, facility or building provided by any person for a fee, whether or not for profit, to veterinarians or members of the general public for use, or reservation for use, for the permanent interment or inurnment above or below ground of pet remains

**Change in Operation.** A cumulative increase of more than three hundred (300) animal units, after January 20, 1998, which are confined at an unpermitted, concentrated animal feeding operation.

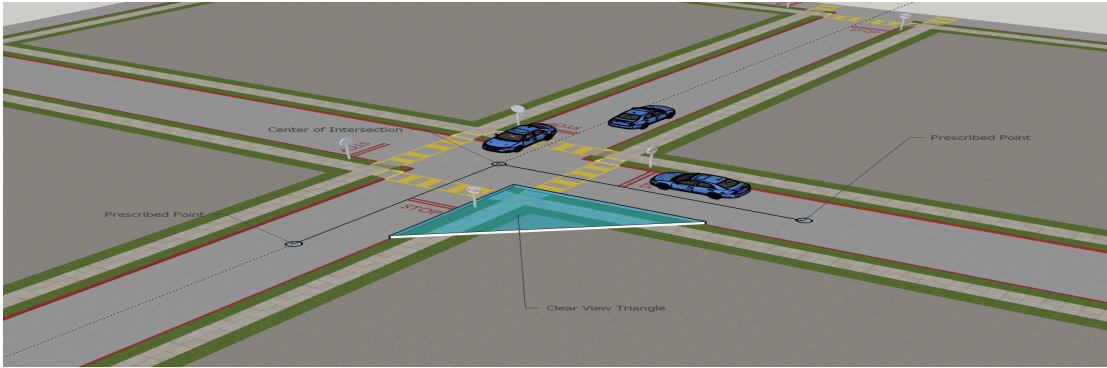
**Chemigation.** The process of applying agricultural chemicals (fertilizer or pesticides) through an irrigation system by injecting the chemicals into the water.

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

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

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

### Clear View Triangle Illustration



**Closed Zoning District/Use.** A zoning use or district designation applied to a specific geographic area existing at (date of ordinance adoption). Once the closed zoning district/use is established, no other property is eligible for said zoning classification or use.

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

**Commercial Public Enterprises:** Including but not limited to the following; Music concerts; rodeos.; tractor pulls; and animal or vehicle races.

**Common Ownership.** A single, corporate, cooperative, or other joint operation venture.

**Commercial Storage, Mini-Storage Facilities:** Individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment, etc.

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

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

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

**Conditional Use.** A conditional use is a use that would not be appropriate generally or without restriction throughout the zoning division or district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning division or district as conditional uses, as specific provisions for such uses is made in this zoning Ordinance. Conditional uses are subject to evaluation and approval by the approval by the Board of Adjustment and are administrative in nature.

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

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

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

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

**Decommissioning.** To return the property to its pre-installation state or better as approved in the decommissioning plan.

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

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

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

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

**Dredging.** Any of various practices utilizing machines equipped with scooping or suction devices that are used to deepen harbors, lakes, and waterways and in underwater mining.

**Dwelling.** Any building, including seasonal housing structures, or a portion thereof, which is designed and used exclusively for residential purposes with living quarters.

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

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

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

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

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

**Electric Utility.** Any person operating, maintaining, or controlling in this state, equipment or facilities for providing electric service to or for the public including facilities owned by a municipality.

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

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

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

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

**Established Residence (in reference to Article XIII).** A non-seasonal dwelling established before the siting of new concentrated animal feeding operation or the expansion of an existing animal feeding operation which requires a conditional use permit.

**Exploration.** The act of searching for or investigating a mineral deposit. It includes, but is not limited to, sinking shafts, tunneling, drilling core and bore holes and digging pits or cuts and other works for the purpose of extracting samples prior to commencement of development of extraction operations, and the building of roads, access ways, and other facilities related to such work. The term does not include those activities which cause no or very little surface disturbance, such as airborne surveys and photographs, use of instruments or devices which are hand-carried or otherwise transported over the surface or make magnetic, radioactive, or other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not involved in exploration.

**Existing Farmstead.** The following criterion may be considered in defining an identifiable parcel as an existing farmstead:

1. Evidence that the proposed site was once used for human habitation within the last fifty (50) years. This may be determined by existence of buildings/foundations or wells and/or an established shelterbelt or by tax records.
2. Information regarding the location of flood plain, access to roads and utilities, and other appropriate site information may be considered in determining the suitability of the parcel for development.

3. Evidence that the proposed site was used as a farmstead supporting normal farming operations prior to January 3, 1975.
4. Evidence that the proposed site was used in the past as a farmstead for normal farming operation for at least five (5) years.

**Extended Home Occupation.** A home occupation conducted outside of the residence and/or in an accessory building and shall comply with Section 1209.

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

**Family.** One (1) or more persons related by blood, marriage, or adoption occupying a dwelling unit as an individual housekeeping organization. A family may include no more than five (5) adults not related by blood, marriage or adoption. This definition shall not include foster families as regulated by the State of South Dakota. {Ord. 26-02}

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

**Farm Equipment Repair and Sales.** The use of any building or land area for the display and sale of new and used farm equipment, including any warranty repair work and other repair service conducted as an accessory use. See Section 1229.

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

**Feedlot.** Feedlot means pens or similar areas with dirt, or concrete (or paved or hard) surfaces. Animals are exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type shade areas. Feedlot is synonymous with other industry terms such as open lot, pasture lot, dirt lot, or dry lot.

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

**Filling.** To reclaim land by filling in low-lying ground with soil.

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

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

**Fur Farm.** A farm on which animals, such as minks, are raised for their pelts.

**Game Lodge.** A building or group of two (2) or more detached, or semi-detached, or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and fishermen, who are lodged with or without meals, and in which there are sleeping quarters. Game Lodges shall also comply with Section 1222.

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

**General Compatibility with Adjacent Properties.** All uses listed as permitted or as conditional uses are generally compatible with other property in a specified zoning district. If such uses are not generally compatible, they should be prohibited within the specified district. Conditional uses may only be denied in accordance with definable criteria in order that an applicant may know under which circumstances a permit may be granted in this location. In Lake County, general compatibility refers to the manner of operation of a use. The Board of Adjustment may consider compatibility when prescribing conditions for approval of a permit, but those conditions should be uniformly required of similar uses under similar circumstances throughout the county.

**General Permit.** South Dakota General Water Pollution Control Permit for Concentrated Animal Feeding Operations

**Golf Course.** A tract of land for playing golf, improved with tees, greens, fairways, hazards, and which may include clubhouses and shelters.

**Grade.** Is established by the average natural grade within fifty (50) feet of the structure.

**Grading.** The act or method of moving soil to reshape the surface of land or a road to a desired level or grade.

**Grandfather"ed" Clause.** A clause in a law that allows for the continuation of an activity that was legal prior to passage of the law but would otherwise be illegal under the new law.

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

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

**Ground-Mount.** A solar energy system mounted on a rack or pole that rests or is attached to the ground.

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

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

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

1. Ignitable: A gas, liquid or solid which may cause fire through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.
2. Carcinogenic: A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: PCBs in some waste oils.
3. Explosive: A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.
4. Highly Toxic: A gas, liquid or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.
5. Moderately Toxic: A gas, liquid or solid which through repeated exposure or in a single large dose can be hazardous to man. Example: atrazine.
6. Corrosive: Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.

**Home Occupation.** An occupation engaged in by the occupants of a dwelling subject to Section 1223.

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

**Impound Lot.** A lot for the temporary storage of automobiles, trucks, buses, recreational vehicles, and similar vehicles. This use excludes vehicle repair, junkyard/salvage yard or dismantling and must comply with Section 1219.

**Incorporation.** A soil tillage operation following the surface application of manure which mixes the manure into the upper four (4) inches or more of soil.

**Injection.** The application of manure into the soil surface using equipment that discharges it beneath the surface.

**Institution Farm.** Agricultural land wholly owned by a government agency, federal, state, county, or municipality, and used to grow an agricultural commodity.

**Intermodal Shipping/Storage Container.** A six-sided metal unit constructed as a general cargo container used for the transport and storage of goods and materials. Intermodal shipping/storage containers do not include railroad cars, bus bodies, semi-trailers, and similar items designed to be permanently attached to a chassis. See image below.



**Inventory** (in reference to Article XIII). The total number of animal units located on a concentrated animal feeding operation.

**Junkyards/Salvage Yards**. The use of more than one thousand (1,000) square feet of any land, building, or structure, for commercial purposes, where waste, discarded materials such as scrap metals, used building materials, used lumber, used glass, discarded or inoperable vehicles, paper, rags, rubber, discarded appliances, cordage, barrels, and other similar materials are stored.

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

**Levee**. A man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Lagooning**. The process of creating a shallow body of water, separated from a larger body of water.

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

**Letter of Assurances**. A list of conditions signed by the applicant for a permit acknowledging agreement to follow the conditions of the permit.

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

**Living Quarters**. Means the rooms or areas within a building that are used for sleeping, cooking and bathing/toiletry.

**Lodging House**. A building or place where lodging is provided (or which is equipped to provide lodging regularly) by prearrangement for definite periods, for compensation, for three (3) or more persons in contradistinction to hotels open to transients.

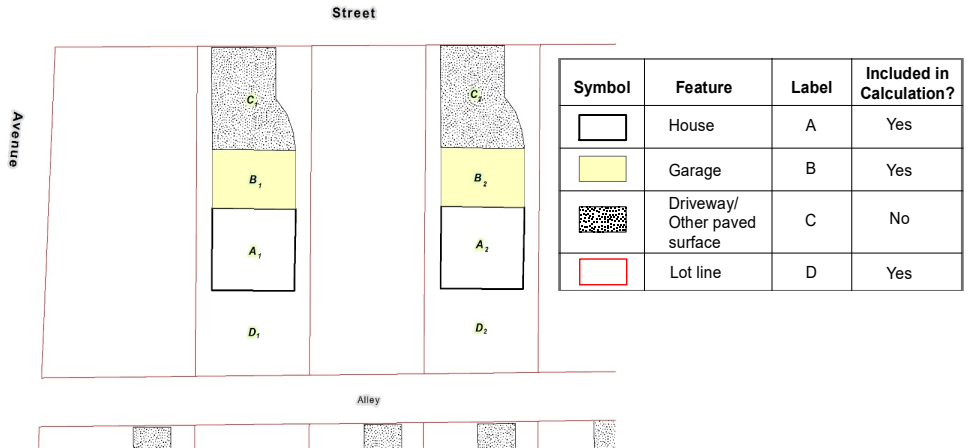
**Lot Area**. The lot area is the land in square feet, within the lot line.

**Lot, Buildable.**

1. A parcel of land occupied or intended for occupancy by a use permitted in this Ordinance including one (1) principal building together with its accessory buildings, the open spaces and parking spaces required by this ordinance.
2. A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds at the time of the adoption of this Ordinance, or an irregular tract lot described by a deed recorded in the office of the Register of Deeds at the time of the passage of this Ordinance; provided that if a lot has less width or area as required by this Ordinance, the lot is not a buildable lot.

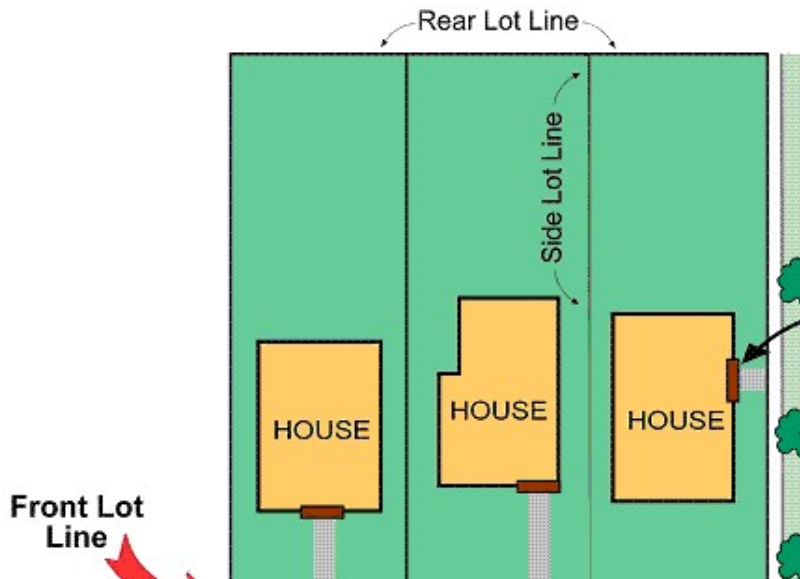
**Lot Coverage.** The percentage determined by dividing the area of a lot covered by the total (in square feet of (A) the footprint of the primary structure; and (B) the footprint(s) of all accessory structures by the total lot area (D). (See formula and figure below).

$$\text{Formula: } \frac{(A + B)}{D} = \text{Lot Coverage}$$



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

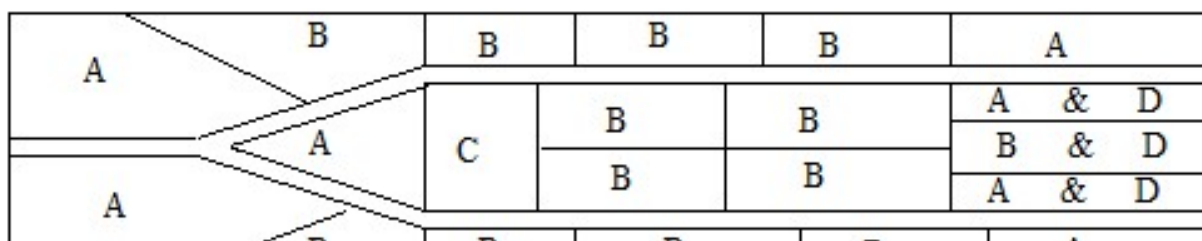
**Lot Line.** A line marking the legal limits of the property of a person. The term property line and lot line shall have the same meaning. There are three types of lot lines: Front, Side and Rear. See illustration below.



**Lot of Record.** A subdivision, the plat of which has been recorded in the office of the Register of Deeds, or a parcel of land the deed or agreement to convey to which was recorded in the office of the Register of Deeds prior to (February 3, 2026).

**Lot Types: See Lot Type Illustration below:**

### Lot Type Illustration



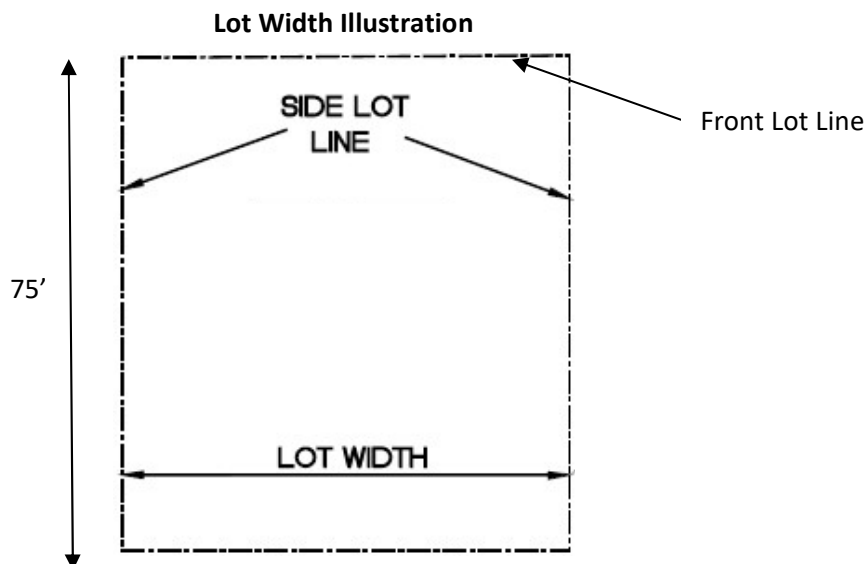
**Lot, Corner.** A lot abutting upon two (2) or more streets at their intersection. (Lot A and Lot A & D)

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

**Lot, Interior.** Defined as a lot other than a corner lot with only one frontage on a street. (Lot B)

**Lot, Through Lot.** Defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots. (Lot C and Lot C & D).

**Lot Width.** The width of a lot is the distance between straight side lot lines measured at the established front yard setback line. For example, in the Agricultural District the front yard setback is 75 feet. Therefore, the lot width is measured 75 feet from the Front Lot Line (see below).



**Manufactured Home.** See Section 1207.

**Manufactured Home Park.** Any premises used or set apart for supplying to the public parking space for one (1) or more Manufactured Homes for living and sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended for use by park residents. "Manufactured Home Park" shall not include automobile or manufactured home sales lots on which unoccupied manufactured homes are parked for the purposes of inspection and sale.

**Manure.** Poultry, livestock, or other animal excreta, bedding, compost and raw materials or other materials commingled with poultry, livestock, or other animal excreta set aside for disposal.

**Manure, Incorporated.** Animal manure applied to the land surface and mechanically mixed into the soil within twenty-four (24) hours.

**Manure, Injected.** Animal manure injected or tilled into the soil at the time of application.

**Manure, Liquid.** A suspension of livestock manure in water in which the concentration of manure solids is low enough to maintain a free-flowing fluid. Liquid manure also includes slurry which is a mixture of livestock manure, bedding and waste feed in water. Liquid manure and slurry is typically applied to fields by pumping through irrigation equipment or by hauling and spreading with a tank wagon. The solids content of liquid manure or slurry is less than ten (10) percent. A practical definition of liquid manure includes any livestock manure mixture that can be pumped through conventional liquid manure handling equipment.

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

**Mean Sea Level.** For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**Milling.** The processing or enhancing of a mineral.

**Mineral.** An inanimate constituent of the earth in a solid, liquid or gaseous state which, when extracted from the earth, is useable in its natural form as a metal, metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For the purpose of these regulations, this definition does not include surface or subsurface water, geothermal resources, or sand, gravel and quarry rock.

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

**Modular Home.** See Section 1207.

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

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

**Nonstandard Use.** The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance. See Figure 411.01.

**Nursery.** A place where trees, shrubs, vines and/or flower and vegetable plants are grown and/or are offered for sale, to be transplanted onto the lands of the purchaser by the purchaser or by the nursery establishment itself.

**Open Lot.** Pens or similar confinement areas with dirt, or concrete (or paved or hard) surfaces. Animals are exposed to the outside environment except for possible small portions affording some protection by windbreaks or small shed type shade areas. Synonymous with feedlot, pasture lot, dirt lot, dry lot.

**Ordinary High-Water Mark.** The elevation established by the South Dakota Water Management Board pursuant to SDCL 43-17. In those instances where the South Dakota Water Management Board has not established a high water mark the Board of Adjustment may consider the elevation line of permanent terrestrial vegetation to be used as the estimated high-water mark (elevation) solely for the purpose of the administration of this ordinance. When fill is required to meet this elevation, the fill shall be required to stabilize before construction is begun.

**Outdoor Storage.** The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than seventy-two (72) hours.

**Owner.** Any Person with fee title or a long-term (exceeding ten (10) years) leasehold to any parcel of land within Lake County who desires to develop, or construct, build, modify, or erect a structure upon such parcel of land.

**Park Homes.** Recreational homes primarily designed as temporary living quarters for recreation, camping or seasonal use. Park Homes are built on a single chassis and mounted on wheels. Each park model home is certified by the RPTIA member manufacturer as complying with ANSI A119.5.

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

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

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

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

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

**Photovoltaic System.** An active solar energy system that converts solar energy directly into electricity.

**Plat.** The map, drawing or chart on which the subdivider's plan of subdivision is legally recorded.

**Potential Pollution Hazard.** A Concentrated Animal Feeding Operation of fifty (50) to four hundred ninety-nine (499) animal units may be classified as a Class D Operation by the County Zoning Official when a potential pollution hazard exists. Factors to be considered by the Zoning Official in determining a potential pollution hazard include the following:

1. The Concentrated Animal Feeding Operation does not meet the minimum setback and separation distances of these regulations.
2. A Potential Water Pollution Hazard exists due to siting over a shallow aquifer or drainage which contributes directly to creeks, streams or lakes.

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

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

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

**Private Recreation Areas.** 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: campground, 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 is released for the purpose of hunting, for a fee, over an extended season.

**Private Wind Energy Conversion System (PWECS).** A Wind Energy System designed for the purpose of converting wind energy into electrical or mechanical power to be consumed substantially by the permittee. No PWECS installed in accordance with the requirements of these regulations will generate power as an electric utility as defined by SDCL 49-34A-1

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

**Process Wastewater.** Any process generated wastewater and any precipitation (rain or snow) that comes into contact with the animals, manure, litter or bedding, or other portions of the animal feeding operation, but not including feed storage areas.

**Public Wildlife Production Area –** Lands posted as a State or Federal Game Production Areas managed for wildlife purposes. These areas are regulated and may or may not provide public hunting

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

**Range (Target/Shooting).** Shall be defined as an area for the discharge of weapons for sport under controlled conditions where the object of the shooting is an inanimate object such as, but not limited to, paper, metal or wooden targets. The term range includes archery ranges. This term only applies to commercial ranges or ranges open to the public. See Section 1220.

**Range Officer.** Means the person designated to be responsible at a Range at any given time during any activity. A Range Officer shall be present on site at any Range when the range is in use.

**Recreational Vehicle.** A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A recreational vehicle does not include manufactured homes.

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

**REM (Roentgen Equivalent Man).** A measurement of the biological effects resulting from ionizing radiant energy where roentgen is the amount of radiation leading to the absorption of eighty-eight (88) ergs of energy per gram of air.

**Repair.** Reconstruction or renewal of any part of an existing building for the purpose of maintenance. The word "repair" or "repairs" shall not apply to any change of construction.

**Repair Shop, General Vehicle and Equipment.** A service commercial or general industrial establishment for the repair or replacement of parts including, but not limited to the following: auto body repair, 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. A repair shop does not include a junkyard/salvage yard, an impound lot, or an automobile gas/service station, or vehicle sales. See Section 1228.

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

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

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

**Runoff Control Basin.** A structure which collects and stores only precipitation-induced runoff from an animal feeding operation in which animals are confined to area which are unroofed or partial roofed and in which no crop, vegetation, or forage growth or residue cover is maintained during the period in which animals are confined in the operation.

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

**Sand, Gravel, or Quarry Operation.** An operation which uses surface excavation techniques in order to extract sand and/or gravel. If the operation is not used for commercial purposes or owned by a governmental entity, the operation is deemed to be a private sand gravel or quarry operation. See Section 1224.

**Sanitary Landfill.** A government-owned site for the disposal of garbage and other refuse material. See Section 1225.

**School.** Any building or part thereof, whether public or private, which is designed, constructed, or used for instruction in early childhood, elementary, or secondary education.

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

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

**Section Line.** A dividing line between two (2) sections of land as identified delineated by the United States Public Land Survey or a government lot per such survey.

**Service Station.** Any building or premises where automotive fuels are stored and made available for sale and dispensing through fixed equipment into fuel supply tanks or motor vehicles and where automotive supplies and accessories may or may not be available.

**Setback.** The setback of a building is the minimum horizontal distance between the street line and the front line of the building or any projection thereof, except cornices, unenclosed porches, and entrance vestibules and window bays projecting not more than three and one-half (3 ½) feet from the building and having no more than fifty (50) square feet area and not extending above the first story of the building.

**Setback Between Uses.** Unless specifically mentioned within this ordinance, the setback or separation distance between uses is the minimum horizontal distance measured from the wall line of a neighboring principal building to the wall line of the proposed building/structure/ use. In regard to concentrated animal feeding operations the separation distance shall be measured from the wall line of the neighboring principal building to the wall line of the feedlot or structure housing animals and/or manure management facility.

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

**Shelterbelt.** A strip or belt of trees or shrubs established to reduce soil erosion and to protect yards, lots, buildings, livestock and residences, recreation and wildlife from wind. Ornamental trees, generally used in front yards and spaced further than 13 feet apart and further do not extend lineally for a distance of over one hundred fifty (150) feet, are not considered shelterbelts. Ornamental trees may be placed within fifty (50) feet of the public road right-of-way subject to section 1208.

**Shop-Style Dwellings. See Section 1245.**

**Shorelands.** All land within one thousand (1,000) feet of a lake or pond and lands within three hundred (300) feet of a river or stream or to the landward side of the flood plain, whichever distance is greater.

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

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

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

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

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

**Significant Contributor of Pollution.** To determine if a concentrated animal feeding operation meets this definition, one or more of the following factors are considered and/or may be prescribed as conditions of granting a permit

1. Whether the site has or will obtain a General Water Pollution Control Permit for Concentrated Animal Feeding Operations from the South Dakota Department of Agriculture and Natural Resources; or
2. Whether the site will obtain a Certificate of Compliance from the South Dakota Department of Agriculture and Natural Resources; or
3. Whether engineered plans have been prepared/reviewed by an engineer licensed in the State of South Dakota to determine runoff and infiltration of solid waste will not exceed volumes allowed by the State of South Dakota Department of Agriculture and Natural Resources if a General Water Pollution Control Permit for Concentrated Animal Feeding Operations was applicable; or
4. Whether the changes to the existing manure management system is considered an improvement from existing practices at a site with no substantiated complaints prior to an application being made.

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

**Solar Collector.** A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

**Solar Energy.** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

**Solar Energy System (SES).** A commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A SES is the principal land use for the parcel on which it is located. A SES site may include an array of devices, or structural design features, the purpose of which is to provide for generation of electricity, the collection, storage and distribution of solar energy. See Section 1244.

**Special Permitted Use.** Any land use listed as a special permitted use within a zoning district that meets the specified criteria for certification.

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

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

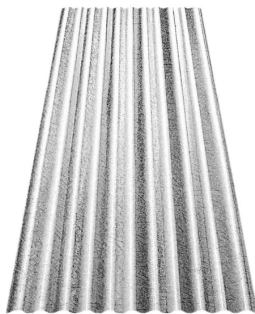
**Stable.** A building for the shelter and feeding of domestic animals, especially horses and cattle.

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

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

**Steel Siding, Corrugated.** A type of sheet iron or steel strengthened for use in construction by having a series of alternating grooves forced into it, not painted and usually galvanized for weather resistance. See figure below:

**Steel Siding, Corrugated Figure**



**Steel Siding, Non-Corrugated.** A system of colored metal panels customarily installed as a sheet that cover the exterior side of a wall of a residential or commercial building, which are not defined as corrugated steel siding, and customarily installed in a vertical manner but also capable of being installed horizontally. See figure below:

**Steel Siding, Non-corrugated Figure**



**Storage Facility, Private.** A non-commercial structure used for the purpose of storing private goods.

**Storage Facility, Commercial.** A building(s) for the storage of commercial or private goods and materials in individual units within a common structure.

**Street, Arterial.** A street designated as such on the Major Street Plan of the Comprehensive Land Use Plan of Lake County, South Dakota.

**Street, Collector.** A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of Lake County, South Dakota.

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

**Street, Highway or Road Right-of-Way (ROW) Line.** A dividing line between a lot or parcel of land and a contiguous street, highway or road. The location of a street, highway or road line shall be as shown on the County Section Plat.

**Street, Local.** Any street which is not an arterial street or collector street.

**Structural alterations.** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of a roof or the exterior walls.

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

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

**Telecommunications Facilities.** Means any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

1. Any satellite earth station antenna two (2) meters in diameter or less which is located in an area zoned industrial or commercial; or
2. Any satellite earth station antenna one (1) meter or less in diameter, regardless of zoning category.

**Ten Year Time of Travel Distance.** The distance that ground water will travel in ten (10) years. This distance is a function of aquifer permeability and water table slope

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

**Temporary Manure Storage Area.** An area for the temporary containment of animal manure. Said area is separate from pens or buildings where animal manure is stored for more than one year.

**Tree Farm.** Land dedicated to the growing and management of forest crops for commercial purposes. For the purposes of this ordinance, a tree farm does not include a tree nursery.

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

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

**Truck Garden.** A farm where fruit and vegetables are grown for market.

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

**Townhouse.** A townhouse is an attached single-family dwelling unit which is a part of and adjacent to other similarly owned single-family dwelling units that are connected to but separated from one another by a common party wall having no doors, windows, or other provisions for human passage or visibility. Differing from condominiums, townhouse ownership does include individual ownership of the land. There can also be common elements, such as a central courtyard, that would have shared use.

**Turbine.** The parts of the Wind Energy System including the blades, generator, and tail.

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

**Utility.** Any entity engaged in 1) The generation, transmission or distribution of electric or oil/natural gas energy; 2) The treatment, storage and distribution of potable water; 3) The collection, storage and treatment of domestic sanitary sewage; including, but not limited to, a private investor-owned utility, cooperatively owned utility, and a public or municipal utility.

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

**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.

**Violation.** The failure of a structure/use or other development to be fully compliant with this ordinance.

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

**Water Surface Elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

**Well.** An artificial excavation or opening in the ground, made by means of digging, boring, drilling, jetting, or by any other artificial method, for the purpose of obtaining groundwater. Any series of openings, borings, or drillings developed and pumped collectively by a single pump unit shall be considered as one well. (SDCL 46-1-6)

**Well, Abandoned.** A well which is in either such a state disrepair that its original purpose cannot be reasonably achieved, or which has not been used for water production in the past two (2) years.

**Well, Established.** A water producing well that is either registered with the State of South Dakota or has well logs on file with the South Dakota Department of Agriculture and Natural Resources or has been used for human consumption for more than one week within one (1) year prior to the application date for a proposed concentrated animal feeding operation.

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

**Wetlands.** Any area where ground water is at or near the surface a substantial part of the year; the boundary of which shall be defined as that area where the emergent aquatic vegetation ceases, and the surrounding upland vegetation begins.

**Wind Energy System (WES).** A commonly owned and/or managed integrated system that converts wind movement into electricity. All of the following are encompassed in this definition of system:

1. Tower or multiple towers,
2. Generator(s),
3. Blades,
4. Power collection systems, including padmount transformers;
5. Access roads, meteorological towers, on-site electric substation, control building, and other ancillary equipment and facilities; and
6. Electric interconnection systems or a portion thereof dedicated to the WES.

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

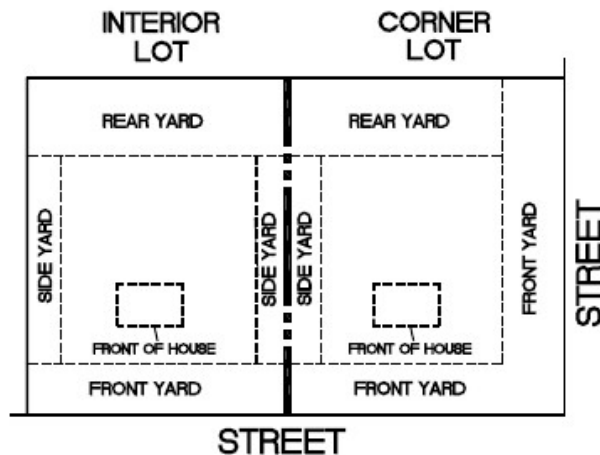
**Yard, Front.** A yard extending across the front of a lot between the side yard lines, and being the minimum horizontal distance between the road right-of-way line and the main bearing wall of the main building or any projections thereof other than the projections of the usual steps, unenclosed balconies or open porch. There shall be a front yard on each street which a lot abuts regardless of zoning district. (See Front, Side, and Rear Yard Illustration Below)

**Yard, Rear.** Any yard extending across the rear of a lot measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or bearing wall or any projections other than steps, unenclosed porches, or unenclosed balconies. On corner lots the rear yard may be to the rear of either street, provided that the minimum rear yard depth requirement shall be calculated on the longest average lot dimension. On interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard. (See Front, Side, and Rear Yard Illustration Below)

**Yard, Side.** A yard between the main building and the adjacent side line of the lot being the minimum horizontal distance between the bearing wall or any projections other than steps, unenclosed porches, or unenclosed balconies of the building and the side yard line, and extending from the front yard lot line to the rear yard lot line. (See Front, Side, and Rear Yard Illustration Below)

**Front, Rear and Side Yard Illustration**

\*Rear yard in the LP districts is the lake front.



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

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

**ARTICLE III  
ESTABLISHMENT OF DISTRICTS**

**Section 301. Districts.** For the purpose of this Ordinance, the unincorporated areas of the County may be divided into any of the following zoning districts: A–Agricultural; CI–Commercial/Industrial; NR–Natural Resources; PD Planned Development; LP-1; Lake Park 1; LP-2; Lake Park 2; LP-3; Lake Park 3; and TD–Town District. In addition to zoning districts, the AP–Aquifer Protection, CP–Corridor Preservation, and FP–Flood Damage Prevention zoning overlay districts impose special regulations on the property that may fall within these districts without abrogating the requirements imposed by the underlying land use district regulations.

**Section 302. Provision for Official Zoning Map.**

1. The unincorporated area of 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 Chairperson of the Board of 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 302 of the Ordinance 04-06 as amended, by Lake County, South Dakota.”

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

**Section 302A. Amendment of the Official Zoning Map**

1. If, in accordance with the provisions of this Ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Board of County Commissioners, with an entry on the Official Zoning Map as follows: “On \_\_\_\_\_ by official action of the Board of County Commissioners, the following change(s) were made in the Official Zoning Map:” (brief description of nature of change), which entry shall be signed by the Chairperson of the Board of County Commissioners and attested by the Auditor. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.
2. No changes of any nature shall be made on the Official Zoning Map or matter 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.

**Section 302B. Changes and/or Replacement of Official Zoning Map.**

In the event that the Official Zoning Map becomes damaged, destroyed, or lost, the Board of County Commissioners may by, ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Chairperson attested by the County Auditor, and bearing the seal of the County under the following words: “This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of Lake County, State of South Dakota.”

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

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

Amendments to the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Section 901 of these regulations.

**Section 303. Interpretation of District Boundaries.**

1. A district name or letter symbol shown on the district map indicates that the regulations pertaining to the district designated by that name or symbol extend throughout the whole area in the unincorporated portions of the County bounded by the district boundary lines.
2. In cases where the boundary line is given a position within a street, road, or non-navigable stream, it shall be deemed to be in the center of the street, road, or stream, and if the actual location of such street, road, or stream varies slightly from the location as shown on the district map, then the actual location shall control.
3. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
4. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from the railroad shall be measured from the center of the designated mainline track.
5. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines and where the districts designated on the Official Zoning Map accompanying and made a part of this Ordinance are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the map or by resolution.
6. In unsubdivided property, unless otherwise indicated, the district boundary line on the Official Zoning Map accompanying and made a part of this Ordinance shall be determined by the use of the scale contained on such map.

**Section 304. Disincorporation.** All territory which may hereafter become a part of the unincorporated area of the County by the disincorporation of any village, town or city, or for some other reason may fall within the zoning jurisdiction of the County, shall automatically be classified in the "A" Agricultural District until within a reasonable time following disincorporation, or acquisition of zoning jurisdiction, the territory shall be appropriately classified by Ordinance.

**Section 305. Application of District Regulations.** Except as hereafter provided:

1. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used except for a purpose listed as a permitted use special permitted use or conditional use in the district in which the building or land is located.
2. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit established for the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area and parking regulations of the district in which the building is located.
4. The minimum yards and other open spaces, including lot area per family, required by this Ordinance for each and every building at the time of passage of this Ordinance or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of this Ordinance.
5. All sign sizes, lighting, and locations shall, at a minimum, meet all State and Federal laws and regulations.

**Section 306. Prohibited Uses.**

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

**ARTICLE IV**  
**NONCONFORMING USES OR LOTS OF RECORD**

**Section 401. Purpose and Intent.** The purpose of this article is to provide for the regulation of nonconforming uses, buildings, and structures, and to specify those circumstances under which they shall be permitted to continue. Further, it is intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival.

**Section 402. Continuation of Nonconforming Uses.** Subject to the provisions of this article, the lawful use of a premise existing immediately prior to the effective date of this ordinance may be continued although such use does not conform to the provisions hereof.

**Section 403. Use Becoming Nonconforming by Change in Law or Boundaries.** Whenever the use of a premises becomes a nonconforming use through a change in zoning ordinance or district boundaries, such use may be continued, although the use does not conform to the provisions thereof.

**Section 404. Extension or Enlargement.** A nonconforming use shall not be enlarged, extended, converted, reconstructed, or structurally altered unless such use is changed to a use permitted in the district in which the premise is located.

**Section 405. Restoration After Damage.** When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than sixty (60) percent of its fair market cash value, it shall not be restored except in conformity with the provisions of the district in which the building is located. Such repair or reconstruction of such building shall be begun within six (6) months after such casualty and completed within a reasonable time thereafter. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.

**Section 406. Repairs and Maintenance.** On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the nonconformity of the structure shall not be increased.

**Section 407. Unsafe Nonconforming Use.** If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to the lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

**Section 408. Discontinuance of Nonconforming Use.** No nonconforming use, building, structure or premises, if once changed to conform to the requirements of this ordinance for the district in which it is located, shall ever be changed back so as to be nonconforming. In the event that a nonconforming use is discontinued or its normal operation stopped for more than one (1) year, any subsequent use shall thereafter be in conformity with the regulations of the district in which it is located and SDCL 11-2-17.7.

**Section 409. Effect on Use Which is Illegal Under Prior Law** Nothing in this Ordinance shall be interpreted as authorization for, or approval of, the continuance of the use of a building or premises in violation of zoning regulations in effect at the time of the effective date of this Ordinance.

**Section 4.10. Powers of the Planning Commission/Board of Adjustment.** Nothing contained in this Section shall be so construed as to abridge or curtail the powers of the County Planning Commission or Board of Adjustment as set forth elsewhere in this Ordinance.

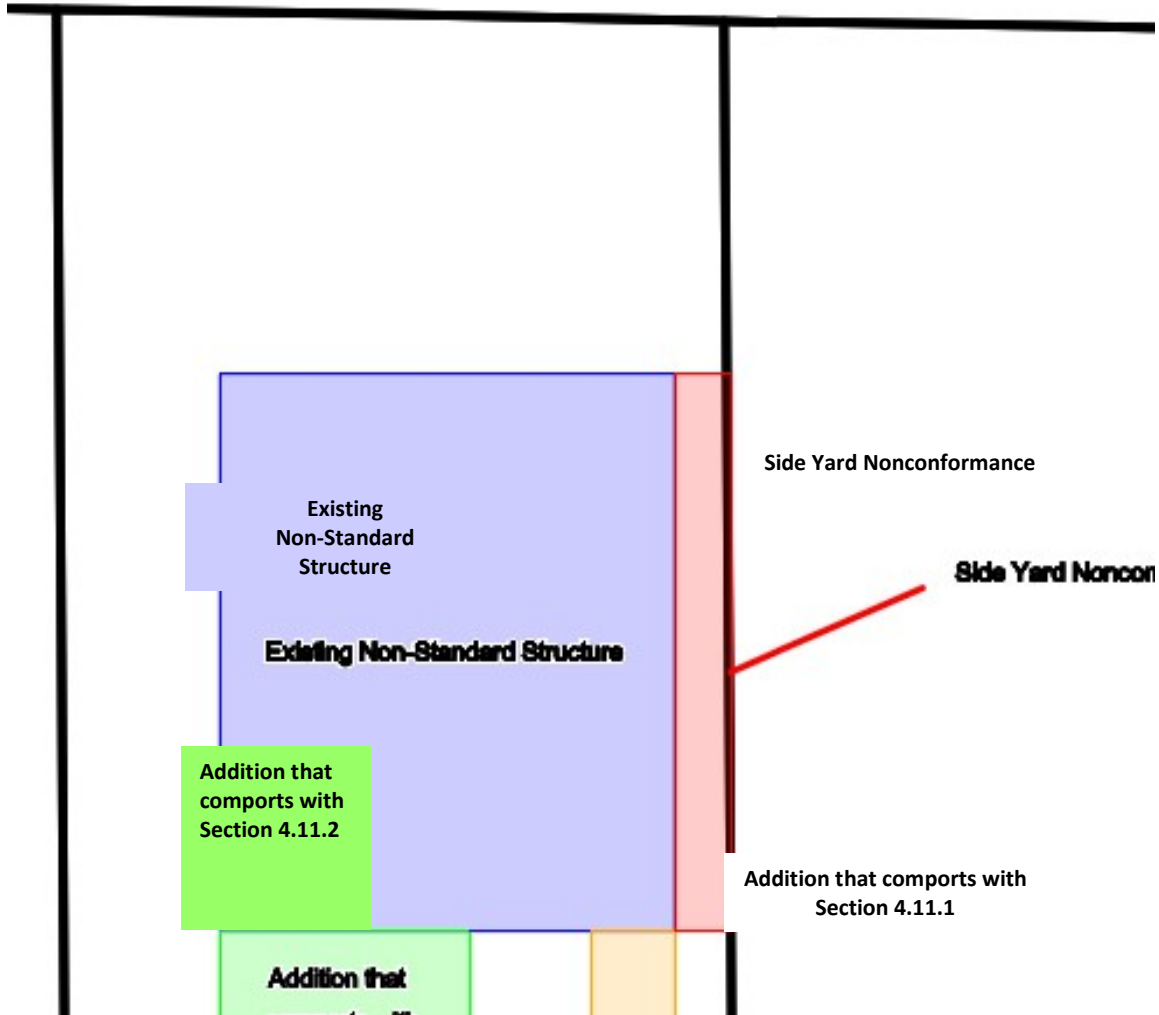
**Section 4.11. Continuation of Nonstandard Uses.** Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

1. The Zoning Official may allow the structural alteration, addition (enlargement or extension) of a non-standard structure provided such alteration(s) or addition(s) will be erected no closer to the lot line than the existing building's current non-conforming setback. (See Figure 411.01 below).
2. The Zoning Official may allow the structural alteration, addition (enlargement or extension) of a non-standard structure provided such alteration(s) or addition(s) conforms to all other ordinance requirements (i.e., lot area, height, landscaping, parking, and density for the district in which they are located). See Figure 411.01 below.

**Section 412. Nonconforming Lots of Record.**

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

Figure 411.01  
Example of Addition to a Non-Standard Structure



**ARTICLE V**  
**APPEALS, VARIANCE, SPECIAL PERMITTED USE, AND CONDITIONAL USES**

**Section 501. Establishment of the Board of Adjustment.** Within Lake County outside of incorporated municipalities, the power and jurisdiction related to this article shall be executed by the Board of Adjustment.

The Board of County Commissioners shall act as the Board of Adjustment.

- a. The Board of County Commissioners shall appoint two (2) alternates to the Board of Adjustment. If a County Commissioner acting as a Board of Adjustment member is unable to attend a meeting, the first alternate, or second alternate, in turn, shall serve in the member's place. Alternates may be appointed for a term of three (3) years.

**Section 502. Procedures for Meetings.**

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

**Section 503. Powers and Duties of the Board.**

The Board of Adjustment shall have the following powers and duties:

- a. Administrative Review. To hear and decide where it is alleged by the appellant that there is error in any order, requirement, permit decision, or determination made by the County Zoning Official or other administrative officers in the carrying out or enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map.
- b. Conditional Use. To hear and decide applications for conditional uses that are specified in this Ordinance and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.
- c. Variance. To hear and decide applications for variance from the terms of this Ordinance because of unnecessary hardship and to authorize upon appeal in specific cases such variance from the terms of this Ordinance as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship and so that the spirit of the ordinance is observed and substantial justice done.

**Section 504. Board of Adjustment has Powers of County Zoning Official on Appeals: Reversing Decision of County Zoning Official**

1. In exercising the above-mentioned powers, the Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appeal from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Official from whom the appeal is taken.
2. The concurring vote of two-thirds (2/3) of all members of the Board of Adjustment (four (4) votes) shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in the application of this Ordinance.

**Section 505. Appeals, Record of Appeal, Hearing and Stays.**

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning Official and that recourse from the decision of the Board of Adjustment shall be to the courts as provided by the laws of the State of South Dakota.
2. Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the Zoning Official, to grant or deny the permit. No other appeal such as relating to a ministerial act or other preliminary act to bring an application or matter before the board for hearing and a final decision is authorized.
3. Such appeals shall be taken within a reasonable time not to exceed twenty-one (21) days, as provided by the rules of the Board of Adjustment by filing with the Zoning Official a notice of appeal specifying the grounds thereof. The Zoning Official from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. All appeals relating to a particular action or property shall be consolidated and heard on an expedited basis. Such appeal shall be taken within thirty (30) days.
4. An appeal stays all proceedings in furtherance of the action appealed from, except ministerial or other preliminary acts necessary to allow consolidated appeals on all matters prior to final decision by the Board of Adjustment, or unless the Zoning Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.
5. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the office from whom the appeal is taken and on due cause shown.

6. The Board of Adjustment shall hear and decide, on not less than ten (10) days public notice prior to an affixed time and place for hearing appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Zoning Official or other administrative officers in carrying out the enforcement of any provision of this Ordinance, and for interpretation of the Zoning Map. The Board of Adjustment shall decide the appeal within sixty (60) days of receiving a notice of appeal. At the hearing, any party may appear in person or by agent or attorney.

**Section 5.06. Appeals to a Court of Record.**

Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, landowner, or any officer, department, board, or bureau of the County, may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board of Adjustment/Zoning Official.

The Board of Adjustment shall respond to the petition within thirty (30) days of receiving the notice of the filing and shall simultaneously submit the complete record of proceedings of the board appealed from, in the form of a return on a petition for writ, without need for a court order or formal issuance of writ.

A petitioner to the circuit court under this section shall pay all transcript costs required to complete the record of proceedings of the board appealed from.

**Section 507. Powers and Jurisdiction Relating to Conditional Uses.** The Board of Adjustment shall have the power to hear and decide, in accordance with the provisions of this Ordinance, requests for conditional uses or for decisions upon other special questions upon which the Board of Adjustment is authorized by this Ordinance to pass; to decide such questions as are involved in determining whether special conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance. A conditional use shall not be granted by the Board of Adjustment unless and until:

1. A written application for a conditional use is submitted, indicating the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested.
2. Notice of Board of Adjustment public hearing shall be published once, ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.
3. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
4. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the conditional use, and that the granting of the conditional use will not adversely affect the public interest.
5. Before acting on any conditional use, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangements have been made concerning the following, where applicable:

- a. Access:
  - i. The roads providing access to the property shall be determined to be adequate to meet the transportation demands of the proposed conditional use. The Board of Adjustment may require the applicant to enter into a written contract with the applicable road authority regarding the upgrading and continued maintenance of any roads used for conditional use requested prior to issuance of a Conditional Use Permit.
  - ii. Reasonable provisions have been made for safe vehicular and pedestrian entrance and exit of the property for daily and emergency traffic.
- b. Parking and internal traffic:
  - i. The parking areas and driveways will be covered in materials appropriate for the internal traffic generated by the use.
  - ii. The number of parking spaces is appropriate for the proposed use of the property.
- c. Utilities and refuse:
  - i. The manner by which electricity, water, sewer, natural gas, and other utilities will be provided has been described.
  - ii. Consideration has been given to the location of refuse and service areas and manner for disposing of trash, junk, or other debris.
- d. Screening, buffering, and open space:
  - i. The type, dimensions, and character of any fences, walls, hedges, or other materials used for screening; and/or open space is appropriate for the proposed use in reference the specific property.
- e. Lighting:
  - i. Lights associated with the use will not create a nuisance nor distract traffic.
  - ii. Brightness, intensity, glare of lights will be similar to lighting which would be customarily used for permitted uses in the applicable zoning district.
- f. General compatibility with adjacent properties and other property in the district.
  - i. Any use listed as a Conditional Use is generally compatible in the district it is listed.
  - ii. General compatibility is used when prescribing conditions for approval of a permit.

6. In granting any conditional use, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this regulation and punishable under the terms of this regulation.
7. The affirmative majority vote of the present and voting members of the Board of Adjustment is required to pass any application for a Conditional Use Permit.
8. Expiration of a Conditional Use Permit :
  - a. Unless otherwise specified by the Board of Adjustment, a conditional use permit shall expire one (1) year from the date upon which it becomes effective if no actual construction has commenced. Upon written request to the Board of Adjustment and prior to the conditional use permit expiration date, a one (1) year time extension for the conditional use may be granted by the Board of Adjustment.
  - b. If a decision by the Board of Adjustment to grant a conditional use permit is appealed to circuit court the conditional use permit that was granted does not expire for a period of two (2) years following completion of any final appeal of the decision.
9. The Board of Adjustment may, after notice and hearing, revoke a conditional use permit in the event of a violation of any of the conditions upon which such permit was issued. In addition, the conditional use permit may not be transferred during any violation.
10. Any alteration, construction, use of earthmoving equipment, or other change pursuant to a zoning permit or allowed land use on neighboring land that began after the date on which an application for a conditional use is received, and that causes the application to fail to meet one or more of the criteria or requirements for conditional use under the zoning ordinance, does not cause the request for a conditional use permit to be considered nonconforming until a final disposition of the conditional use request is determined pursuant to SDCL 11-2-61 or SDCL 11-2-65. If the conditional use permit is granted, the conditional use shall be considered a lawful use, lot, or occupancy of land or premises and may be continued even though the use, lot, or occupation does not conform to the provisions of the ordinance. If the conditional use is not pursued by the applicant for a period of more than one year, any subsequent use, lot, or occupancy of the land or premises shall conform with the zoning ordinance.
11. No application requesting a substantially similar conditional use permit on any such property which has been denied by the Board of Adjustment, shall again be considered by the Board of Adjustment before the expiration of twelve (12) months from the date of the previous final action of the Board of Adjustment.

**Section 508. Powers and Jurisdiction Relating to Variances.** The Board of Adjustment shall have the power, where, by reason of exception, narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantially impairing the intent and purpose of this Ordinance. A variance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted, indicating the section of this Ordinance under which the variance is sought and stating the grounds on which it is requested.
2. The Zoning Official shall require the applicant for a variance to notify adjoining property owners by First Class mail, at their last known address, of the public hearing time and date prior to the hearing of the Board of Adjustment.
3. Notice of Board of Adjustment hearing shall be published once, ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.
4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the variance, and that the granting of the variance will not adversely affect the public interest. No variance from the terms of this ordinance shall be granted by the Board of Adjustment if any of the following occur:
  - a. There are no special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are applicable to other land, structures, or buildings in the same district;
  - b. The literal interpretation of the provisions of this ordinance would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
  - c. The special conditions and circumstances result from the actions of the applicant;
  - d. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
  - e. The granting the variance request would confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
  - f. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
6. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this 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 the terms of this Ordinance.
7. 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.
8. The concurring vote of two thirds (2/3) of the full membership of the Board of Adjustment, four (4) votes is required to pass any application for a variance.

9. Expiration of a Variance

- a. Unless otherwise specified by the Board of Adjustment, a variance shall expire one (1) year from the date upon which it becomes effective if no actual construction has commenced. Upon written request to the Board of Adjustment and prior to the variance expiration date, a one (1) year time extension for the variance may be granted by the Board of Adjustment.
- b. If a decision by the Board of Adjustment to grant a variance is appealed to circuit court, the variance that is granted does not expire for a period of two (2) years following completion of any final appeal of the decision.

10. No application requesting a substantially similar variance on any such property which has been denied by the Board of Adjustment, shall again be considered by the Board of Adjustment before the expiration of twelve (12) months from the date of the previous final action of the Board of Adjustment.

**Section 509. Procedures for Approval of Special Permitted Use Permit**

1. The special permitted use procedure is an administrative review process, where the Zoning Official shall have the power to review an application for conformance with the applicable standards and approval criteria and issue a special permitted use permit. Requests for special permitted uses may be granted if it has been determined that the prescribed conditions for a specific use have been met or assurance has been provided that the conditions will be met. A special permitted use permit shall not be granted unless and until:
  - a. A written application for a special permitted use is submitted, indicating the section of this Ordinance under which the special permitted use is sought and stating the grounds on which it is requested.
  - b. The Zoning Official shall review the application for conformance with this ordinance.
  - c. If the Zoning Official determines that the application is in conformance with the prescribed performance standards, the Zoning Official shall make written findings certifying compliance with the specific standards governing the specific special permitted use permit and that satisfactory provisions and arrangements have been made concerning the prescribed conditions for the special permitted use permit.
  - d. The Zoning Official shall then issue the special permitted use permit subject to the applicant agreeing to any conditions prescribed by this ordinance or the Zoning Official for the special permitted use permit.
  - e. The Zoning Official shall then issue any other associated building/use permits.

- f. If the application does not meet all of the performance standards for the special permitted use, or the applicant fails to meet any of the prescribed conditions or safeguards; the Zoning Official shall make written findings certifying that the application is not in conformance with this Section and the specific standards governing the special permitted use and deny the application. The applicant may, as appropriate:
  - a. Apply for a variance from lot area, size of structure(s) or size of yards and open spaces
  - b. Apply for conditional use permit, if eligible.
  - c. Appeal the decision of the Zoning Official in accordance with Section 504.
  
- g. A special permitted use permit shall expire one (1) year from the date upon which it becomes effective if no actual construction has commenced. Upon written request to the Zoning Official and prior to the special permitted use expiration date, a one (1) year time extension for the special permitted use may be granted by the Zoning Official.
  
- h. If a decision by the Zoning Official to issue a special permitted use permit is appealed to circuit court, the special permitted use permit that was granted does not expire for a period of two (2) years following completion of any final appeal of the decision.

**ARTICLE VI  
PLANNING COMMISSION**

**Section 601. Planning Commission Establishment.**

1. The Lake County Planning Commission shall consist of the five (5) members of the Lake County Board of County Commissioners.

**Section 601.01. Term of Office.**

1. The term of each member of the County Planning Commission shall coincide with their respective County Commissioner term. Zoning Officials of the County may be appointed as ex-officio members of the Planning Commission.

**Section 601.02. Meetings of the Planning Commission**

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

**Section 601.03. Duties of Planning Commission**

The Planning Commission shall have the following duties:

1. Comprehensive Plan:

The Planning Commission may prepare, or cause to be prepared, a comprehensive plan for the county including those municipalities within the county which are either unincorporated, or which have requested by resolution of the governing board of such municipality to be included. Upon preparation the Planning Commission shall make recommendation to the Board of County Commissioners subject to SDCL 11-2-18.

2. Zoning Ordinance:

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

3. Subdivision:

- a. To develop and recommend regulations governing the subdivision of land within Lake County.
- b. To review proposals for subdivision to determine whether such subdivisions comply with the subdivision ordinance of Lake County and make recommendation to the Board of County Commissioners relating to the approval of subdivisions.

4. Amendments:

The Planning Commission may from time to time propose and make recommendation on amendments to the comprehensive plan, zoning ordinance, and subdivision regulations subject to SDCL 11-2-28.

**Section 601.04. Procedures for Meetings.**

1. The members of the Planning Commission shall select one (1) of their members as Chairperson and another as Vice-chairperson, who shall act as Chairperson in the Chairperson's absence. Both shall serve one (1) year terms or until their successors have been selected. Meetings of the Planning Commission shall be held at the call of the Chairperson and at such times as the Planning Commission shall determine.
2. The Chairperson, or in his or her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses in order to execute the purposes of this Article.
3. All meetings of the Planning Commission shall be open to the public and conducted in accordance with the rules established by the Planning Commission. The Planning Commission shall keep minutes of its proceedings and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Lake County Auditor's Office and shall be public record. The Planning Commission shall keep record in the minutes showing the vote of each member upon each question or if absent or failing to vote, indicating that fact.
4. A simple majority vote of a quorum of members of the Zoning Board in attendance is required to forward a recommendation, pertaining to its duties described in Section 601.03, on to the Board of County Commissioners.

**ARTICLE VII**  
**PERMITS, SCHEDULE OF FEES, CHARGES, AND EXPENSES**

**Section 701. Establishment of Fees.** The Board of County Commissioners shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this Ordinance, The schedule of fees shall be posted in the office of the County Zoning Official and may be altered or amended only by the Board of County Commissioners.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

**Section 702. Permits Required.**

1. No building or other structure shall be erected, moved, added to, structurally altered or used without a permit issued by the Zoning Official. The Zoning Official except in conformity with the provisions of this ordinance shall issue no permit, unless he/she received a written order from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this ordinance.
2. It shall be unlawful to commence the excavation for or the construction of any building or any accessory building, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Official has issued a building permit for such work. A building permit is also required for any filling, grading, lagooning, or dredging which is related to site preparation for future construction

**Section 703. Applications.**

1. Application for building and use permits shall be made to the Zoning Official. These forms shall be filled in by the owner, or authorized agent. All applications for permits shall be accompanied by a site plan, showing the actual dimensions and shape of the lot to be built or moved upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building(s) or alteration. The applicant shall also state the existing and intended use of all such buildings, and the location of existing or proposed water and sewer facilities. In the case of a change of use, the applicant shall, in writing, state the intended change. The application shall include such other information as lawfully may be required by the Zoning Official. All plans and data accompanying the permit shall be final and conclusive. Deviations shall be deemed a violation of this Ordinance, and punishable as provided in Section 802 and shall require a new building and use permit.

**Section 704. Building/Use Permit.**

1. Issuance of a Building/Use Permit. If the proposed excavation alteration, construction, or change of use, as set forth in the application for a Building/Use Permit are in conformity with the provisions of this Ordinance, and other regulations of the County then in force, and based upon the recommendation of the County's Building Permit Review Committee, the Zoning Official shall issue or deny a building/use permit for such excavation, construction, alteration or change in use within a reasonable time from the date the application is submitted.

2. If a building/use permit is refused, the Zoning Official shall notify the applicant by mail of such refusal to the applicant at the address indicated upon the application with the cause for denial.
3. A Building/Use Permit shall be deemed to authorize, and is required for both initial and continued occupancy and use of the building or land to which it applies, and shall continue in effect, so long as such building and the use thereof or the use of such land is in full conformity with the requirements of this ordinance and any requirements pursuant thereto. However, on the serving of a written notice by the Zoning Official of any violation of any of the said provisions or requirements with respect to any building or the use thereof or of land, the Building/Use Permit for such use shall without further action, be null and void, and a new Building/Use Permit shall be required for any further use of such building or land.
4. The issuance of a building/use permit shall, in no case, be construed as waiving any provisions of this Ordinance. A Building Permit shall become null and void eighteen (18) months from the date of issuance thereof unless substantial progress has been made by that date on the project described therein. If the work described in any building permit has not been substantially completed within eighteen (18) months of the date of issuance thereof, said permit shall expire and be cancelled by the Zoning Official and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building/use permit has been issued. If substantial progress has been made within eighteen (18) months from the issuance of the permit but has not been completed, the Zoning Official may extend the building/use permit and additional six (6) months.
5. Permits Displayed. It shall be unlawful to commence work until the building permit is displayed in a conspicuous place. The permit shall be placed upon the premises at all times from the beginning until the completion of such construction, alteration, repair, occupancy or change of use.

#### **Section 705. Building Standards.**

The design standard for any new construction commenced after July 1, 2021 shall be based on the standards established by South Dakota Codified Law Chapter 11-10-6. The provisions of this section do not apply to new construction for any one or two-family dwelling, mobile or manufactured home, townhouse, farmstead and any accessory structure or building thereto.

For purposes of this section the term, farmstead, means a farm or ranch, including any structure or building located on the land. The provisions of this section do not apply to any mobile or manufactured home as defined in chapter SDCL 32-7A which is used for purposes other than residential that is constructed in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of construction if the structure complies with applicable accessibility standards for the occupancy intended. The provisions of this section do not apply to any specialty resort or vacation home establishment as defined in chapter SDCL 34-18 that is constructed in compliance with the requirements of Group R-3 of the 2021 edition of the International Building Code.

**ARTICLE VIII**  
**ENFORCEMENT**

**Section 801. Zoning Official.**

1. The provisions of this Ordinance shall be administered by a County Zoning Official appointed by the Board of County Commissioners, who shall have the necessary authority to carry out his/her duties in the administration of this Ordinance.

**801.01. Duties.**

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

1. Issue all building/use permits and make and maintain records thereof.
2. Arrange for the inspections of buildings, structures, and the use of land to verify compliance the provisions of this Ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.
7. Prepare documents as required by this Ordinance, or at the direction of the Lake County Planning Commission and/or the Lake County Board of Adjustment and/or Lake County Commissioners.
8. Provide public information relative to all matters arising out of this Ordinance.
9. Forward to the Planning Commission all plats and/or applications for amendments to this Ordinance.
10. Forward to the Board of Adjustment, applications for appeals, conditional uses, variances, or other matters on which the Board of Adjustment is required to pass under this ordinance.
11. Initiate, direct, and review, from time to time, a study of the provisions of this ordinance, and to make such reports available to the Planning Commission.

12. The Zoning Official shall receive applications required under this ordinance, specifically but not limited to Building Permits, Special Permitted Uses, Conditional Uses, Variances, and Zoning Amendments.
  - a. For building permits, the Zoning Official shall approve the application only in accordance with the provisions of the County's Zoning Ordinance.
  - b. For Conditional Uses and Variances, the Zoning Official shall review the application, and shall make recommendations regarding said application to the Board of Adjustment.
  - c. For Zoning Amendments, the Zoning Official shall review the application, and shall make recommendations regarding said application to the Planning Commission and Board of County Commissioners.
  - d. For Special Permitted Use Permits, the Zoning Official shall approve the application only in accordance with the provisions of the County's Zoning Ordinance.

**Section 801.02. Stop Order.**

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

**Section 801.03. Occupancy Violation.**

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

**Section 802. Violation and Penalty.** Violations of the ordinance shall be treated in the manner specified below.

1. Any person who starts work for which a permit is required by this Zoning Ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All fees assessed there under shall be rounded to the nearest whole dollar.
  - a. Upon finding such violation, Lake County Planning and Zoning Staff shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the fee for the building permit plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars (\$5.00), including the postage costs.

- b. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the building permit fee. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (2) below.
  - c. Any administrative fee or penalty imposed under the provisions of this Zoning Ordinance shall be in addition to any other fees or charges required under this Zoning Ordinance.
2. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the Board of County Commissioners pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Zoning Ordinance may be subject to a civil or criminal penalty. The penalty for violation of this Zoning Ordinance shall be fine established by SDCL 22-6-2(2) for each violation, or by imprisonment for a period not to exceed thirty (30) days for each violation, or by both the fine and imprisonment, as determined by a court of record and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the Auditor and shall be credited to the General Fund of the County. {Ord. 26-02}
  3. In the event, any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of Lake County Board of Lake County Commissioners and/or Lake County Board of Adjustment in addition to other remedies, may institute injunction, mandamus or other appropriate actions or proceedings in a court of competent jurisdiction to prevent, restrain, correct or abate such violation, and it is the duty of the State's Attorney to institute such action.
  4. Any taxpayer of the County may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

**ARTICLE IX  
AMENDMENTS**

**Section 901 Zoning Amendments.**

1. Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the Planning Commission, as provided herein, the Board of County Commissioners may change zoning district boundaries, use groups, or the regulations established by this ordinance. A proposed change of zoning district boundaries in the following manners:
  - a. The Board of County Commissioners may direct the Planning Commission, to consider a change of zoning district boundaries or regulations;
  - b. The Planning Commission may initiate a change of zoning district boundaries or regulations;
  - c. One (1) or more of the owners of property within the area requested proposed to be rezoned may present a request to change the zoning district boundaries;
  - d. Initiated petitions specifying and requesting amendments to the regulations of this ordinance containing signatures of twenty (20) percent of the landowners in the zoning district or districts may be presented to the Zoning Official.
2. Unless otherwise provided for in these regulations, any change in these regulations, shall require Board of County Commissioners' approval of an ordinance describing said changes. The Board of County Commissioners may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance amendment.
3. The following procedure for requesting a Zoning Amendment or Zoning District Boundary Change shall be followed:
4. The landowner or other person(s) requesting the Amendment/Boundary change shall complete an application, available from the Zoning Official. Completed applications shall be returned to the Zoning Official for review. To be considered by the Planning Commission and Board of County Commissioners, the application form shall be completed and shall be accompanied by the following items:
  - a. Any required attachments and fees, including Registered or Certified Mail.
  - b. Any additional information, as requested by the Zoning Official, as lawfully may be required to determine conformance with and provide for enforcement of this ordinance.
  - c. The Zoning Official shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.

- d. The Zoning Official shall set the date, time, and place for public hearings to be held by the Planning Commission and Board of County Commissioners. The Zoning Official shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to each board's (Planning Commission, Board of Adjustment, Board of County Commissioners) public hearing. If the proposed amendment will change the boundaries of a zoning district, the Zoning Official shall notify all owners of property within two hundred fifty (250) feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing.
- e. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the office of the Zoning Official.
- f. The Planning Commission shall either recommend or not recommend approval of the amendment to the Board of County Commissioners.
- g. The Board of County Commissioners shall either approve or not approve the ordinance describing the proposed changes to these zoning regulations, in accordance with standard procedures for reading, approval, publication, and effective date.
- h. After passage, the Ordinance Amendment shall take effect on the 20<sup>th</sup> day after its publication in the official newspaper of the County.
- i. No application requesting a zoning ordinance amendment or district classification change which application includes any such property either entirely or substantially the same as that which has been denied by the County Commission, shall again be considered by the County Commission before the expiration of twelve (12) months from the date of the final action of the County Commission.

**ARTICLE X**  
**LEGAL STATUS PROVISIONS**

**Section 1001. Separability.** Should any article, section or provision 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 1002. Purpose of Catch Heads.** The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of an index and they shall be wholly disregarded by any person, Official, court or other tribunal in construing the terms and provisions of this Ordinance.

**Section 1003. Effective Date.** This Ordinance shall take effect and be in force from and after its passage and publication according to South Dakota Codified law.

**Section 1004. Repeal of Conflicting Ordinances.** All prior ordinances or parts of prior ordinances in conflict with this ordinance are hereby declared repealed. To the extent necessary to give this Ordinance full force and effect.

**ARTICLE XI  
ZONING DISTRICTS**

**Section 1101. "A" Agricultural District**

**1101.01. Purpose**

This district is established to preserve open space and maintain and promote farming and related activities within an environment which is generally free of other land use activities. The Agricultural District is further characterized, as land areas not yet ready for further development. Residential development, other than single-family farming units, will be discouraged to minimize conflicts with farming activities and reduce the demand for expanded public services and facilities.

**1101.02. Permitted Uses**

1. Agricultural activities and farm related buildings, excluding Class A, B, and C Concentrated Animal Feeding Operations.
2. Site-built single-family dwellings and Type A and Type B manufactured homes.
3. Public fisheries services and game propagation areas (Public wildlife production areas).
4. Public parks and recreation areas.
5. Temporary structures used for the sale of fireworks between June 27<sup>th</sup> and July 5<sup>th</sup> and between December 28 – January 1 provided that there have been no past documented/verified complaints or violations regarding previous sales.
6. Temporary structures used for the sale of produce raised on-premises provided that there have been no past documented/verified complaints or violations regarding previous sales.
7. Class D Concentrated Animal Feeding Operations.
8. Essential Public Services
9. Shop-style dwelling in accordance with Section 1245.
10. Intermodal shipping containers as an accessory use in accordance with Section 1231.

**1101.03. Accessory Uses**

The following accessory uses and structures shall be permitted in the "A" Agricultural District:

1. Accessory buildings and uses customarily incidental to permitted uses, special permitted uses or conditional uses in accordance with Section 1231;
2. Roadside stands for sales of agricultural products grown or produced on the premises.

3. On-premise signs in accordance with Section 1227.
4. Home occupation in accordance with Section 1223.

**1101.04. Special Permitted Uses.**

1. Reserved.

**1101.05. Conditional Uses.**

1. Airports and airstrips.
2. Church or cemetery.
3. Golf course, golf driving range, and golf clubhouse.
4. Sand, gravel or quarry operation; mineral exploration and extraction; rock crushers; and concrete and asphalt mixing plants provided that they meet the requirements of Section 1224 as applicable.
5. School.
6. Game Lodge.
7. Sanitary Landfills, Rubble sites, composting sites, waste tire sites, restricted use sites, and other sites governed by the South Dakota Department of Environment and Natural Resources permits for solid waste provided they meet the requirements of Section 1225.
8. Land application of petroleum-contaminated soils.
9. Institution farms, including religious farming communities.
10. Bed and breakfast home.
11. Domestic sanitary Sewage treatment plant/facility; provided they meet the requirements of Section 1221.
12. Class A, Class B, and Class C Concentrated Animal Feeding Operations. (See Concentrated Animal Feeding Operations, Article XIII.)
13. Commercial stables.
14. Veterinary clinics.
15. Junkyards/salvage yards, provided that they meet the requirements of Section 1226.
16. Solar Energy Systems in accordance with Section 1244.
17. Wireless telecommunications towers and facilities in accordance with Section 1213.

18. Commercial public entertainment enterprises not involving retail sales and are not normally accommodated in commercial areas, including but not limited to, the following: music concerts, rodeos, tractor pulls, wedding venues, and animal and vehicle races;
19. Group Homes
20. Extended home occupation in accordance with Section 1209.
21. Non-agriculturally related accessory structures constructed prior to a principle structure.
22. Livestock sales barns.
23. Seasonal retail stands – including produce and fireworks – utilizing a permanent structure.
24. Fur farms and kennels.
25. Private shooting preserves.
26. Wind energy system (WES) in accordance with Section 1212.
27. Commercial Orchards, tree farms, truck gardening, nurseries and greenhouses.
28. Animal husbandry service.
29. Horticultural services.
30. Contractor shops and yards.
31. Temporary structures used for the sale of fireworks between June 27<sup>th</sup> and July 5<sup>th</sup> and between December 28 – January 1 which have had past complaints or violations regarding previous sales.
32. Private wind energy conversion system (PWECS) in accordance with Section 1218.
33. Target range – See Section 1220.
34. Automotive Tow Business/Impound Lot in accordance with Section 1219.
35. Off-premises signs. In accordance with Section 1227.
36. Repair shops, general vehicle and equipment in accordance with Section 1228.
37. Agricultural product processing facilities.
38. Aquaculture.
39. Private recreation areas.
40. Farm equipment repair, sales and service in accordance with Section 1229.

41. Commercial storage facilities as an extended home occupation in accordance with Section 1209.

**1101.06. Area Regulations.**

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

1. Front Yard

Structures on all corner lots shall observe two (2) front yards. The depth of the front yard on each street which the lot abuts shall be not less than seventy-five (75) feet from the road right-of-way and in no case shall an accessory building be located or extended into the front yard.

2. Side Yard

There shall be a side yard on each side of building having a width of not less than thirty (30) feet.

3. Rear Yard

There shall be a rear yard having a depth of not less than fifty (50) feet or twenty percent (20%) of the depth of the buildable lot.

4. Intensity of Use

a. Minimum Lot Size:

- i. The minimum lot size for permitted uses shall be a minimum of one (1) acre, except as provided within this Section.
- ii. The minimum lot size for permitted uses situated over the Aquifer Protection Overlay District shall be a minimum of five (5) acres)
- iii. The minimum lot size for single-family dwellings in the areas of the county identified in the comprehensive land use plan as Areas of Development Stability shall be a minimum of twenty (20) acres.
- iv. The minimum lot size for single-family dwellings in the areas of the county identified in the Comprehensive Land Use Plan as “Areas of Development Stability Waiver Required”, and “Areas of Development Stability No Waiver Required” shall be a minimum of one (1) acre.
- v. The Board of Adjustment may allow a smaller minimum lot requirement for residential development in the “A” Agricultural District under the following conditions:
  - a. Where a permit for a single-family home is requested on an existing farmstead, provided:
    - 1) The dwelling is located on the same legal description as the existing farmstead.

- 2) The maximum number of dwelling units within the existing farmstead will not exceed two (2).
  - 3) The dwelling is to be occupied by employees or relatives of the farm owner (existing farming operation).
  - 4) The additional single-family farm dwelling shall be removed in the event the structure becomes a non-farm dwelling.
  - 5) Where an existing farmstead is to be divided from adjacent farmland into a single separate parcel of five (5) acres or more.
    - b) The right-of-way is not included in calculating the minimum lot area.
    - c) There shall be no more than four (4) dwellings per quarter of a quarter section of land, not including existing farmsteads.
    - d) Any parcel with a lots size less than twenty (20) acres created after May 8, 2006 shall be required to platted in order to obtain building rights.
5. Lot Width. All lots shall have a minimum width of one hundred fifty (150) feet.

**1101.07. Height Regulations.**

No main buildings shall exceed two and one-half (2 ½) stores or thirty-five (35) feet in height. Exceptions include the following:

1. Agricultural buildings.
2. Chimneys, smokestacks, cooling towers.
3. Wireless telecommunications towers and facilities.
4. Water tanks.
5. Elevators.
6. Wind energy systems (WES).
7. Private wind energy systems (PWECS) in accordance with Section 1218.
8. Others, providing that they are not used for human occupancy.

**1101.08. Covenants/Waivers.**

1. A right to farm notice covenant must be filed with Register of Deeds on all property to be used as a site for a newly constructed residence (farm and non-farm) prior to issuance of a building permit. See Section 1215.
2. In areas identified in the Comprehensive Land Use Plan as Areas of Development Stability-Waiver Required: Applicants for residential development (farm and non-farm) are required to obtain a written waiver from the owner/operator of any existing concentrated animal feeding operation which is closer than one-half (1/2) mile from the proposed residential building site. If the applicant is unable to obtain the written waiver, he/she shall be required to file an acknowledgment of an existing concentrated animal feeding operation with the Register of Deeds. See Section 1216.

**1101.09. Access.**

1. The location of driveways accessing individual parcels shall be separated from adjacent driveways on the same side of the road by the following separation distances:
  - a. Roads identified on the Major Street plan as:
    - i. Local road: One hundred (100) foot separation distance.
    - ii. Collector road: Three hundred (300) foot separation distance.
    - iii. Arterial road: Five hundred (500) foot separation distance
2. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit

## **Section 1102. "CI" Commercial/Industrial District**

### **1102.01. Purpose**

The "CI" District is intended to provide areas for commercial and industrial activities, which require paved highway access, and further are oriented primarily to, and supportive of, farming and other activities which are determined to be appropriate in the rural area. Industrial uses which produce smoke, noise, dust, odor, and/or heavy traffic and large outdoor storage areas shall require special review and consideration.

### **1102.02. Permitted Use**

1. Field crops and grasslands.
2. On-premise signs.
3. Orchards and tree farms.
4. Temporary structures used for the sale of fireworks between June 27<sup>th</sup> and July 5<sup>th</sup> provided that there have been no past complaints or violations regarding previous sales.
5. Temporary structures used for the sale of produce raised provided that there have been no past complaints or violations regarding previous sales.

### **1102.03. Accessory Uses**

The following accessory uses and structures shall be permitted in the "CI" Commercial/Industrial District:

1. Accessory buildings and uses customarily incidental to permitted uses, special permitted uses or conditional uses in accordance with Section 1231;
2. On-premise signs in accordance with Section 1227.

### **1102.04. Special Permitted Use**

1. Intermodal shipping containers as an accessory use in accordance with Section 1231.

### **1102.05. Conditional Uses**

1. Implement sales and service.
2. Truck terminals and freight warehouses.
3. Seed sales and grain storage, fertilizer and chemical storage and sales.
4. Highway and street maintenance shops, operated by a government institution.
5. Welding and machine shops.

6. Public and private utilities.
7. Livestock sales.
8. Contractors' shops and yards including offices when in conjunction with a shop or yard.
9. Wholesale distributing companies.
10. Restaurants.
11. Motels, hotels.
12. Kennel with or without animal grooming
13. Adult Uses.
14. Cannabis Dispensary in accordance with Section 1230.
15. Commercial stables.
16. Recreation vehicle sales.
17. Bar/Tavern.
18. Veterinary clinics.
19. Wireless telecommunication towers and facilities.
20. Private Wind Energy System (PWECS) in accordance with Section 1218.
21. Convenience store/service station.
22. Seasonal retail stands – utilizing a permanent structure.
23. Commercial orchards, tree farms, truck gardening, and greenhouses – with retail sales.
24. Off-premise signs.
25. Light manufacturing.
26. Commercial animal husbandry service.
27. Agricultural product processing facilities such as ethanol plants and corn/soybean processing.
28. Retail sales and trade.
29. Automotive Tow Business/Impound Lot in accordance with Section 1219.

30. Gas, oil and liquid propane stations including bulk stations.

### **1102.05. Area Regulations**

#### 1. Lot Area

Lot area shall be determined by need, setback, side yards, rear yards, parking requirements, freight handling requirements, building site and future expansion; however, in no case shall a lot have less than two (2) acres, not to include the public road right-of-way. An applicant for a conditional use shall provide a proposed site plan which can be reviewed by the Board of Adjustment. For commercial and industrial uses, buildings shall occupy no more than twenty-five percent (25%) of the lot.

##### a. Front Yard

Structures on all corner lots shall observe two (2) front yards. The depth of the front yard on each street which the lot abuts, shall be not less than one hundred (100) feet in depth.

##### b. Side Yards

On lots adjacent to a residential area, all buildings and incidental areas shall be located so as to provide a minimum side yard of one hundred (100) feet, which shall be landscaped on the side adjacent to the residential area. All other side yards shall be a minimum of fifty (50) feet.

##### c. Rear Yards

No building shall be constructed within fifty (50) feet of the rear lot line. The rear yard shall be one hundred (100) feet if the lot abuts a State or County asphalt paved/concrete highway.

##### d. Height Regulations. No building shall exceed four (4) stories or fifty (50) feet in height.

### **1102.06. Performance Standards.** All commercial and industrial uses shall meet the following standards

1. Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
2. Air Pollution. State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.
3. Odor. The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
4. Glare, Heat or Radiation. Every use shall be so operated that there is no emission of heat, glare or radiation visible or discernable beyond the property line.

5. Vibration. Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
6. Sewage and Liquid Wastes. No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radioactive nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.
7. Fire Hazard. All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Fire Protection Standards (NFPA) and any additional regulations that may from time to time be adopted by the County Commissioners
8. Physical Appearance. All operations shall be carried on within an enclosed building except that new or operable equipment may be displayed or stored in the open and waste materials stored in enclosed containers not readily visible from the street.

**11.02.07. Access**

1. The location of driveways accessing individual parcels shall be separated from adjacent driveways on the same side of the road by the following separation distances:
  - a. Roads identified on the Major Street Plan as:
    - i. Local road: One hundred (100) foot separation distance.
    - ii. Collector road: Three hundred (300) foot separation distance.
    - iii. Arterial road: Five hundred (500) foot separation distance
2. For all proposed uses and structures adjacent to a State highway, an access permit from the State of South Dakota Department of Transportation shall be required prior to the filing of a plat or the issuance of a building/use permit.
3. It is required that all property in the "CI" District have access to an asphalt paved or concrete highway.

## **Section 1103. "LP-1" Lake-Park District-1**

### **1103.01. Purpose**

The Lake-Park District-1 is established to provide for orderly residential and recreational development, together with certain public facilities, customary home occupations, and certain recreation oriented commercial establishments, normally associated with lake shore development.

### **1103.02. Permitted Uses**

1. Site-built Single-family dwelling.
2. Public parks and recreation areas.
3. Agriculture and horticulture uses excluding concentrated animal feeding operations.
4. Type A Manufactured Homes with permanent foundations.
5. Essential public services .
6. Unattached garages and accessory buildings limited to maximum dimensions of one thousand five hundred (1,500) square feet, and sidewalls that have a maximum height of fourteen (14) feet.
7. Satellite dish meeting setback requirements.
8. Modular homes.

### **1103.03. Accessory Uses**

The following accessory uses and structures shall be permitted in the "LP-1" Lake Park District:

1. Accessory buildings and uses customarily incidental to permitted uses, special permitted uses or conditional uses in accordance with Section 1231;
2. Accessory structures with living quarters on back lots in accordance with Section 1231.
3. On-premise signs in accordance with Section 1227.
4. Home occupation in accordance with Section 1223.
5. Shop-style dwelling in accordance with Section 1245.

### **1103.04. Special Permitted Use**

1. Steel siding on principal and accessory uses in accordance with Section 1231.
2. Unattached garages exceeding maximum sidewall height and/or maximum area dimensions in accordance with Section 1231.

**1103.05. Conditional Uses**

1. Grocery store.
2. Resorts.
3. Restaurants.
4. Boat houses with or without living quarters
5. Multiple family dwellings, including townhouses, attached to a central sewer operated by a sanitary sewer district
6. (Reserved) {Ord. 26-02}
7. Bait shop.
8. Golf course, driving range, clubhouse and related accessory uses.
9. Bar, tavern, or lounge.
10. Convenience store.
11. Recreational sales.
12. Rental services.
13. Outdoor music event.
14. Detached accessory structures on the lake front with living quarters in accordance with Section 1231.

**1103.06. Area Regulations:** See Table 1103.06.1 Lake Park Districts 1 and 2 Schedule of Regulations .

**TABLE 1103.06.1  
LAKE PARK DISTRICTS 1 AND 2  
SCHEDULE OF REGULATIONS**

	<b>Minimum Density (Sq. Ft./Du) (1)</b>	<b>Minimum Lot (Sq. Ft./Du)</b>	<b>Minimum Lot Width</b>	<b>Minimum Side Yard</b>	<b>Minimum Front Yard (Road Front) (2)</b>	<b>Minimum Rear Yard (Lake Front) (3)</b>	<b>Maximum Height</b>
<b>Central Sewer/Rural Water</b>							
<b>Single Family Dwelling Use</b>	9,600	9,600	75'	5'	30'	25'	35'
<b>Multiple Family Dwelling Use</b>	2500	10,000	75'	10'	30'	25'	45'
<b>Commercial Use</b>	N/A	20,000	125'	10'	30'	25'	45'
<b>Rural Water/Septic Tank or Holding Tank</b>							
<b>Single Family Dwelling Use (4)</b>	20,000	20,000	75'	10'	30'	25'	30'
<b>Well/Septic Tank</b>							
<b>Single Family Dwelling Use</b>	43,560	43,560	75'	20'	30'	25'	30'

b. d.u. – Dwelling Unit

- (2) Side of lot facing road right-of-way or access easement.
  - a. Permitted uses shall have a front yard (road front) of no less than thirty (30) feet when adjacent to a public road. However, the front setback may be specified to equal the average of existing setbacks on lots located on the same side of the public street in the same block as the lot proposed to be built on. But in no case shall the setback line be less than twelve (12) feet from the public street right-of-way. Permitted uses shall have a front yard (road front) of no less than ten (10) feet when adjacent to a private road or platted public alley.
  - b. Structures on all corner lots shall observe two (2) front yards. However, a building may be erected or reconstructed or altered in such a way as long as a portion thereof may not be closer to the street line than the average improved building front on that street in that block, but in no case shall the front yard (road front) set-back line be less than twelve (12) feet from the road front lot line.
  - c. Accessory buildings may be built in a required front yard (road front) but such accessory building shall not occupy more than thirty percent (30%) of a required front yard (road front) and shall not be nearer than two (2) feet to any side or rear lot line, except that when a garage is entered from an alley it shall not be located closer than ten (10) feet to the alley line. If a garage is located closer than ten (10) feet to the main building the garage shall be regarded as part of the main building for the purpose of determining side and rear yards and the distance back from the front property line.
- (3)
  - a. All structures, except boathouses, in addition to meeting the twenty-five (25)-foot setback from ordinary high water mark adjacent to lakes must also be four (4) feet above ordinary high water mark.
- (4)
  - a. Minimum density and minimum lot area at Lake Herman shall be 22,000 square feet

**1103.07. Shoreline Alterations, Filling, Grading, Dredging, and Lagooning.** {Ord. 26-02}

- 1. Shoreline stabilization, filling, grading, dredging, and lagooning projects in the “NR” District shall be governed by Section 1237.

## **Section 1104. "LP-2" Lake Park District-2**

### **1104.01. Purpose** {Ord. 26-02}

The Lake-Park District- 2 is established to provide for orderly residential and recreational development, together with certain public facilities, customary home occupations, and certain recreation oriented commercial establishments normally associated with lake shore development.

### **1104.02. Permitted Uses**

1. Site-built Single-family dwelling.
2. Public parks and recreation areas.
3. Agriculture and horticulture uses excluding concentrated animal feeding operations.
4. Type A and B Manufactured Homes with permanent foundations.
5. Essential public services
6. Unattached garages and accessory buildings limited to maximum dimensions of one thousand five hundred (1,500) square feet, and sidewalls that have a maximum height of fourteen (14) feet.
7. Satellite dish meeting setback requirements.
8. Modular Homes.

### **1104.03. Accessory Uses**

The following accessory uses and structures shall be permitted in the "LP-2" Lake Park District:

1. Accessory buildings and uses customarily incidental to permitted uses, special permitted uses or conditional uses in accordance with Section 1231;
2. Accessory structures with living quarters on back lots in accordance with Section 1231.
3. On-premise signs in accordance with Section 1227.
4. Home occupation in accordance with Section 1223.

### **1104.04. Special Permitted Use**

1. Steel siding on principal and accessory uses in accordance with Section 1231.
2. Unattached garages exceeding maximum sidewall height and/or maximum area dimensions in accordance with Section 1231.

3. Shop-style dwelling in accordance with Section 1245.

**1104.05. Conditional Uses**

1. Private parks and campgrounds in accordance with Section 1238.
2. Resorts.
3. Restaurants.
4. Boat houses adjacent to lake shore.
5. (Reserved) {Ord. 26-02}
6. Multiple family dwellings, including townhouses attached to a central sewer operated by a sanitary sewer district.
7. Bait shop.
8. Rental services.
9. Grocery store.
10. Bar, tavern, or lounge.
11. Convenience store.
12. Recreational sales.
13. Outdoor music event.
14. Manufactured home park in accordance with Section 1241.
15. Leased single-family lake development in accordance with Section 1242.
16. Detached accessory structures on the lake front with living quarters in accordance with Section 1231.

**1104.06. Area Regulations:** See Table 1103.06.1 Lake Park Districts 1 and 2 Schedule of Regulations .

**Section 1105. “LP-3” Lake-Park District-3**

**1105.01. Purpose**

The Lake-Park District-3 is established to provide for oversized private and commercial storage facilities.

**1105.02. Permitted Uses**

1. Private and commercial storage facilities containing no more than five thousand four hundred (5,400) square feet and do not have sidewalls with a height greater than sixteen (16) feet.

**1105.03. Accessory Uses**

The following accessory uses and structures shall be permitted in the “LP-3” Lake Park District:

1. Accessory buildings and uses customarily incidental to permitted uses, special permitted uses or conditional uses in accordance with Section 1231;
2. On-premise signs in accordance with Section 1227.

**1105.04. Conditional Uses**

1. Private and commercial storage facilities containing more than five thousand four hundred (5,400) square feet and/or having sidewalls with a height greater than sixteen (16) feet.

**1105.05. Area Regulations:** See Table 1105.05.1 Lake Park Districts 3 Schedule of Regulations .

**TABLE 1105.05.1  
LAKE PARK DISTRICT 3 SCHEDULE OF REGULATIONS**

	<b>Minimum Density (Sq. Ft.)</b>	<b>Minimum Lot Depth</b>	<b>Minimum Lot Width</b>	<b>Minimum Side Yard</b>	<b>Minimum Front Yard (Road Front)</b>	<b>Minimum Rear Yard</b>	<b>Maximum Height</b>
<b>Storage Facility</b>	8,000	160'	50'	5'	20'	5'	30'

- a. All structures, except boathouses, in addition to meeting the 25-foot setback from normal high water mark adjacent to lakes must also be four (4) feet above normal high water mark.
- b. (Reserved)
- c. Structures on all corner lots shall observe two (2) front yards.
- d. (reserved)
- e. (reserved)
- f. Where any permitted use is adjacent to any residential use, said permitted use may be required to be appropriately screened per Section 1201.

### **Section 1107. "TD" Town District.**

**1107.01 Purpose.** The Town District is established to provide for orderly low-density residential development, together with certain public facilities, and commercial/industrial uses which are not detrimental in the unincorporated towns of Rutland, Junius, Franklin, Chester, and Winfred.

### **1107.02. Permitted Uses.**

1. Site built single-family dwellings, and Type A and Type B Manufactured Homes.
2. Public parks.
3. Agriculture and horticulture uses, excluding concentrated animal feeding operations.
4. Home occupations.
5. Modular homes.
6. Churches.
7. Multi-family housing.
8. Accessory uses and buildings subordinate to uses listed as a permitted use or conditional use.

### **1107.03. Accessory Uses**

The following accessory uses and structures shall be permitted in the "TD" Town District:

1. Accessory buildings and uses customarily incidental to permitted uses, special permitted uses or conditional uses in accordance with Section 1231;
2. On-premise signs in accordance with Section 1227.
3. Home occupation in accordance with Section 1223.

### **1107.04. Special Permitted Use**

1. Steel siding on principal and accessory uses in accordance with Section 1231.
2. Unattached garages exceeding maximum sidewall height and/or maximum area dimensions in accordance with Section 1231.
3. Intermodal shipping containers in accordance with Section 1231.
4. Accessory structures with living quarters in accordance with Section 1231.
5. Shop-style dwelling in accordance with Section 1245.



**Section 1108. “NR” Natural Resources District.**

**1108.01. Intent.**

The intent of the NR Natural Resource District is to for the retaining of natural vegetation of a particular area, to preserve the natural environment and resources from destructive land uses, and to protect wildlife habitat. Such areas may include, but are not limited to, flood plains of rivers, streams, and lakes, abandoned quarries, certain wetlands and natural prairies, and historical sites.

**1108.02. Area.**

All lands, unless otherwise zoned, within three hundred (300) feet of the lower three (3) miles of East Fork Vermillion and that portion of Silver Creek in Lake County. Also, the meandered lakes of Badus, Round, Milwaukee, Twin and that portion of Long Lake not included in the Lake Madison Sanitary District are to be included in the “NR” Natural Resources District.

**1108.03. Permitted Uses.**

The following uses and structures shall be permitted in the “NR” Natural Resources District:

1. Historic sites and/or monuments, designated natural prairies.
2. Wildlife production areas and forest reserves, public hunting and fishing access areas, game refuges.
3. Reserved;
4. Agricultural and horticultural activity, but excluding dwelling units.

**1108.04. Conditional Uses.**

1. Essential public services.
2. Transportation and utility easements and rights-of-way.
3. Utility substations.
4. Public parks, biking/walking trails and/or playgrounds.
5. Golf course , private campgrounds, summer camps in accordance with Section 1238.

**1108.05. Shoreline Alterations, Filling, Grading, Dredging, and Lagooning.**

1. Shoreline stabilization, filling, grading, dredging, and lagooning projects in the “NR” District shall be governed by Section 1237.

## **Section 1109. "PD" Planned Development District**

### **1109.01. Intent**

The intent of the "PD" Planned Development District is to provide for the residential subdivisions which, through their design and development, will limit the amount of agricultural land that is taken out of production, will not require additional public expenditures for roads or other improvements and services, and which will minimize the conflict between farm and non-farm uses. To be eligible for consideration under the provision of this district, the proposed planned development must be:

1. Consistent with the County Comprehensive Land Use Plan.
2. Composed of such uses, to such a degree, as are necessary for the integrated functioning of the planned development unit and the County.
3. So designed as to produce an attractive and desirable environment complementing the surrounding neighborhood.
4. The Planned Development District shall not be permitted on a parcel of land less than ten (10) acres in land area.
5. While the intended use of land in the Planned Development District is for non-farm single-family dwelling units and their supporting services, mixed use developments may be considered.
6. All roads, common facilities, and open spaces within the Planned Development District shall be maintained by a homeowner's association.
7. Planned Development Districts within one (1) mile of an incorporated community will be submitted to the community governing body for review and comment.
8. Where a proposed Planned Development District is within one (1) mile of an incorporated area, the Lake County may require the developer to construct proposed improvements to specifications approved by the community's governing body.
9. Strip or linear development proposals along a road or highway will not qualify as a Planned Development District.
10. The overall density of a Planned Development District shall not be less than one (1) housing unit per three (3) acres of land.
11. Minimum lot size shall not be less than that required by the South Dakota Department of Water & Natural Resources regulations on Private Sewage Disposal Systems (Chapter 34:04:01).
12. Access to public dedicated streets and roads shall be limited. Dwelling units shall not have direct access to public road right-of-ways. Dwelling unit access shall be provided through the interior street/road system. Further all interior streets constructed within the Planned Development District may be required to be either gravel, concrete, or bituminous-asphalt with the design to be approved by the County Highway Superintendent.

13. Planned Development Districts must have access to a hard-surfaced road. Access to a concrete or bituminous-asphalt roads is preferred. In order for the Planned Development District to have access to a gravel road, approval of the governmental entity maintaining said gravel road (Township or County) is required.
14. Planned Development Districts are not allowed over the shallow aquifer or wellhead protection areas. EXCEPTION: A Planned Development District may be allowed over a shallow aquifer if the proposed Planned Development District utilizes a Board of Adjustment approved central sanitary sewer collection system, which may consist of holding tanks, trunk lines, lift stations, and treatment facilities.]
15. Covenants/Waivers per 1101.07 of this ordinance shall be required to be placed on any lot in a Planned Development District in order to protect agricultural operations or practices in the adjoining areas.

#### **1109.02. Application Procedure**

The following shall be observed when a planned development proposal is submitted for consideration:

1. An applicant for consideration under the terms of this district, who must be owner, lessee or the holder of a written purchase option of the tract of land under consideration, shall submit to the Planning Commission and Board of County Commissioners a plan for the proposed planned development unit. The plan shall include:
  - a. Location map showing: {Ord. 26-02}
    - ii. The relationship of the proposed development to existing roads and property lines. Proposed land uses, building locations, housing unit densities.
    - iii. Proposed circulation pattern indicating the status of street ownership.
    - iii. Proposed open space uses.
    - iv. Proposed grading and drainage pattern.
    - v. Proposed method of water supply and sewage disposal.
    - vi. Relation of the proposed development to the surrounding area and Comprehensive Land Use Plan.
  - b. Copies of the proposed water and sewer system will be submitted to the South Dakota Department of Water & Natural Resources for study and comment.
  - c. A list and schedule of improvements to be completed by the developer must be submitted.
  - d. Such other information as may be required by the Planning Commission and/or Board of County Commissioners to determine if the proposed development is consistent with the intent of the district.

2. In reviewing the plan, the Planning Commission and Board of County Commissioners shall need to determine that:
  - a. The resulting development will be consistent with the Comprehensive Land Use Plan objectives or zoning provisions of the area.
  - b. The plan can be completed within a reasonable period of time.
  - c. The streets are adequate to support the anticipated traffic, and the development will not overload the roads outside the planned area.
  - d. The proposed minimum yard setback requirements are adequate development. If the developer does not provide proposed setbacks within the development plan, the County will defer to setbacks in the Agricultural Zoning District.
  - e. Proposed utility and drainage facilities are adequate for the population densities proposed.
3. If, in the opinion of the Planning Commission and Board of County Commissioners, the foregoing provisions are satisfied, the proposal shall be processed according to this section. If the Planning Commission finds to the contrary, they may recommend the application be denied or return the plan to the applicant for revision.
4. In addition to the requirements of this section, the Planning Commission and Board of County Commissioners may attach conditions it finds are necessary to carry out the purpose of this ordinance.
5. Before approving a planned development, the Planning Commission and Board of County Commissioners must have copies of proposed deed restrictions, agreements for maintenance by the homeowners' association of common facilities and open spaces, guarantees (surety bonds, etc.) by the developer for the completion of the development in accordance with the approved plan, and an agreement binding successors who may take over completion of the development to conditions of the plan approval.
6. The Planning Commission and Board of County Commissioners shall follow the procedure for considering an amendment to the Official Zoning Map before approving a Planned Development District.
7. Permits for construction in a planned development shall be issued only on the basis of the approved plan. Any changes in the approved plan shall be submitted to the Planning Commission and Board of County Commissioners for processing as an amendment to this ordinance.

### **1109.03. Subsequent Performance**

Failure to follow the approved plan on the part of the applicant or his agent shall be considered a violation of these regulations, punishable as herein prescribed.

## **Section 1110. Aquifer Protection Overlay District**

### **1110.01. Purpose and Intent:**

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

The purpose of the Aquifer Protection Overlay District is to protect public health and safety by minimizing contamination of the shallow aquifers of Lake County.

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

### **1110.02. Establishment/Delineation/Regulation of Aquifer Protection Overlay Zones**

Boundaries for the aquifer protection zones for the Aquifer Protection Overlay District are shown on maps based upon data prepared by the East Dakota Water Development District (EDWDD), Brookings, South Dakota. Said maps are hereby adopted by reference as part of this Ordinance as if the maps were fully described herein. In addition to East Dakota Water Development District Map, the South Dakota Department of Environment and Natural Resources, Division of Financial and Technical Assistance, Geological Survey created a map entitled "First Occurrence of Aquifer Materials Map 11" dated March 3, 2003. This map will be used to further identify aquifer boundaries. In the event of a conflict between such maps as to the area covered by the aquifer at a given location, then the map showing the larger aquifer area shall be followed.

The Aquifer Protection Overlay District is divided into two zones. The critical impact zone, Zone A, was mapped by the East Dakota Water Development District with South Dakota Geological Survey (SDGS) technical assistance using techniques outlined in the U.S. Environmental Protection Agency publication "Guidelines for Delineation of Wellhead Protection Areas," June, 1987. The shallow/ surficial aquifer boundary for Zone B was mapped by the South Dakota Geological Survey.

### **1110.03. ZONE A – AQUIFER CRITICAL IMPACT ZONES**

Zone A, the wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield to the ten-year time of travel boundary.

#### **1110.03.01. Permitted Uses in Zone A:**

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

1. Agriculture.
  - a. Application of manure is permitted with approved nutrient management plan.

2. Horticulture.
3. Parks, greenways or publicly owned recreational areas.
4. Essential public services designed so as to prevent contamination of groundwater.
5. All "Permitted Uses" listed in the underlying district(s) which do not pose a potential risk to groundwater resources and are not a prohibited use.

**1110.03.02. Conditional Uses in Zone A:**

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

1. Expansion of existing uses to the extent they remain or become nonconforming and to the extent allowed by the underlying district. The Board of Adjustment shall not grant approval unless it finds the proposed expansion does not pose greater potential for groundwater contamination than the existing use.
2. All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use and provided they can meet Performance Standards outlined for Aquifer Protection Overlay Zones.
3. Manure storage areas may be allowed provided they meet all Department of Environment and Natural Resources criteria.
4. New public water supply wells located within two thousand five hundred (2,500) feet of a concentrated animal feeding operation.
5. Expansion of existing Concentrated Animal Feeding Operations (Existing as of January 20, 1998) not to exceed a cumulative total of three hundred (300) animal units. Said expansion or alteration must be constructed according to the Department of Environment and Natural Resources State General Permit criteria and shall apply for said General Permit. The County shall require soil borings to determine impermeable material between land surface and aquifer

**1110.03.03. Prohibited Uses in Zone A:**

The following uses are expressly prohibited in Zone A.

1. Residential development with a density greater than one (1) dwelling per five (5) acres where septic tanks are used.
2. New septic systems within five hundred (500) feet of a public water supply well.
3. New Concentrated Animal Feeding Operations, including Class A, Class B, Class C, and Class D after January 20,1998

4. Existing Concentrated Animal Feeding Operations will not be able to expand beyond a total of three hundred (300) animal units.
5. Disposal of solid waste except spreading of manure.
6. Outside unenclosed storage of road salt.
7. Disposal of snow containing de-icing chemicals.
8. Processing and storage of PCB contaminated oil.
9. Car washes.
10. Auto and equipment service, repair or painting facilities and junk or salvage yards.
11. Disposal of radioactive waste.
12. Graveyards or animal burial sites.
13. Detonation sites.
14. Open burning except ditches, fields and non-hazardous yard and household wastes such as paper, wood and leaves.
15. Fall application of nitrogen fertilizer except spreading of manure, on the following soil types: Delmont, Dumpster, Enet, Graceville, Henkin, Talmo and Volga.
16. Land spreading of petroleum contaminated soil.
17. Land spreading or dumping of waste oil.
18. Industrial process water and waste disposal wells—5W20 type Class V injection wells.
19. Automobile service station disposal wells—5X28 type Class V injection wells.
20. All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on ground water quality.

**1110.04. ZONE B – AQUIFER SECONDARY IMPACT ZONES**

Zone B is the remainder of the mapped shallow/surficial aquifer in the County not included in zone A. Zone B also includes any delineated lands adjacent to Zone A not underlain by the shallow aquifer but with sufficient slope that contaminated surface water could flow directly onto Zone A.

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

**1110.04.01. Permitted Uses in Zone B:**

1. All “permitted” uses listed in underlying districts, which do not pose a potential risk to groundwater resources and are not a prohibited use in Zone B, may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zone.
2. Earthen storage basins and lagoons.
3. New Class D and expansion of existing Class D up to nine hundred ninety-nine (999) animal units (Class C).

**1110.04.02. Conditional Uses in Zone B:**

1. The following uses are permitted only under the terms of a Conditional Use Permit and must conform to provisions of the underlying zoning district and meet Performance Standards outlined for Aquifer Protection Overlay Zones.
2. Expansion, modification, alteration, or relocation of existing permitted or conditional uses to the extent they remain or become nonconforming and to the extent allowed by the underlying district. The Board of Adjustment shall not grant approval unless it finds the proposed expansion does not pose greater potential for groundwater contamination than the existing use.
3. Earthen storage basins and lagoons.
4. Stockpiling of manure.
5. New Class D and expansion of existing Class A, B, C, and D Concentrated Animal Feeding Operations (Existing as of January 20, 1998) not to exceed a cumulative total of three hundred (300) animal units. Said expansion or alteration must be constructed according to the Department of Environment and Natural Resources State General Permit criteria and shall apply for said General Permit. The County shall require soil borings to determine impermeable material between land surface and the aquifer.
6. All uses permitted by conditional use in the underlying district which do not pose a potential risk to groundwater resources and are not a prohibited use may be approved by the Board of Adjustment provided they can meet Performance Standards outlined for the Aquifer Protection Overlay Zones.

**1110.04.03 Prohibited Uses in Zone B:**

The following uses are expressly prohibited in Zone B:

1. Fall application of nitrogen fertilizer on the following soil types: Delmont, Dempster, Enet, Graceville, Henkin, Talmo and Volga.
2. Land spreading of petroleum contaminated soil.
3. Land spreading or dumping of waste oil.
4. Industrial process water and waste disposal wells—5W20 type Class V injection wells.

5. Automobile service station disposal wells—5X28 type Class V injection wells.
6. New and expansions of Class A and Class B Concentrated Animal Feeding Operation or expansions of existing Class D concentrated animal feeding operations which cannot meet performance standards
7. New Class D and expansion of existing Class A, B, C, and D Concentrated Animal Feeding Operations (Existing as of January 20, 1998) not to exceed a cumulative total of three hundred (300) animal units. Said expansion or alteration must be constructed according to the Department of Environment and Natural Resources State General Permit criteria and shall apply for said General Permit. The County shall require soil borings to determine impermeable material between land surface and the aquifer.

**1110.05. PERFORMANCE STANDARDS FOR AQUIFER PROTECTION OVERLAY ZONES:**

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

1. New or replacement septic tanks and associated drain fields for containment of human wastes must conform with regulations established by the State Department of Environment and Natural Resources.
2. Commercial or industrial liquid waste ponds containing any solid or liquid material or waste will not be permitted without a secondary containment system except for community wastewater lagoons.
3. Manure storage areas must be constructed in conformance with Soil Conservation Service South Dakota Engineering Standard for Waste Storage Ponds (425) or Waste Storage Structures (313).
4. Petroleum products stored at one locality in a tank or series of tanks must be elevated; such tanks must have a secondary containment system where it is deemed necessary by the County Zoning Office.
5. When pastured animals are concentrated for winter feeding and the number of animal units exceeds two hundred (200) within ¼ mile of a public water supply well or five hundred (500) in the remainder of Zones A and B, measures shall be employed to prevent runoff of manure.
6. Owners/operators of active or abandoned feedlots shall handle and dispose of manure in accordance with Soil Conservation Service South Dakota Engineering Standard for Nutrient Management System (680). (See Appendix 4)
7. Discharge of industrial process water is prohibited without County Zoning Office approval.
8. Auto service, repair or painting facilities and junk or salvage yards shall meet all State and Federal standards for storage handling and disposal of petroleum products and shall properly dispose of all other potentially hazardous waste materials.
9. Any facility required to file material safety data sheets as part of SARA Title III must prepare and have on file in the County Zoning Office an acceptable contingency plan for preventing hazardous chemicals from contaminating the shallow/surficial aquifer. Agricultural operations are exempt unless they have more than 10 employees.

10. Any non-agricultural commercial or industrial facility involving collection, handling, manufacture, use, storage, transfer or disposal of hazardous materials, in excess of 1,000 pounds or 100 gallons, must be constructed to prevent hazardous materials from contaminating the shallow aquifer should equipment failure, floods, fire or other natural catastrophes occur. Stored petroleum products are exempt from this performance standard. Facilities must meet specifications under Title III.
11. The County Zoning Office and Department of Environment and Natural Resources shall be informed within 12 hours of any leak, spill or release of materials that might potentially contaminate groundwater.
12. Since it is known that improperly abandoned wells can become a direct conduit for contamination of groundwater by surface water, all abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:04:67-70.
13. New Class D concentrated animal feeding operations must have a Nutrient Management Plan and Manure Management Plan.

**1110.06. EXCEPTIONS**

1. Storage of liquids, chemicals and fertilizers used in agricultural operations during planting and crop cultivation are exempt from the requirements of this ordinance March 1 to October 1. However, Best Management Practices are encouraged, particularly in Zone A.
2. Tanks used for chemigation are exempt from secondary containment regulations, but secondary containment is encouraged.
3. Storage of liquid or dry fertilizer in amounts equal to or less than 1,000 pounds or 100 gallons, stored indoors by each farm operator is exempt from the requirements of this ordinance.
4. A non-conforming use in Zone A will become a prohibited use if such feedlot is inactive for five years.
5. A proposed facility not permitted in Zones A or B may be allowed by conditional use provided the applicant can show the facility will not be located over the shallow aquifer and runoff of all potential contaminants will be contained on site. A minimum of three test holes must be drilled to a minimum depth of **thirty** (30) feet.

**1110.07. GRANT OF PERMIT, ALTERATION OF USE:**

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

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

Whenever any person has an existing use, activity or development and thereafter desires alteration or expansion of the authorized use, such persons shall apply for a permit except for the normal upkeep, replacement and repair of existing facilities. The owner may appeal a County Zoning Official's decision to modify or deny a requested permit to the Planning Commission/Board of Adjustment.

**1110.08. LIMITATION OF COUNTY LIABILITY:**

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

**1110.09. UNDERLYING ZONES:**

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

**1110.10. SAVING CLAUSE:**

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

## **Section 1111. CP – Corridor Preservation Overlay District**

### **1111.01. Purpose and Intent:**

Lake County is committed to manage the orderly development within the County and is dedicated to the provision of adequate transportation services for its citizens.

South Dakota Highway 34 is a significant transportation corridor in Lake County. While the road is currently a hybrid two-lane undivided, and four-lane divided highway, improvements are planned. It is anticipated that South Dakota Highway 34 will be improved from a two-lane undivided to a four-lane divided highway from 462<sup>nd</sup> Avenue to 466<sup>th</sup> Avenue. While the time frame for these improvements have not been established the importance of preserving available public right-of-way remains.

The purpose of the Corridor Preservation Overlay District is to protect public right-of-way, existing and proposed, from development which may have the potential to encroach proposed transportation improvements of South Dakota Highway 34 from 462<sup>nd</sup> Avenue to 466<sup>th</sup> Avenue.

It is the intent to accomplish corridor preservation protection, as much as possible, by public education and securing public cooperation. Appropriate land use regulations will be imposed, however, which are in addition to those imposed in the underlying zoning districts or in other county regulations. Any use existing at the time this ordinance is adopted is grand fathered.

### **1111.02. Boundaries of Corridor Preservation Zone**

Boundaries for the Corridor Preservation Overlay District are shown on the Corridor Preservation Overlay District Map prepared by the First District Association of Local Governments. Said map is hereby adopted by reference as part of this Ordinance as if the maps were fully described herein.

### **1111.03. Permitted Uses**

1. All permitted uses in the underlying zoning districts.

### **1111.04. Conditional Uses**

1. All conditional uses permitted in the underlying zoning districts.

### **1111.05. Area Regulations**

1. Area regulations of the underlying zoning districts apply along with the following restrictions:
  - a. Minimum Front Yard Setback in the "A" Agricultural and "PD" Planned Development Districts: All structures shall be set back two hundred twenty-five (225) feet from the Section Line or one hundred fifty (150) feet from the road right-of-way line existing as of January 1, 2007, whichever setback distance is greater.

- b. Minimum Front Yard Setback in the "CI" Commercial-Industrial Zoning District: All structures shall be set back two hundred fifty (250) feet from the Section Line or one hundred seventy-five (175) feet from the road right-of-way line existing as of January 1, 2007, whichever setback distance is greater.

**Section 1112. "FP" Floodplain Overlay District.**

**Section 1112.01. Statutory Authorization, Findings of Fact, Purpose and Methods of Reducing Flood Losses.**

1. Statutory Authorization

The Legislature of the State of South Dakota has in SDCL Chapter 11-4 delegated the responsibility to local governmental units to adopt land use regulations designed to promote the public health, safety, and general welfare of its citizenry through flood plain and land use regulation. Therefore, the Board of County Commissioners of Lake County, South Dakota, ordains as follows:

Lake County elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program (NFIP) is a voluntary program administered by the Federal Emergency Management Agency (FEMA), a component of the U.S. Department of Homeland Security, and Lake County's community officials have elected to join the program, participate and enforce these flood damage prevention regulations to areas not identified as Special Flood Hazard Areas (SFHAs) by FEMA on the community's effective Flood Insurance Rate Map (FIRM), if the community has documentation to support that there is an inherent risk of flooding in such areas.

2. Findings of Fact

- a. The flood hazard areas of Lake County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare of the inhabitants of the Lake County.
- b. These potential flood losses are caused by:
  - i. The cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities;
  - ii. The occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage; and
  - iii. Uses deemed unsuitable for floodplain areas or that do not account for the increased flood risk.

3. Statement of Purpose. It is the purpose of this Ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

- a. To protect human life and health.
- b. To minimize expenditure of public expenditures flood control projects.

- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
  - d. To minimize prolonged business interruptions caused by flooding.
  - e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard.
  - f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
  - g. To ensure that potential buyers are notified that property is in an area of special flood hazard.
4. Methods of Reducing Flood Losses. In order to accomplish its purpose, this Ordinance includes methods and provisions for:
- a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in times of flooding, or cause excessive increases in flood heights or velocities;
  - b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
  - d. Controlling filling, grading, dredging, and other development which may increase flood damage.
  - e. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards in other areas.

**Section 1112.02. Definitions.**

In addition to the Definitions in Article II of this ordinance, unless specifically defined below, words or phrases used in Chapter 1112 shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application. The definitions contained in Section 1112.02 shall supersede the definitions in Article II of this ordinance only in the interpretation of Chapter 1112 of this ordinance. In all other cases where these definitions conflict with the definitions in Article II, the definitions in Article II shall apply.

*100-Year Flood* means a flood having a recurrence interval that has a 1-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms “100-hundred-year flood” and “1-percent-annual-chance flood” are synonymous. The term does not imply that the flood will necessarily happen once every 100 hundred years. Mandatory flood insurance requirements may apply.

*100-Year Floodplain* means the area of land susceptible to being inundated due to the occurrence of a 1-percent-annual-chance flood.

*500-Year Flood* means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-annual-chance flood). The term does not imply that the flood will necessarily happen once every 500 years and mandatory flood insurance requirement generally does not apply.

*500-Year Floodplain* means the area of land susceptible to being inundated due to the occurrence of a 0.2-percent-annual-chance flood.

*Accessory Structure* is a structure that is on the same parcel of property as a principal structure. Its use is incidental to the use of the principal structure the ownership of the accessory structure is the same owner as of the principal structure. An accessory structure is a non-residential structure of low value that is used solely for the parking of vehicles and storage of tools, materials, or equipment. No human habitation is allowed within an accessory structure.

*Addition* is any improvement that expands the enclosed footprint or increases the square footage of an existing structure. This includes lateral additions added to the side, front, or rear of a structure; vertical additions added on top of a structure; and enclosures added underneath a structure.

*Alluvial Fan Flooding* means flooding occurring on the surface of an alluvial fan or similar landform that originates at the apex. It is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

*Apex* means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

*Appurtenant Structure*—see *Accessory Structure*.

*Area of Future-Conditions Flood Hazard* means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood, based on future-conditions hydrology.

*Area of Shallow Flooding* means a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of Special Flood-Related Erosion Hazard* is the land within a community that is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area, in preparation for publication of the FIRM, Zone E may be further refined.

*Area of Special Flood Hazard* is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, or V1-30, VE, or V. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

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

*Base Flood Elevation (BFE)* is the water surface elevation of the 1-percent-annual-chance flood event. It is the height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas. It is also the elevation shown on the FIRM and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1-percent chance of equaling or exceeding that level in any given year.

*Basement* means any area of the building having its floor subgrade (below ground level) on all sides. A walkout basement that does not require a step up to grade is not considered a basement.

*Best Available Data* is existing flood hazard information adopted by a community and reflected on an effective FIRM, FBFM, and/or within an FIS report; or draft or preliminary flood hazard information supplied by FEMA or from another source. Other sources may include, but are not limited to, state, other federal agencies, or local studies, the more restrictive of which would be reasonably used by the community.

*Breakaway Wall* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. Any walls below the lowest floor in a building in a V or VE Zone should give way under wind and water loads without causing collapse, displacement, or other damage to the elevated portion of the building or the supporting pilings or columns. Breakaway walls apply only to V or VE Zones.

*Building*—see *Structure*.

*Channelization* means the artificial creation, enlargement, realignment, or alteration of a stream channel's slope, shape, or alignment. Streambank restoration may be deemed as channelization.

*Code of Federal Regulations (CFR)* is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal Government.

*Conditional Letter of Map Revision (CLOMR)* is FEMA's comment on a proposed project that would, upon construction, affect the hydrologic and/or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, and/or the SFHA. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be recognized by FEMA.

*Conditional Letter of Map Revision Based on Fill (CLOMR-F)* is FEMA's comment on a proposed structure or property. The letter does not revise an effective map; it indicates whether the project, if built as proposed, would be removed from the floodplain.

*Crawlspace* means an under-floor space that has its interior floor area (finished or not) no more than 4 feet from the bottom floor joist to the next higher floor elevation, designed with proper openings that equalize hydrostatic pressures of flood water, and is not used for habitation.

*Critical Facility* means a facility or building where even a slight chance of flooding is too great a threat. Typical critical facilities include hospitals, fire stations, police stations, schools, storage of critical records, assisted living and similar facilities.

*Deed Restriction* refers to a clause in a deed that limits the future use of the property in some respect. Deed restrictions may impose a vast variety of limitations and conditions. For example, they may limit the density of buildings, dictate the types of structures that can be erected, or prevent buildings from being used for specific purposes or from being used at all.

*Detached Garage* is a building that is used solely for storage of materials or vehicle parking for up to four housing occupants. If a detached garage is designed or used for habitation or conducting business, or has multiple stories, then the building is not considered a detached garage under the NFIP.

*Development* means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, demolition, excavation or drilling operations, or storage either temporary or permanent of equipment or materials.

*Elevated Building* is a non-basement building built, in the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, to have the top of the elevated floor above the ground level by means of pilings, columns (post and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of a building in Zone A1-30, AE, A, A99, AR, AO, AH, B, C, X and D, an "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

*Enclosure* refers to an enclosed walled-in area below the lowest floor of an elevated building. Enclosures below the BFE may only be used for building access, vehicle parking, and storage.

*Erosion* means the process of the gradual wearing away of land masses by wind, water, or other natural agents.

*Existing Construction* refers to structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. It may also be referred to as *Existing Structures*.

*Existing Manufactured Home Park or Subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*Existing Structures*—see *Existing Construction*.

*Expansion to an Existing Manufactured Home Park or Subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*FEMA* means the Federal Emergency Management Agency.

*Fill* refers to the placement of materials, such as dirt, sand, or rock to elevate a structure, property, or portion of a property above the natural elevation of the site, regardless of where the material was obtained from. The common practice of removing unsuitable material and replacing with engineered material is not considered fill if the elevations are returned to the existing conditions. Any fill placed or used prior to the area being mapped as a flood hazard area is not deemed as fill.

*Flood or Flooding* means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
2. Mudslides (i.e., mudflows) that are proximately caused by flooding as defined in this ordinance and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
3. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this ordinance.

*Flood Insurance Manual* is the document FEMA produces twice a year and is used to write flood insurance policies underwritten by the NFIP. The document contains definitions, policy rates, coverage and limitations, application, and insurance policy forms.

*Flood Insurance Rate Map (FIRM)* means an official map of a community, on which the Administrator has delineated both the SFHAs, and the risk premium zones applicable to the community.

*Flood Insurance Study (FIS) or Flood elevation study* means an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

*Floodplain Development Permit* is a community issued permit or document that is used for any development that occurs within an SFHA identified by FEMA or the community. It is used to address the proposed development to ensure compliance with the community's ordinance.

*Floodplain or Flood-Prone Area* means any land area susceptible to being inundated by water from any source whether or not identified by FEMA (see definition of *Flooding*).

*Floodplain Management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, mitigation plans, and floodplain management regulations.

*Floodplain Management Regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for flood damage prevention and reduction.

*Flood Opening* refers to an opening in the wall of an enclosed structure that allows floodwaters to automatically enter and exit the enclosure. Refer to FEMA Technical Bulletin 1.

*Flood Protection System* means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to an SFHA and to reduce the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees, or dikes. These specialized, flood modifying works are those constructed in conformance with sound engineering standards. FEMA only accredits levees, both private and public, that have been certified by a professional engineer or firm in which the certification shows that the levee have met and continue to meet the minimum regulatory standards cited in Title 44, Chapter 1, Section 65.10 of the Code of Federal Regulations (44 CFR 65.10).

*Floodproofing* means any combination of structural and non-structural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Floodproofing can either be accomplished in the form of dry floodproofing in which the structure is watertight below the levels that need flood protection, or wet floodproofing in permanent or contingent measures applied to a structure that prevent or provide resistance to damage from flooding, while allowing floodwaters to enter the structure or area.

*Floodway*—see *Regulatory Floodway*.

*Floodway encroachment lines* mean the lines marking the limits of floodways on federal, state, and local flood plain maps.

*Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

*Functionally Dependent Use* means a development that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and repair facilities. It does not include long-term storage or related manufacturing facilities.

*Highest Adjacent Grade (HAG)* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. In AO Zones, the highest adjacent grade is utilized by comparing the lowest floor elevation to that of the highest adjacent grade and the depth of the AO Zone.

*Historic Structure* means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic reservation programs that have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior, or
  - b. Directly by the Secretary of the Interior in states without approved programs.

*Letter of Map Amendment (LOMA)* means an official amendment, by letter, to an effective FIRM. A LOMA establishes a property's location in relation to the SFHA. It is usually issued because a property or structure has been inadvertently mapped as being in the floodplain when the property or structure is actually on natural high ground above the BFE.

*Letter of Map Revision (LOMR)* means FEMA's modification or revision to an entire or portion of the effective FIRM, or Flood Boundary and Floodway Map, or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective BFEs, or the SFHA.

*Letter of Map Revision Based on Fill (LOMR-F)* means FEMA’s amendment, by letter, to an effective FIRM where fill was brought in or used to elevate a property, portion of property or structure above the BFE.

*Levee* means a man-made structure usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

*Levee System* means a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

*Lowest Adjacent Grade (LAG)* means the lowest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. For an existing structure, it means the lowest point where the structure and ground touch, including but not limited to attached garages, decks, stairs, and basement windows.

*Lowest Floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 60.3.

*Manufactured Home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle”; however, a manufactured home may be used for both residential and non-residential use.

*Manufactured Home Park or Subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

*Map* means the FHBM or the FIRM for a community issued by FEMA.

*Mean Sea Level* means, for purposes of the NFIP, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which BFEs shown on a community’s FIRM are referenced.

*Mixed Use Structures* are structures with both a business and a residential component, but where the area used for business is less than 50 percent of the total floor area of the structure.

*New Construction* means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

*New Manufactured Home Park or Subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

*No-Rise Certifications* are formal certifications signed and stamped by a professional engineer licensed to practice in the state, demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that a proposed development will not result in any increase (0.00 feet) in flood levels within the community during the occurrence of a base flood event.

*Physical Map Revision (PMR)* is FEMA's action whereby one or more map panels are physically revised and republished.

*Recreational Vehicle* means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily, not for use as a permanent dwelling but, as temporary living quarters for recreational, camping, travel, or seasonal use.

*Regulatory Floodway* means 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 cumulatively increasing the water surface elevation more than a designated height.

*Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, creek, etcetera, which can be intermittent or perennial.

*Section 1316* refers to the section of the National Flood Insurance Act of 1968, as amended, which provides for the denial of flood insurance coverage for any property that the Administrator finds has been declared by a duly constituted State or local authority to be in violation of State or local floodplain management regulations. Section 1316 is issued for a property, not a property owner, and remains with the property even after a change of ownership.

*Special Flood Hazard Area*—see *Area of Special Flood Hazard*.

*Start of Construction* (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) 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 slab or footings, the installation of piles, the 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 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.

*Structure* means, for floodplain management purposes in Chapter 1112, a walled and roofed building, culvert, bridge, dam, or a gas or liquid storage tank that is principally above ground, as well as a manufactured home. *Structure*, for insurance purposes and Chapter 1112, means:

1. A building with two or more outside rigid walls and a fully secured roof, which is affixed to a permanent site;
2. A manufactured home (“a manufactured home,” also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or
3. A travel trailer without wheels built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws.

For insurance purposes, “structure” does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in paragraph (3) of this definition, or a gas or liquid storage tank.

*Substantial Damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial Improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed.

The term does not, however, include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure”, if the alteration will not preclude the structure’s continued designation as a “historic structure.”

*Variance* means a grant of relief by a community from the terms of a flood plain management regulation. Reference: 1112.05. VARIANCE PROCEDURES

*Violation* means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 44 CFR 60.3(b)(5), (c)(4), (c)(10), (d)(3), I(2), I(4), or I(5) is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies, such as the 1-percent-annual-chance flood event, in the flood plains of coastal or riverine areas.

*Watercourse* means the channel and banks of an identifiable water in a creek, brook, stream, river, ditch, or other similar feature.

**Section 1112.03. General Provisions.**

1. Lands to Which This Ordinance Applies.

This Ordinance shall apply to all areas of special flood hazard identified by FEMA within the jurisdiction of Lake County.

2. Compliance.

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

3. Basis for Establishing the Areas of Special Flood Hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Lake County, South Dakota and Incorporated Areas" dated November 21, 2024 with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Ordinance.

4. Abrogation and Greater Restrictions.

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation – In the interpretation of this Ordinance, all provisions shall be:

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

6. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by human-made or natural causes.

This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance, or any administrative decision lawfully made thereunder.

7. Penalties for Noncompliance.

In accordance with Section 59.2(b) of CFR 44, Chapter 1, of the NFIP regulation, to qualify for the sale of federally subsidized flood insurance, a community must adopt floodplain management regulations that meet or exceed the minimum standards of Section 60. "These regulations must include effective enforcement provisions." In accordance with Section 60.1(b) of CFR 44, Chapter 1, of the NFIP regulations, "These regulations must be legally enforceable, applied uniformly throughout the community to all privately and publicly owned land within flood-prone (i.e., mudflow) or flood-related erosion areas, and the community must provide that the regulations take precedence over less restrictive conflicting local laws, ordinances, or codes."

**Section 1112.04. Administration.**

1. Designation of the Floodplain Administrator.

The Zoning Official of this Ordinance, see Section 3.02.01, is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of the NFIP Regulations and 44 CFR pertaining to floodplain management.

2. Duties and Responsibilities of the Floodplain Administrator.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- a. Uphold the goals of the community and the NFIP to reduce risk when possible and increase the community's resistance to future disasters.
- b. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation of the lowest floor (including basement or crawlspace) of all new or substantially improved structures and any floodproofing certificates, including the data supporting such certificates.
- c. Maintain and hold open for public inspection maps that identify and locate the boundaries of the SFHAs to which this ordinance applies, including, but not limited to, the FIRM.

- d. Review development proposals to determine whether a proposed building site, including sites designed for the placement of manufactured homes, will be reasonably safe from flooding.
- e. Review, approve, or deny all applications for development permits required by adoption of this ordinance.
- f. Ensure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 and the Endangered Species Act of 1973) from which prior approval is required.
- g. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- h. Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the South Dakota Office of Emergency Management, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- i. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the Floodplain Administrator shall make the necessary interpretation.
- j. When BFE data has not been provided by FEMA, the Floodplain Administrator shall obtain, review, and reasonably utilize any BFE data and floodway data available from a federal, state, or other source including data provided by the applicant, in order to administer the provisions of this ordinance.
- k. When a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30, AE, and AH on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1.00 foot at any point within the community.
- l. Under the provisions of 44 CFR Chapter 1, Section 65.12 of the NFIP Regulations, a community may approve certain development in Zones A1-30, AE, and AH on the community's FIRM, which increases the water surface elevation of the base flood by more than 1.00 foot, provided that the community first meets the requirements of Section 65.12 for a conditional FIRM revision through FEMA's CLOMR process.
- m. If the project is determined or reasonably believed to cause an adverse effect on the BFE(s), boundaries of the floodplain or any insurable structures, technical justification for the proposed development shall be submitted and the community may require a CLOMR or LOMR to be submitted prior to the permit approval or as a requirement of the permit.

3. Requirement to Submit New Technical Data.

- a. The property owner or developer shall notify FEMA by submittal of a LOMR within 6 months of project completion when an applicant had obtained a CLOMR from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified BFE.
- b. The property owner or developer shall be responsible for preparing technical data to support the CLOMR or LOMR application and paying any processing or application fees to FEMA. The property owner or developer is responsible for submitting the CLOMR and LOMR to FEMA and shall provide all necessary data to FEMA if requested during the review process to ensure the CLOMR or LOMR is issued.
- c. The Floodplain Administrator shall be under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this ordinance and all applicable state federal, and local laws.

4. Permit Procedures.

- a. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to:
  - i. Duplicated plans drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations.
  - ii. Duplicated plans drawn to scale showing the location, dimensions, and elevation of existing and proposed structures, including the placement of manufactured homes.
  - iii. Location of the foregoing in relation to SFHAs.
  - iv. Elevation (in relation to mean sea level), of the lowest floor (including basement and crawlspace) of all new and substantially improved structures, if applicable;
  - v. Elevation (in relation to mean sea level), to which any nonresidential structure (if applicable) shall be floodproofed.
  - vi. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure (if applicable) shall meet the floodproofing criteria of this ordinance and the NFIP Regulations.
  - vii. Description of the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development, if applicable.
  - viii. At the community's discretion, the community may charge a fee for issuance of floodplain development permits.

- ix. Copies of all floodplain development permits, and the associated documents shall become property of the community and a permanent record.
- b. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
  - i) The danger to life and property due to flooding or erosion damage.
  - ii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - iii) The danger that materials may be swept onto other lands to the injury of others.
  - iv) The compatibility of the proposed use with existing and anticipated development.
  - v) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - vi) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems.
  - vii) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
  - viii) The necessity to the facility of a waterfront location, where applicable.
  - ix) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
  - x) The relationship of the proposed use to the comprehensive plan for that area.

**Section 1112.05. Variance Procedures.**

1. The Board of Adjustment as established by the community shall hear and render judgment on requests for variances from the requirements of this Ordinance.
2. The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Ordinance.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in 1112.05.10 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this Ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Ordinance (3.11.01 (3)).
8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
  - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - b. Variances shall only be issued upon:
    - i) showing a good and sufficient cause;
    - ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or Ordinances.
  - c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
  - a. the criteria outlined in 1112.05 are met, and
  - b. the structure or other development is protected by methods that minimize flood; and
  - c. damages during the base flood and create no additional threats to public safety. (Ord. 682, 2001; Ord. 759, 2009)

**Section 1112.06. General Standards for Flood Hazard Reduction.**

1. General Standards.

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

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

2. Substantial Improvement.

Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure, if the cumulative cost of the entire project equals or exceeds 50 percent of the market value of the structure only (not of the structure and land value combined) before the improvement or repair is started then the work shall be considered as substantial improvement. If the structure has sustained

substantial damage, any repairs are considered substantial improvements regardless of the actual repair work performed. For Substantial Damage, refer to 1112.06.3 SUBSTANTIAL DAMAGE. The term does not, however, include either:

- a. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
- b. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

### 3. Substantial Damage

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure only before the damage occurred. This term also applies to structures which have incurred any damage that equals or exceeds 50 percent of the structure's market value regardless of the actual repair work performed. When a structure or building has been determined as substantially damaged, any work or repair on said structure or building will be considered as substantial improvement and will be required to meet the development requirements set forth within this ordinance for substantial improvement.

### 4. Substantial Improvement and Substantial Damage Determination

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the applicable community officials and staff, shall:

- a. Estimate the market value or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure only, not of land and building, before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made.
- b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure.
- c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in Section 1112.06.2 SUBSTANTIAL IMPROVEMENT.
- d. Utilize FEMA's Substantial Improvement/Substantial Desk Reference when making any determination on Substantial Improvement and/or Substantial Damage.

- e. The substantial improvement regulations apply to all of the work that is proposed as the improvement, even if multiple permits are issued. Therefore, the determination of the cost of the improvement should consider all costs of all phases of the work before issuance of the first permit.
- f. Notify the applicant that if it is determined that the work constitutes substantial improvement or repair of substantial damage, that compliance with the floodplain management ordinance is required.

**Section 1112.07. Specific Standards for Flood Hazard Reduction.**

In all SFHAs and areas of suspected flood risk areas, the following provisions are required:

1. Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to the BFE. A registered professional engineer, architect, or land surveyor shall submit certified elevations to the Floodplain Administrator that the standards of this ordinance are satisfied.

2. Nonresidential Construction

New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to the base flood level, or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification that includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator. If the use or occupancy of the building changes in the future to residential, then the dry floodproofing of the structure cannot be used when determining compliance of the structure to the residential construction of this ordinance, Section 1112.07.1 RESIDENTIAL CONSTRUCTION. As such, the building will not be grandfathered into compliance and will be required to be brought into compliance with the residential construction requirements of this ordinance.

3. Enclosures

New construction and substantial improvements, with fully enclosed areas below the lowest floor that are to be used solely for parking of vehicles, building access, or storage in an area other than a basement, and are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:

- a. A minimum of two openings having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than 1 foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- d. The development and construction of the structure must conform with the provision in FEMA/Federal Insurance Administration (FIA)-Technical Bulletins 1 and 2. Certification and documentation from a professional, licensed engineer or architect is required if the structure's lowest floor is built below the BFE.

#### 4. Crawlspace

New construction and substantial improvements built on a crawlspace or sub-grade (below grade) crawlspace may be permitted if the development is designed and meets or exceeds the standards found in FEMA's Technical Bulletins 1, 2, and 11, which include but are not limited to the following:

- a. The structure must be affixed to a permanent foundation, designed, and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Because of hydrodynamic loads, crawlspace construction is not allowed in areas with flood velocities greater than 5 feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer.
- b. The crawlspace is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing the automatic entry and exit of floodwaters. The bottom of each flood vent opening can be no more than 1 foot above the lowest adjacent grade (LAG).
- c. The crawlspace enclosure must have proper openings that allow equalization of hydrostatic pressure by allowing automatic entry and exit of floodwaters. To achieve this, a minimum of 1 square inch of flood opening is required per 1 square foot of the enclosed area subject to flooding.
- d. Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawlspace used to elevate the building, but also any joists, insulation, piers, or other materials that extend below the BFE. Ductwork, in particular, must either be placed above the BFE or sealed from floodwaters.
- e. Any building utility systems within the crawlspace must be elevated above the BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
- f. The interior grade of a crawlspace below the BFE must not be more than 2 feet below the LAG.

- g. The height of the below-grade crawlspace, measured from the lowest interior grade of the crawlspace floor to the bottom of the floor joist of the next higher floor cannot exceed 4 feet at any point.
- h. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.
- i. Buildings with below-grade crawlspaces will have higher flood insurance premiums than buildings that have the preferred crawlspace construction, with the interior elevation at or above the LAG.

#### 5. Manufactured Homes

- a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites outside of a manufactured home park or subdivision in a new manufactured home park or subdivision; in an expansion to an existing manufactured home park or subdivision; or in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated as high as the BFE, and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. In A-1-30, AH, AO and AE Zones, require that manufactured homes to be placed or substantially improved in an existing manufactured home park to be elevated so that the lowest floor is at least as high as the BFE; or the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored.

#### 6. Recreational Vehicles

Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use;
  - i) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- b. Or meet the permit requirements of 1112.04.4, PERMIT PROCEDURES, and the elevation and anchoring requirements for "manufactured homes" of this section.

**Section 1112.08. Standards for Subdivision Proposals.**

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with the provisions of this ordinance.
2. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
3. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of this ordinance.
4. BFE data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or 5 acres, or whichever is lesser.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall minimize flood damage.

**ARTICLE XII  
GENERAL REQUIREMENTS**

Pursuant to the purpose of this regulation are certain general requirements that are not provided for under Article XI Zoning Districts. These requirements are set forth under this Article. Requirements listed relating to a conditional use are the minimum requirements, and the Board of Adjustment may assign other conditions or requirements as deemed appropriate

**Section 1201. Screening.** Where any commercial or industrial use is adjacent to any residential use, that use (building, parking or storage) may be required to be appropriately screened from the residential use by a fence or planting, approved by the Board of Adjustment, except where planting may be in conflict with vision clearance – Section 1202 below.

**Section 1202. Vision Clearance on Corner Lots.** On a corner lot in any zoning district, no planting, structure, or obstruction to vision shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is one hundred (100) feet distance from the point of intersection (Clear View Triangle). Exception: In the Lake Park District, Town District, and Planned Development District, the Clear View Triangle shall be formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is fifty (50) feet distance from the point of intersection.

**Section 1203. Reserved**

**Section 1204. Unlicensed Vehicles.** Vehicles not in use and without current license may not be kept in any uncovered area other than a designated junk, salvage yard, or designated collection site. EXCEPTION: Antique cars being refurbished shall not be required to be kept in a covered area or in above designated areas and vehicles used in normal farming operations.

**Section 1205. Moved in Buildings.**

1. Any building to be moved requires a building permit. The applicant shall also provide pictures of the proposed building to be moved. The Zoning Official/Building permit Review Committee may attach conditions to the issuance of the moved in building permit.
2. Any structure moved into any use district must have signature by petition of fifty percent (50%) of the adjoining landowners, not to include public or private right-of-way, and fifty percent (50%) of the landowners within two hundred (200) feet. EXCEPTION: A new structure to be used for first occupancy, constructed off the property and moved to location shall not require adjoining landowner's approval.

**Section 1206. Minimum Water and Sewer Requirements.** A water and sewer system cannot be approved until it meets the following standards:

1. All essential public services shall be located, elevated, and constructed to minimize or eliminate flood damage; and

2. All new or replacement water supply systems and sanitary sewage systems, in addition to meeting the requirements of the South Dakota Department of Environment and Natural Resources, must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. Installers of sanitary sewage systems shall sign an affidavit of compliance with State requirements.

**Section 1207. Manufactured Home and Modular Home Regulations.**

1. A Type A Manufactured Home shall:
  - a. Have more than one thousand two hundred (1,200) square feet of occupied space in a double-section or larger multi-section unit.
  - b. The age of the manufactured house may not exceed twenty (20) years from the date of manufacture.
  - c. Be placed on a permanent foundation.
  - d. Utilize a permanent perimeter enclosure in accordance with approved installation standards.
  - e. Be anchored to the ground by the Defense Civil Preparedness Agency, TR-75, issued June, 1972, by the U.S. Department of Defense or in accordance with manufacturer's specifications or as prescribed by the NFPA 225 Model Manufactured Home Installation Standards.
  - f. Have a gabled roof with a pitch of at least 2/12 feet.
  - g. Have siding material of a type customarily used on site-constructed residence.
  - h. Have roofing material of a type customarily used on site-constructed residences.
2. A Type B Manufactured Home shall:
  - a. Have more than 700 square feet of occupied space in a single, double, xpand or multi-section unit.
  - b. Utilize a permanent perimeter enclosure in accordance with approved installation standards.
  - c. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the Defense Civil Preparedness Agency TR-75, issued June 1972, by the U.S. Department of Defense or by the NFPA 225 Model Manufactured Home Installation Standards.
  - d. The age of the manufactured house may not exceed twenty (20) years from the date of manufacture.
  - e. Be placed on a support system, in accordance with approved installation standards.

3. Foundation/Skirting

4. Permanent Perimeter Enclosure as required for Type A Manufactured Homes. Those manufactured homes designated in this Ordinance (Type A), as requiring a permanent perimeter enclosure must have footings and crawl space or basement walls. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

The foundation shall be (a) an approved wood basement constructed of 2 x 6 frame-work and treated with water resistant materials; or (b) a foundation shall be constructed with eight (8) inches poured concrete or concrete block.

The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be sixteen (16) inches below grade. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

5. All manufactured homes without a permanent perimeter enclosure shall have an approved foundation siding/skirting enclosing the entire perimeter of the home.

6. Support System

- a. Type A manufactured homes shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.
- b. Type B manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the NFPA 225 Model Manufactured Home Installation Standards.

7. Replacement of Nonconforming Homes.

Type A and Type B Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type A and/or Type B Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a non-conforming to a conforming use. If a replacement Type A and/or Type B Manufactured Home is of larger dimension than the replaced Type A and/or Type B Manufactured Home, then application must first be made to the County Board of Adjustment for conditional use permit.

8. Variance from Maximum Age Requirement

Type A and Type B manufactured homes may receive a variance from the maximum age requirement (Section 1207). The Board of Adjustment may grant a variance if the applicant requesting the placement of the manufactured home meets the following requirements:

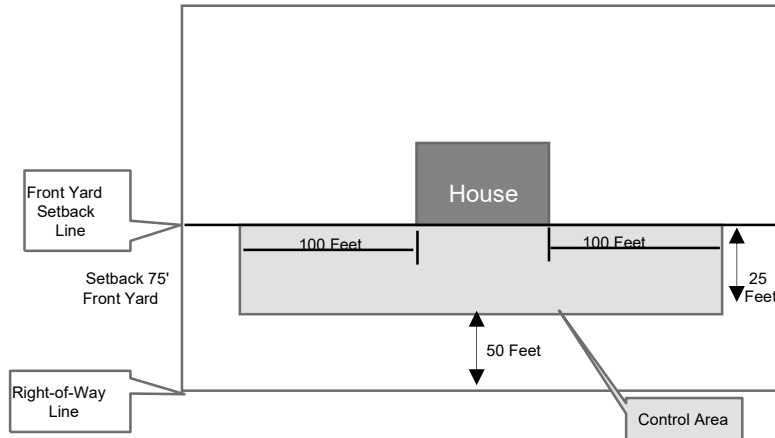
- a. The applicant shall provide a photograph of the manufactured home's exterior and interior.

- b. That it shall have been shown to the satisfaction of the Board of Adjustment that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of Lake County.
  - c. That the applicant shall obtain, and present to the Board of Adjustment, the written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site.
9. Modular homes shall meet the following regulations:
- a. Modular homes shall meet or exceed Uniform Building Codes.
  - b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.
  - c. Modular homes shall have more than one thousand (1,000) square feet in ranch style and eight hundred fifty (850) square feet split and be placed on a permanent foundation.
  - d. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.
  - e. Modular homes shall have a minimum of a 4/12-roof pitch.
  - f. Have siding material of a type customarily used on site-constructed residences.
  - g. Have roofing material of a type customarily used on site-constructed residences.

**Section 1208. Shelterbelt Setback Requirements.**

1. A shelterbelt, consisting of one (1) or more rows of trees shall not be established in the “A” Agricultural District within seventy-five (75) feet of a public road right-of-way line. Shelterbelts at right angles to roads shall provide a minimum turnaround of fifty (50) feet measured from the road right-of-way. Shelterbelts shall not be established within fifty (50) feet of adjoining property lines without written permission of adjoining property owners.
2. Shade Trees, ornamental trees or shrubs generally used in front yards for landscaping are allowed within the “controlled area”. (See Controlled Area Illustration below) The controlled area is defined as the area within the front yard setback and further within one hundred (100) feet of homes or farm buildings, but no closer than fifty (50) feet from the right-of-way and in compliance with Section 1201 (see Controlled Area Illustration below). Deciduous trees which are spotted or staggered within the controlled area can be no closer than twenty (20) feet. Conifer trees which are spotted or staggered within the controlled area can be no closer than twenty-five (25) feet. The distance between trees shall be determined by measuring distance between tree trunks. The string of spotted or staggered trees cannot extend lineally for a distance of over one hundred fifty (150) feet.

### Controlled Area Illustration



3. The shelterbelts setback requirements (paragraph 1) also apply to volunteer trees that the landowner allows to grow.
4. A non-binding recommendation from the County Highway Superintendent, Township and/or State Department of Transportation is required prior to the issuance of any variance of the shelterbelt setback from any respective County, Township or State/Federal public right-of-way.

**Section 1209. Extended Home Occupation.** There are significant differences between home occupations and extended home occupations. Specifically, a home occupation is conducted within the primary structure (residence) while an extended home occupation is conducted in an accessory building. The nature of resources available for use, the benefits and disadvantages created by home/extended home occupations, and the problems generated necessitate a distinction between urban home/extended home occupations and farm home/extended home occupations. While each use is based on supplementing income, the location and type of business in which each is practiced has unique characteristics. Specifically a home occupation is conducted within the primary structure (residence) while an extended home occupation is conducted in an accessory building. For the aforesaid reasons, different home/extended home occupations may be permitted in agricultural zoning districts than are permitted in the urban residential districts.

All extended home occupations must meet the following performance standards:

1. An extended home occupation may not conflict with adjoining land uses.
2. Individuals engaged in such extended home occupation shall consist of family members residing on the premises and up to five (5) non-family employees.
3. The extended home occupation must be accessory to the principal use of the property(residence).
4. Extended home occupations must be conducted in an accessory building.

5. There shall be no change in the outside appearance of the buildings or premises, or other visible evidence of the conduct of such home occupation other than one on-premise sign, not to exceed sixteen (16) square feet in area, non-illuminated.
6. Off premise signage for extended home occupations shall be limited to South Dakota Department of Transportation (SDDOT) commercial, directional signs, also known as "TOD Signs". These signs, with SDDOT approval, may be located adjacent to State and Federal Highways.
7. There shall be no outdoor storage of materials, vehicles, etc. related to the extended home occupation unless the aforementioned storage is placed behind a fence or is as approved by the Board of Adjustment.
8. The only retail sales allowed shall consist of the sale of commodities/products/services prepared or conducted on the premises in connection with such occupation or activity. Exception: Seed Sales.
9. No traffic shall be generated by such extended home occupation in greater volumes than would normally be expected in a residential neighborhood. Prior to the issuance of a conditional use permit for an extended home occupation, County Highway Superintendent and/or Township approval shall be required.
10. Any need of off-street parking generated by the conduct of such extended home occupation shall be provided off the street and other than in a required front yard.
11. No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises
12. An extended home occupation may not be changed to another extended home occupation except by the issuance of a separate conditional use permit.

**Section 1210. Reserved**

**Section 1211. Mineral Exploration and Development.** Separate permits are required for mineral extraction and milling. Sand and gravel operations are excluded from these regulations. The applicant for a permit must meet the following minimal conditions as they pertain to the permit for which application is made.

1. The applicant shall provide:
  - a. A description of the mineral or minerals which are the subject of the mining or milling.
  - b. Maps showing the general area within which the mining or milling operation will be conducted.

- c. A detailed description of the regional environmental conditions, to include surface land use and vegetation as well as a detailed description of the area's geological formations and hydrology from the best available scientific sources are required for mining or milling permits.
    - d. An environmental assessment which establishes base line conditions for radioactive and toxic material in air, ground and surface water, soil, vegetation and animals is required for mining or milling permits.
  2. The applicant shall provide maps indicating the location of the affected sites to the nearest section of land, a technical description of the mining or milling process, the types of equipment to be used, and the estimated timetable for each phase of work and for final completion of the program.
  3. The applicant shall provide:
    - a. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the proposed mining or milling.
    - b. A description of the proposed plan to address the identified environmental impacts to include all measures to be taken to prevent soil erosion, water contamination, air contamination, disruption of the area's ecological balance and any other related hazard to public health and safety.
    - c. The applicant shall provide for a plan for land reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent lands. The reclamation plan shall include:
      - d. A reclamation schedule.
      - e. Methods of plugging drill holes.
      - f. Methods of severing and returning topsoil and subsoil.
      - g. Methods of grading, backfilling and contouring of exploration sites, access roads, and mining sites.
      - h. Methods of waste management and disposal, including liquid and solid wastes.
      - i. Method of revegetation.
  5. The applicant shall post a surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground and surface waters. The amount shall be set by the County Commission based on an estimate of the cost of reclamation and decontamination. The bond shall be released five (5) years after mining and milling has ceased unless the Commissioners find, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the surety bond may be reduced by the Commissioners if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.

6. The applicant shall identify specific phases when monitoring and inspection of the mining and milling activities shall be conducted by County, State, or Federal personnel or their representatives to assure compliance with all applicable rules and regulations. If the special use permit is granted, the permit shall identify such inspection and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Planning Commission.
7. A conditional use permit shall be issued only after all conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of mining and milling activities.
8. Solution mining – mining of an ore body with circulation of chemicals through injection and recovery wells, for minerals is prohibited.

**Section 1212. Wind Energy System (WES) Requirements.**

1. Applicability

The requirements of these regulations shall apply to all WES facilities except PWECS facilities.

2. Federal and State Requirements

All WESs shall meet or exceed standards and regulations of the Federal Aviation and South Dakota State Statutes and any other agency of federal or state government with the authority to regulate WESs.

3. General Provisions

a. Mitigation Measures

- i. 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 WES.
- ii. Topsoil Protection. The permittees shall implement measures to protect and segregate topsoil from subsoil in cultivated lands unless otherwise negotiated with the affected landowner.
- iii. 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.
- iv. Livestock Protection. The permittees shall take precautions to protect livestock during all phases of the project's life.
- v. 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.

vi. Roads

- a. Public Roads. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used for the WES 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 WES. Where practical, all-weather roads shall be used to deliver cement, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites.
- b. The permittees shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate state, county or township governmental body having jurisdiction over approved haul roads for construction of the WES for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and WES components. The permittees shall notify the County of such arrangements upon request of the County.
- c. Turbine Access Roads. Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. When access roads are constructed across streams and drainageways, 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.
- d. 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.
- e. Control of Dust. The permittees shall utilize all reasonable measures and practices of construction to control dust.
- f. 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. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive revegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.

- b. Setbacks. Wind turbines shall meet the following minimum spacing requirements.
- i. Distance from participating and non-participating residences, businesses, churches, and buildings owned and/or maintained by a governmental entity. Centerline of public roads and property lines shall be in accordance with Table 1212-1.

**Table 1212-1  
WES Setbacks**

	<b>Setback Distance*</b>
<b>Participating Residence, business, church, school, building owned and/or operated by a governmental entity</b>	1,500 Feet**
<b>Non-Participating Residence, business, church, school, building owned and/or operated by a governmental entity</b>	1,500 Feet
<b>Municipal Boundaries existing at the time of Conditional Use Permit Application</b>	5,280 Feet
<b>Distance from Public Right-of-Way</b>	500 Feet or 110% of the vertical height of the wind turbine, whichever is greater***
<b>Distance from Property Line</b>	500 Feet or 110% of the vertical height of the wind turbine, whichever is greater ****

\* Setback distance to be measured from the wall line of the neighboring principal building to the base of the WES tower. The vertical height of the wind turbine is measured from the ground surface to the tip of the blade when in a fully vertical position.

\*\* No less than 110% of the vertical height of the wind turbine if agreed upon by participating entity

\*\*\* The horizontal setback shall be measured from the base of the tower to the public right-of-way.

\*\*\*\*The horizontal setback shall be measured from the base of the tower to the adjoining property line unless wind easement has been obtained from adjoining property owner.

- c. Electromagnetic Interference. The permittees shall not operate the WES 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 WES or its operation, the permittees shall take the measures necessary to correct the problem.
- d. 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. The preferred manner of lighting is by means of an Aircraft Detection Lighting System (ADLS). Subject to FAA approval, applicants will install an ADLS within one (1) year of approval by FAA for the specified project. In the event FAA does not approve an ADLS system, the turbine owner will comply with all lighting and markings otherwise required by FAA. Beacon lighting, unless required by FAA, shall not be utilized.

- e. Turbine Spacing. The turbines shall be spaced no closer together than two and one-half (2.5) rotor diameters (RD) (measurement of blades tip to tip) within a string. If required during final micro siting of the turbines to account for topographic conditions, up to ten (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.
- f. Footprint Minimization. The permittees shall design and construct the WES so as to minimize the amount of land that is impacted by the WES. Associated facilities in the vicinity of turbines such as electrical/electronic boxes, transformers and monitoring systems shall be mounted on the foundations used for turbine towers or inside the towers unless otherwise negotiated with the affected landowner.
- g. Collector Lines. Collector lines are the conductors of electric energy from the Wind Energy System to the feeder lines. When located on private property, the permittees shall place electrical lines, known as collectors, and communication cables underground between the WES and the feeder lines. The exception to this requirement is when the total distance of collectors from the substation requires an overhead installation due to line loss of current from an underground installation. 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.
- h. Feeder Lines. Feeder lines are the conductors of electric energy from the collector lines to the main electric terminal. The permittees shall place overhead electric lines, known as feeders, on public rights-of-way or private property. 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-way. 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. Feeder line support structures (power poles) shall be placed on private property where concrete or other similar materials are used as an exposed or above-ground permanent foundation.
- i. Decommissioning/Restoration/Abandonment
  - i. Cost Responsibility. The owner or operator of a WES is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities.
  - ii. Decommissioning Plan. At least thirty (30) days prior to construction, the applicant shall submit to the County a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of this section. The plan shall include the estimated decommissioning cost per turbine and 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 may at any time request the permittees to file a report with the County describing how the permittees are fulfilling this obligation.

- iii. Financial Assurance. In the event the South Dakota Public Utilities Commission does not adequately address the need for a financial instrument to cover the anticipated costs of decommissioning the WES facility, the Board shall require a performance bond, surety bond, escrow account, letter of credit, corporate guarantee or other form of financial assurance that is acceptable to the Board to cover the anticipated costs of decommissioning the WES facility. The financial assurance plan is subject to the following provisions:
  - a. The financial instrument shall be funded annually at a rate of five thousand dollars (\$5,000) per turbine for a period of thirty (30) years.
  - b. The Board may allow a decreased annual payment, if the Board determines the full rate as identified in the financial assurance plan is not necessary to cover costs of decommissioning.
  - c. All interest earned by any financial assurance account remains in the account.
  - d. A financial assurances statement is to be provided upon request to the Zoning Official.
  - e. The financial assurance plan follows ownership of the wind turbines.
  - f. The financial assurances are not subject to foreclosure, lien, judgment, or bankruptcy.
  - g. After the 10<sup>th</sup> year of operation and each fifth year thereafter, the turbine owner shall submit to the Board an estimated decommissioning date, if established, and estimated decommissioning costs and salvage values. Based on the verification of the information in this filing the Board may change the annual financial assurance funding rate to more closely match the estimated amount needed for decommissioning.
  - h. Funds from the financial assurances are to be paid to the turbine owner at the time of decommissioning. Said funds are to be paid as decommissioning costs are incurred and paid for by the turbine owner.
- iv. Site Restoration. The decommissioning of the WES shall begin within eight (8) months of the expiration of this permit, or earlier termination of operation of the WES and be completed within eighteen (18) months of the expiration of this permit or earlier termination of operation of the WES. The permittees shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead collector and feeder lines, foundations, buildings and ancillary equipment to a depth of four (4) 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 and shall show the locations of all such foundations. All such agreements between the permittees and the affected landowner shall be submitted to the County 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.

- v. Failure to Decommission. If the WES facility owner or operator does not complete decommissioning, the Board may take such action as may be necessary to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the Board may take such action as may be necessary to decommission a WES facility.
- vi. Abandoned Turbines. The permittees shall advise the County of any turbines that are abandoned prior to termination of operation of the WES. The County may require the permittees to decommission any abandoned turbine.
- j. 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.
- k. Towers.
  - a. Color and Finish. The finish of the exterior surface shall be non-reflective and non-glass.
  - b. All towers shall be singular tubular design.
- l. Noise. Noise level shall not exceed fifty (50) dBA, pressure including constructive interference effects at the perimeter of the principal and accessory structures of non-participating residences, businesses, and buildings owned and/or maintained by a governmental entity. Noise level measurements shall be made with a sound level meter using the A-weighting scale, in accordance with standards promulgated by the American National Standards Institute. A L90 measurement shall be used and have a measurement period no less than ten (10) minutes unless otherwise specified by the Board of Adjustment.
- m. Flicker Analysis. A Flicker Analysis shall include the duration and location of flicker potential for all schools, churches, businesses, and occupied dwellings within a one (1) mile radius of each turbine within a project. The applicant shall provide a site map identifying the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall account for topography but not for obstacles such as accessory structures and trees. Flicker at any receptor shall not exceed thirty (30) hours per year within the analysis area.

Exception: The Board of Adjustment may allow for a greater amount of flicker than identified above if the participating or non-participating landowners agree to said amount of flicker. If approved, such agreement is to be recorded and filed with the Lake County Register of Deeds. Said agreement shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land.
- n. Required Information for Permit.
  - i. Boundaries of the site proposed for WES and associated facilities on United States Geological Survey Map or other map as appropriate.

- ii. Map of easements for WES.
- iii. Affidavit attesting that necessary easement agreements with landowners have been obtained.
- iv. Map including any residential structures, businesses, churches and buildings owned and/or maintained by a governmental entity within one (1) mile of the project area.
- v. Preliminary map of sites for WES, access roads and collector and feeder lines. Final map of sites for WES, access roads and utility lines is required prior to the issuance of any building permits associated with the conditional use permit.
- vi. Proof of right-of-way easement for access to utility transmission lines and/or utility interconnection to be submitted prior to construction.
- vii. Location of other WES in general area.
- viii. Project schedule.
- ix. Reserved
- x. Evidence of consultation with State and Federal wildlife agencies regarding Project-specific environmental concerns (e.g., native habitat, rare species, and migratory routes) shall be included in the application.
- xi. Final haul road agreements to be submitted prior to construction.

**Section 1213. Wireless Telecommunications Towers and Facilities.**

**1213.01. Purpose.**

The general purpose of this Section is to regulate the placement, construction, and modification of Towers and Telecommunications Facilities in order to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the County.

Specifically, the purposes of this Ordinance are:

1. To regulate the location of Towers and Telecommunications Facilities in the County;
2. To protect residential areas and land uses from potential adverse impact of Towers and Telecommunications Facilities;
3. To minimize adverse visual impact of Towers and Telecommunications Facilities through careful design, siting, landscaping, and innovative camouflaging techniques;

4. To promote and encourage shared use/collocation of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers;
5. To promote and encourage utilization of technological designs that will either eliminate or reduce the need for erection of new Tower structures to support antenna and Telecommunications Facilities;
6. To avoid potential damage to property caused by Towers and Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound; and
7. To ensure that Towers and Telecommunications Facilities are compatible with surrounding land uses.

**1213.02. Development of Towers.**

1. Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of one hundred and fifty (150) feet. Towers may be permitted in excess of one hundred and fifty (150) feet in accordance with "Criteria for Site Plan Development Modifications."
2. No new Tower shall be built, constructed, or erected in the County unless the Tower is capable of supporting three other Persons' operating Tele-communications Facilities comparable in weight, size, and surface area to the Telecommunications Facilities installed by the Applicant on the Tower within six (6) months of the completion of the Tower construction. No tower shall charge co-location fees in excess of commercially reasonable industry amounts. Each tower constructed shall upon the request of Lake County mount law-enforcement or public safety communications apparatus.
3. An Application to develop a Tower shall include:
  - a. The name, address, and telephone number of the Owner and lessee of the parcel of land upon which the Tower is situated. If the Applicant is not the Owner of the parcel of land upon which the Tower is situated, the written consent of the Owner shall be evidenced in the Application.
  - b. The legal description, folio number, and address of the parcel of land upon which the Tower is situated.
  - c. The names, addresses, and telephone numbers of all owners of other Towers or usable Antenna Support Structures within a one-half (½) mile radius of the proposed new Tower site, including County-owned property.
  - d. A description of the design plan proposed by the Applicant. Applicant must identify its utilization of the most recent technological design, including microcell design, as part of the design plan. The Applicant must demonstrate the need for Towers and why design alternatives, such as the use of microcell, cannot be utilized to accomplish the provision of the Applicant's telecommunications services.

- e. An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to install or collocate the Applicant's Telecommunications Facilities on Towers or usable Antenna Support Structures owned by other Persons located within a one-half (½) mile radius of the proposed Tower site. In the event that one reason for the unsuccessful efforts to install or collocate is that fees to be charged are not commercially reasonable, an explanation shall be provided why said charges are commercially unreasonable.
  - f. Written technical evidence from an Engineer(s) that the proposed Tower or Telecommunications Facilities cannot be installed or collocated on another person's Tower or usable Antenna Support Structures owned by other Persons located within one-half (½) mile radius of the proposed Tower site.
  - g. A written statement from an Engineer(s) that the construction and placement of the Tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties.
  - h. Written, technical evidence from an Engineer(s) that the proposed structure meets the standards set forth in, "Structural Requirements," of this Ordinance.
  - i. Written, technical evidence from a qualified Engineer(s) acceptable to the Fire Marshall and the building official that the proposed site of the Tower or Telecommunications Facilities does not pose a risk of explosion, fire, or other danger to life or property due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, or corrosive or other dangerous chemicals.
  - j. The FCC has sole jurisdiction of the field of regulation of RF emissions and does not allow the County to condition or deny on the basis of RF impacts the approval of any Telecommunications Facilities (whether mounted on Towers or Antenna Support Structures) which meet FCC standards. In order to provide information to its citizens, the County shall make available upon request copies of ongoing FCC information and RF emission standards for Telecommunications Facilities transmitting from Towers or Antenna Support Structures. Applicants shall be required to submit information on the proposed power density of their proposed Telecommunications Facilities and demonstrate how this meets FCC standards.
  - k. No application shall be accepted from landowners or on property on which there are current or past unresolved violations outstanding.
4. The Board of Adjustment may require an Applicant to supplement any information that the Board considers inadequate or that the Applicant has failed to supply. The Board of Adjustment may deny an Application on the basis that the Applicant has not satisfactorily supplied the information required in this subsection. Applications shall be reviewed by the Board in a prompt manner and all decisions shall be supported in writing setting forth the reasons for approval or denial.

**1213.03. Setbacks.**

1. All Towers up to one-hundred (100) feet in height shall be set back on all sides a distance equal to the underlying setback requirement in the applicable zoning district. Towers in excess of one hundred (100) feet in height shall be set back one (1) additional foot per each foot of Tower height in excess of one hundred (100) feet.
2. Setback requirements for Towers shall be measured from the base of the Tower to the property line of the parcel of land on which it is located.
3. Setback requirements may be modified, as provided in, when placement of a Tower in a location which will reduce the visual impact can be accomplished. For example, adjacent to trees which may visually hide the Tower.

**1213.04. Structural Requirements.** All Towers must be designed and certified by an Engineer to be structurally sound and, at minimum, in conformance with the Building Code, and any other standards outlined in this Ordinance. All Towers in operation shall be fixed to land.

**1213.05. Separation or Buffer Requirements.** For the purpose of this Section, the separation distances between Towers shall be measured by drawing or following a straight line between the base of the existing or approved structure and the proposed base, pursuant to a site plan of the proposed Tower.

Proposed Towers must meet the following minimum separation requirements from existing towers or towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Ordinance:

1. Monopole Tower structures shall be separated from all other Towers, whether monopole, self-supporting lattice, or guyed, by a minimum of seven hundred and fifty (750) feet.
2. Self-supporting lattice or guyed Tower structures shall be separated from all other self-supporting or guyed Towers by a minimum of fifteen hundred (1,500) feet.
3. Self-supporting lattice or guyed Tower structures shall be separated from all monopole Towers by a minimum of seven hundred and fifty (750) feet.
4. The separation requirements contained in 1213.05 shall not be required of existing Towers or Towers which have a development permit but are not yet constructed at the time a development permit is granted pursuant to this Ordinance.

**1213.06. Method of Determining Tower Height.** Measurement of Tower height for the purpose of determining compliance with all requirements of this Section shall include the Tower structure itself, the base pad, and any other Telecommunications Facilities attached thereto which extend more than twenty (20) feet over the top of the Tower structure itself. Tower height shall be measured from grade.

**1213.07. Illumination.** Towers shall not be artificially lighted except as required by the Federal Aviation Administration (FAA). Upon commencement of construction of a Tower, in cases where there are residential uses located within a distance which is three hundred (300) percent of the height of the Tower from the Tower and when required by federal law, dual mode lighting shall be requested from the FAA.

**1213.08. Exterior Finish.** Towers not requiring FAA painting or marking shall have an exterior finish which enhances compatibility with adjacent land uses, as approved by the appropriate reviewing body.

**1213.09. Modification of Towers.**

1. A Tower existing prior to the effective date of this Ordinance, which was in compliance with the County's zoning regulations immediately prior to the effective date of this Ordinance, may continue in existence as a nonconforming structure. Such non-conforming structures may be modified or demolished and rebuilt without complying with any of the additional requirements of this Section, except for Sections "Separation or Buffer Requirements", "Certification and Inspections", and "Maintenance," provided:
  - a. The Tower is being modified or demolished and rebuilt for the sole purpose of accommodating, within six (6) months of the completion of the modification or rebuild, additional Telecommunications Facilities comparable in weight, size, and surface area to the discrete operating Telecommunications Facilities of any Person currently installed on the Tower.
  - b. An Application for a development permit is made to the Board of Adjustment which shall have the authority to issue a development permit without further approval. The grant of a development permit pursuant to this Section allowing the modification or demolition and rebuild of an existing nonconforming Tower shall not be considered a determination that the modified or demolished and rebuilt Tower is conforming.
  - c. The height of the modified or rebuilt Tower and Telecommunications Facilities attached thereto do not exceed the maximum height allowed under this Ordinance.

**1213.10. Certifications and Inspections.**

1. All Towers shall be certified by an Engineer to be structurally sound and in conformance with the requirements of this ordinance and all other construction standards set forth by federal and state law. For new monopole Towers, such certification shall be submitted with an Application pursuant to of this Ordinance and every five (5) years thereafter. For existing monopole Towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every five (5) years thereafter. For new lattice or guyed Towers, such certification shall be submitted with an Application pursuant to of this Ordinance and every two (2) years thereafter. For existing lattice or guyed Towers, certification shall be submitted within sixty (60) days of the effective date of this Ordinance and then every two (2) years thereafter. The Tower owner may be required by the County to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the Tower is jeopardized.

2. The County or its agents shall have authority to enter onto the property upon which a Tower is located, between the inspections and certifications required above, to inspect the Tower for the purpose of determining whether it complies with this ordinance and all other construction standards provided by federal and state law.

The County reserves the right to conduct such inspections at any time, upon reasonable notice to the Tower owner. All expenses related to such inspections by the County shall be borne by the Tower owner.

**1213.11. Maintenance.**

1. Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
2. Tower owners shall install and maintain Towers, Telecommunications Facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere with the use of other property.
3. All Towers, Telecommunications Facilities, and Antenna Support Structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any Person.
4. All maintenance or construction of Towers, Telecommunications Facilities, or Antenna Support Structures shall be performed by licensed maintenance and construction personnel.
5. All Towers shall maintain compliance with current RF emission standards of the FCC.
6. In the event that the use of a Tower is discontinued by the Tower owner, the Tower owner shall provide written notice to the County of its intent to discontinue use and the date when the use shall be discontinued.

**1213.12. Criteria for Site Plan Development Modifications.**

1. Notwithstanding the Tower requirements provided in this Ordinance, a modification to the requirements may be approved by the Board of Adjustment as a conditional use in accordance with the following:
  - a. In addition to the requirement for a Tower Application, the Application for modification shall include the following:
    - i. A description of how the plan addresses any adverse impact that might occur as a result of approving the modification.

- ii. A description of off-site or on-site factors which mitigate any adverse impacts which might occur as a result of the modification.
  - iii. A technical study that documents and supports the criteria submitted by the Applicant upon which the request for modification is based. The technical study shall be certified by an Engineer and shall document the existence of the facts related to the proposed modifications and its relationship to surrounding rights-of-way and properties.
  - iv. For a modification of the setback requirement, the Application shall identify all parcels of land where the proposed Tower could be located, attempts by the Applicant to contract and negotiate an agreement for collocation, and the result of such attempts.
  - v. The Board of Adjustment may require the Application to be reviewed by an independent Engineer under contract to the County to determine whether the antenna study supports the basis for the modification requested. The cost of review by the County's Engineer shall be reimbursed to the County by the Applicant.
2. The Board of Adjustment shall consider the Application for modification based on the following criteria:
- a. That the Tower as modified will be compatible with and not adversely impact the character and integrity of surrounding properties.
  - b. Off-site or on-site conditions exist which mitigate the adverse impacts, if any, created by the modification.
  - c. In addition, the board may include conditions on the site where the Tower is to be located if such conditions are necessary to preserve the character and integrity of the neighborhoods affected by the proposed Tower and mitigate any adverse impacts which arise in connection with the approval of the modification.
3. In addition to the requirements of subparagraph (2) of this Section, in the following cases, the Applicant must also demonstrate, with written evidence, the following:
- a. In the case of a requested modification to the setback requirement, that the setback requirement cannot be met on the parcel of land upon which the Tower is proposed to be located and the alternative for the Person is to locate the Tower at another site which is closer in proximity to a residentially zoned land.
  - b. In the case of a request for modification of the separation and buffer requirements from residential use of land of, if the Person provides written technical evidence from an Engineer(s) that the proposed Tower and Telecommunications Facilities must be located at the proposed site in order to meet the coverage requirements of the Applicant's wireless communications system and if the Person is willing to create approved landscaping and other buffers to screen the Tower from being visible to residentially used property.

- c. In the case of a request for modification of the height limit for Towers and Telecommunications Facilities or to the minimum height requirements for Antenna Support Structures, that the modification is necessary to:
  - i. Facilitate collocation of Telecommunications Facilities in order to avoid construction of a new Tower; or
  - ii. To meet the coverage requirements of the Applicant's wireless communications system, which requirements must be documented with written, technical evidence from an Engineer(s) that demonstrates that the height of the proposed Tower is the minimum height required to function satisfactorily, and no Tower that is taller than such minimum height shall be approved.

**1213.13. Abandonment.**

1. If any Tower shall cease to be used for a period of 365 consecutive days, the Planning Commission shall notify the Owner, with a copy to the Applicant, that the site will be subject to a determination by the Planning Commission that such site has been abandoned. The Owner shall have thirty (30) days from receipt of said notice to show, by a preponderance of the evidence, that the Tower has been in use or under repair during the period. If the Owner fails to show that the Tower has been in use or under repair during the period, the Planning Commission shall issue a final determination of abandonment for the site. Upon issuance of the final determination of abandonment, the Owner shall, within seventy-five (75) days, dismantle and remove the Tower.
2. To secure the obligation set forth in this Section, the Applicant [and/or Owner] may be required to post a bond.

**1213.14. Action of the Board of Adjustment.**

1. Lake County shall approve or deny an application for collocation within ninety (90) days of the submission date of a complete application. Failure to act by the Board of Adjustment within the prescribed time frame entitles the applicant the ability to file a court action. The court action is to be filed within thirty (30) days from the required date of action of the Board of Adjustment.
2. Lake County shall approve or deny an application for a new wireless telecommunications facility within one hundred fifty (150) days of the submission date of a complete application. Failure to act by the Board of Adjustment within the prescribed time frame entitles the applicant the ability to file a court action. The court action is to be filed within thirty (30) days from the required date of action of the Board of Adjustment.
3. The Board of Adjustment may not deny the application on the basis that a competing provider already provides coverage.

**Section 1214. Animal Units On Small Acreages**

On parcels of land of one (1) acre or less, a maximum of one (1) animal unit per acre will be allowed. Designated commercial feedlots excluded.

**Section 1215. Right to Farm Notice.** The following document is to be utilized as a requirement for farm and non-farm residential development within the Agricultural and Planned Development Districts. {Ord. 26-02}

Prepared by:

Lake County Zoning Official (or by Grantor or Grantor's Attorney)

Zoning Official Address (or Grantor's or Grantor's Attorney's address)

Madison, SD 57042 (or Grantor's or Grantor's Attorney's city)

**RIGHT TO FARM NOTICE**

You are hereby notified that the property for which you are applying for a Lake County residential building permit is located within or near agriculturally zoned land. You are also notified that you may be subject to inconvenience or discomfort from lawful agricultural uses permitted by Lake County zoning regulations. Agricultural uses permitted by Lake County 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 manure; 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. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. If you live within or near an agriculturally zoned area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for Lake County approved agricultural uses to expand. This notice does not abdicate your rights as a landowner to object to agricultural uses permitted by Lake County. Nor does this notice allow for agricultural uses permitted by Lake County to be conducted in an illegal manner. This notification shall extend to all landowners, their heirs, successors or assigns. This notice is a requirement for obtaining a Lake County building permit for residential development and may not be removed from the record title without consent of the Board of Adjustment.

Legal Description \_\_\_\_\_

Signature \_\_\_\_\_

STATE OF SOUTH DAKOTA LAKE COUNTY

On this the \_\_\_ day of \_\_\_\_\_, 20\_\_, before me, \_\_\_\_\_, the undersigned officer, personally appeared \_\_\_\_\_, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that \_\_\_\_\_ executed the same for the purposes contained.

In witness whereof I hereunto set my hand and official seal.

\_\_\_\_\_ My commission expires \_\_\_\_\_

**Section 1216. Acknowledgement of Existing Concentrated Animal Feeding Operation Covenant.**

The following covenant is to be utilized as required for farm and non-farm residential development in the Agricultural and Planned Development Zoning Districts which are located within one-half mile of an existing concentrated animal feeding operation in the Agricultural Zoning District

Prepared by:

Lake County Zoning Official (or by Grantor or Grantor’s Attorney)

Zoning Official Address (or Grantor’s or Grantor’s Attorney’s address)

Madison, SD 57042 (or Grantor’s or Grantor’s Attorney’s city)

**ACKNOWLEDGEMENT OF  
EXISTING CONCENTRATED ANIMAL FEEDING OPERATION COVENANT**

The following acknowledgement is to be used when a dwelling (Farm or Non-Farm) is proposed to be constructed within one-half (1/2) mile of an existing Concentrated Animal Feeding Operation. The acknowledgement shall be filed with the Register of Deeds. Grantors are the owner(s) of property applying for the proposed residential development. (See 3.04.03.9.b)

1. Purpose. This acknowledgement is required for any dwelling to be constructed within one-half (1/2) mile of an existing concentrated animal feeding operation as defined by the Lake County Zoning Ordinance.

2. Acknowledgement:

(“Grantors”) are the owners of real property described as follows:

In accordance with the conditions set forth in the decision of Lake County, dated \_\_\_\_\_ 20\_\_\_\_, approving a plat with a residential dwelling development right or by the issuance of a permit for a residential dwelling either to be located within one-half (1/2) mile of the existing concentrated animal feeding operation located at the following property, \_\_\_\_\_ and in consideration of such approval,

1. The Grantors, their heirs, successors, and assigns acknowledge that the location of a residential development/dwelling on (legal description) is within one-half (1/2) mile of an existing concentrated animal feeding operation.

2. The grantors hereby acknowledge that the construction of this residence will not result in the existing concentrated animal feeding operation becoming a nonconforming use as defined by the Lake County Zoning Ordinance.

IN WITNESS WHEREOF, \_\_\_\_\_, 20\_\_

Grantors (Print) \_\_\_\_\_

Grantors (Signature) \_\_\_\_\_

STATE OF SOUTH DAKOTA

SS:

COUNTY OF LAKE

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ (Grantors).

\_\_\_\_\_ Notary Public My Commission Expires: \_\_\_\_\_

**Section 1217. Adult Use Regulations**

In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

**Section 1217.01. Setbacks**

None of the following uses may be established, operated or maintained within five hundred (500) feet of a residence, a church, a school meeting all the requirements of the Compulsory Education Laws of the State of South Dakota, or a public park.

- a. Adult bookstore.
- b. Adult motion picture theater.
- c. Adult photo studio.
- d. Adult Entertainment Cabaret
- e. Any use which has as a part of its operation adult entertainment or amusement including but not limited to, a restaurant or eating place, a bar, lounge or tavern.
- f. Any use intended to provide adult amusement or entertainment.

Not more than two of the following uses may be established, operated or maintained within one thousand (1,000) feet of each other:

- a. Adult bookstore.
- b. Adult motion picture theater.
- c. Adult photo studio.

- d. Adult entertainment cabaret
- e. Any use which has as a part of its operation adult entertainment or amusement including but not limited to, a restaurant or eating place, a bar, lounge or tavern.
- f. Any use intended to provide adult amusement or entertainment.
- g. A bar.
- h. A liquor store.

The one thousand (1,000)-foot restriction provided for in 1217.01.2 above may be waived and a conditional use permit issued upon proper application if the County finds:

- a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these regulations will be observed.
- b. That the proposed use will not enlarge or encourage the development of a 'skid row' area.
- c. That all applicable regulations will be observed.

**Section 1217.02. Required License.**

It shall be unlawful for any person to engage in the business of operating an adult use in Lake County without first having obtained a license from the Lake County Commissioners.

**Section 1217.02.01. Application; Standards for Issuance.**

1. Application for an adult use license shall be made in writing and shall state the following:
  - a. The name, address, telephone number and age of the applicant and the registered agent of the applicant if the applicant is a corporation.
  - b. The location of the adult use business.
  - c. The exact nature of the adult use to be conducted and of the proposed place of business and the facilities related thereto.
  - d. A statement by the applicant that he is familiar with the provisions of this article and is in compliance with them.
  - e. A statement of whether the business will be conducted by a manager and, if so, the name, address, telephone number, and age of each such manager.

- f. A statement that no manager or principal operating the business has been convicted of any offense of prostitution, soliciting for prostitution, or obscenity or public indecency as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use in any other community revoked within the last two (2) years.
2. Within fifteen (15) days after receipt of an application for an adult use license, the Lake County Commissioners shall investigate the information contained in the application and shall determine the following:
  - a. That the premises designated by the applicant as the location of the business are in full compliance with all applicable ordinances of Lake County, including zoning ordinances.
  - b. That the premises and each manager and employee comply with the provisions of Section 1217.02.1 as such provisions apply to them.
  - c. That the applicant, each manager and each employee are over twenty-one (21) years of age.
  - d. That no manager or principal operator of the business has been convicted of any offense of prostitution, solicitation for prostitution, or obscenity or public indecency, as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use revoked within the last two (2) years.
3. If the investigation shows the compliance of the applicant for an adult use license, the premises upon which the business is to be conducted and each manager and employee, if applicable, with each of the requirements established in subsections (1) and (2) of this section, and with the conditions and regulations set forth in Section 1217.03 within fifteen (15) days after completion of such investigation, the Lake County Commissioners shall issue a license, and upon payment by the applicant of the license fee required under this article, the license shall be issued.
4. If the investigation shows that the applicant for an adult use license, the premises on which the business is to be conducted, or the managers and employees, if applicable, do not comply with each of the requirements established in subsection (1) of this section, and with the conditions and regulations set forth in Section 1217.03 within fifteen (15) days after completion of such investigation, the Lake County Commissioners shall notify the applicant in writing that the license has been denied. Such denial shall be the final administrative action of the County with respect to the license application, and shall be subject to the immediate appeal by the applicant to the circuit court.

**Section 1217.03. Conditions & Regulations Governing Operation; Violation; Penalty.**

1. The following regulations shall govern and control the business of operating an adult use in Lake County:
  - a. No person under twenty-one (21) years of age shall be allowed on the licensed premises.
  - b. At all times during the hours of operation there shall be present a manager or other employee of the licensee who shall be not less than twenty-one (21) years of age.

- c. Upon a change of any manager conducting business for the licensee, the licensee shall, within ten regular business days, give the County Commissioners written notice of such change by actual delivery or by registered or certified mail. The licensee shall, thereafter, as promptly as practicable, but in any event within five (5) regular business days, provide the information concerning the new manager which is required in Section 1217.02.
  - d. No adult use shall be located on-premises for which a license to sell alcoholic liquor has been issued, and no alcoholic liquor shall be permitted on such premises.
  - e. No adult use shall be permitted unless the premises on which such business is located complies with the requirements of the zoning ordinance.
  - f. No licensee or manager under the provisions of this article shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as defined in the South Dakota Compiled Statutes.
  - g. No licensee or manager under the provisions of this article shall permit any act of prostitution, solicitation for prostitution or patronization of a prostitute on the licensed premises.
  - h. No sign shall be posted on the licensed premises which depicts, displays or refers to specified anatomical areas or specified sexual activities, as defined in this article.
2. In addition to the requirements established in Section 1217.03.1, the following regulations shall govern and control the operation of an adult bookstore which offers any films or videotapes for viewing on-premises by use of motion picture devices or other such operations means:
- a. All viewing areas, which shall be defined as the area where a patron or customer would ordinarily be positioned while watching a film or viewing device, shall be visible from a continuous main aisle or public room and shall not be obscured by any curtain, door, wall or other enclosure.
  - b. There shall be no aperture whatsoever in any wall or partition between viewing areas.
  - c. Each viewing area shall be lighted at a minimum level of ten (10) foot candles in all parts thereof.
3. In addition to the requirements established in Section (1) of this section, the following regulations shall govern and control the operation of an adult entertainment cabaret:
- a. All performers shall be at least twenty-one (21) years of age.
  - b. All performances, exhibitions or displays shall take place on a platform raised at least two feet from the level of the floor, and located at least ten (10) feet from any patron.
  - c. No performer shall fondle or caress any patron or other performer and no patron shall fondle or caress any performer.

- d. No patron shall be permitted to pay or give any gratuity to any performer, and no performer shall solicit any pay or gratuity from any patron.
4. It shall be unlawful for any person licensed to engage in the business of operating an adult use within the County to fail to comply with the conditions and regulations set forth in subsections 1217.01, 1217.02, and/or 1217.03 of this section as they are applicable to the licensed business, or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises. In this regard, any act or omission of an employee shall be deemed the act or omission of the owner if such act or omission occurred either with the authorization, knowledge or approval of the owner or as a result of the owner's negligent failure to supervise the employee's conduct. All conduct occurring while on the premises shall be presumed to be the responsibility of the owner.
5. Any person convicted of a violation of this section shall be subject to a fine pursuant to Section 803 of this Ordinance.

**Section 1217.04 Suspension or Revocation.**

Nothing in the terms of this article shall preclude the right of the Lake County Commissioners to suspend or revoke the license of the licensee, as follows:

1. The Lake County Commissioners may temporarily suspend any license issued under the terms of this article when he has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven (7) days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven (7)-day period, and further provided that if such licensee shall also be engaged in the conduct of other business on the licensed premises, such order shall not be applicable to such other businesses.
2. The Lake County Commissioners may suspend or revoke any license issued under the terms of this article upon ten (10) days notice to the licensee of the time and place of a public hearing, and a public hearing at which the licensee may appear and present evidence, if the Lake County Commissioners determines upon such hearing that the licensee has failed or refused to comply with the terms of this article, has failed or refused to comply with other law applicable to the business of operating an adult use, has knowingly permitted the failure of any manager or employee on the premises to comply with the terms of this article or with other law applicable to the business of operating an adult use, has knowingly furnished false or misleading information on any application required for any license under this section or has suffered or caused another to furnish or withhold such information on his behalf, or has been convicted by a court of competent jurisdiction of a violation of any provision of this section.

## **Section 1218. Private Wind Energy Conversion System (PWECS) Requirements**

The regulations regarding Private Wind Energy Conversion Systems (hereafter referred to as PWECS) are as follows:

1. Limited Use. No PWECS installed in accordance with the requirements of these regulations will generate power as an electric utility as defined by SDCL 49-34A-1.
2. Applicants. Applicant means any person that applies for a PWECS permit. Person is any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
3. Contiguous property owners and planned developments may construct a PWECS for their use in common. If property held by more than one (1) single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted to the Board of Adjustment for their approval.
4. Setback requirements. Wind turbines must meet the following minimum spacing requirements.
  - a. Distance from existing off-site residences, businesses, churches, and buildings owned and/or maintained by a governmental entity must be at least two hundred percent (200%) the height of the wind turbine. Distance from on-site or lessor's residence must be at least one hundred fifty percent (150%) the height of the wind turbine. Distance is measured from the wall line of the neighboring principal building to the base of the WES tower.
  - b. Distance from centerline of public roads must be at least one hundred fifty percent (150%) the height of the wind turbine measured from the ground surface to the tip of the blade when in a fully vertical position.
  - c. Distance from any property line must be at least one hundred fifty percent (150%) the height of the wind turbine, 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.
  - d. Exception: The Board of Adjustment may allow setback/separation distances to be less than the established distances identified above, if the adjoining landowners agree to a lesser setback/separation distance. If approved, such agreement is to be recorded and filed with the Lake County Zoning Official.
4. Tower Access. Climbing access to the PWECS tower must be limited either by means of a fence six (6) feet high around the tower base with a locking portal, or by limiting tower climbing apparatus so there is access to it no lower than twelve (12) feet from the ground.
5. Electromagnetic Interference. If a PWECS is installed in any location along or within the major access of an existing microwave communications link, the applicant will be required to provide a letter from the business whose link they are within or adjacent to stating that the business whose link is affected would have no objection to the installation of the PWECS.

6. Air Space. A PWECS must be located or installed in compliance with the guidelines of the Federal Aviation Administration Regulations with regard to Airport Approach Zones and clearance around VOR stations.
7. Interconnect. The PWECS, if interconnected to an electric utility distribution system, must meet the interconnect requirements of the electric utility company.
8. Appearance, Color, Finish. The PWECS will remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the building permit.
9. Noise. Noise level must not exceed fifty (50) dBA, average A-weighted sound pressure including constructive interference effects at the perimeter of the principal and accessory structures of existing off-site residences, businesses, and buildings owned and/or maintained by a governmental entity.
10. Utility Notification. No PWECS will be installed until evidence has been provided that the utility company has been informed of the applicant's intent to install an interconnected applicant-owned generator. Off-grid systems are exempt from this requirement.
11. Permit Requirements
  - a. Building permit. A building permit will be required for the installation of a PWECS.
  - b. The conditional use permit application must be accompanied by a plan which includes the following:
    - i. Pre-construction plans and specifications from the manufacturer or stamped by a registered engineer;
    - ii. Property lines and physical dimensions of the property;
    - iii. Location, dimensions, and types of existing major structures on the property;
    - iv. Location of the proposed PWECS;
    - v. The right-of-way of any public road that is contiguous with the property;
    - vi. Any overhead utility lines;
    - vii. Wind system specifications, including manufacturer and model, rotor diameter, tower height, and tower type (monopole, lattice, guyed);
    - viii. Tower foundation blueprints or drawings;
    - ix. Tower blueprint or drawing;

- x. Proof of notification to the utility in the service territory in which the PWECS is to be erected, consistent with the provisions of Paragraph 10 herein;
  - xi. The status of all necessary interconnection agreements or studies;
  - xii. Map of any easements and affidavit attesting that necessary easement agreements with landowners have been obtained, if applicable, consistent with the provisions of Paragraph 3 herein; and
  - xiii. Project schedule.
13. Permit Expiration. The conditional use permit will become void if no substantial construction has been completed within two (2) years of issuance.
14. Construction Standards. Any PWECS must be constructed in accordance with all applicable life, safety, electrical, building and fire codes including but not limited to the following:
- a. An application for a building permit for a PWECS must include pre-construction plans and specifications stamped by a registered engineer and may also be required by the Zoning Official to submit a post-construction inspection stamped by a registered engineer. Post-construction inspections stamped by a registered engineer must be provided consistent with the guidelines provided for in South Dakota Codified Law 36-18A-46.
  - b. Lightning Protection. Any PWECS must have appropriate lightning protection to sufficiently protect all connected and adjacent equipment and structures from damage. The lightning protection system must effectively discharge lightning energy from the structure to the ground through the application of shielding, lightning arresters and deep earth grounding.
15. Abandonment/removal.
- a. The County may declare a PWECS abandoned . The County will issue a Notice of Abandonment to the permittee that the PWECS is deemed to have been abandoned. The permittee has the right to respond to the Notice of Abandonment within thirty (30) days from Notice receipt date. The County will determine that a PWECS has been abandoned if any of the following criteria apply:
    - i. The PWECS has not been operational for a period of eighteen (18) consecutive months or more. To be considered operational, the permittee must show that the PWECS has produced a minimum of twenty-five (25) percent of the expected typical energy output as stated in the system specifications over the past eighteen (18) consecutive months. For the purposes of this paragraph, the expected typical energy output is defined as the number of kilo-Watt-hours (kWh) of energy that the system is reasonably expected to produce in a given time period based on the typical wind attributes present at the installation location and assuming that the system is capable of being fully operational during the given time period. The permittee may set forth reasons for the operational difficulty in its response and provide a reasonable timetable for corrective action. If the County deems the timetable for corrective action to be unreasonable, the PWECS may be declared abandoned.

- ii. The PWECS has fallen into obvious disrepair as determined by the Board of Adjustment or has been condemned by the County; or
  - iii. The conditional use permit is revoked; or
  - iv. The PWECS has become violative of some other local, state or federal law and the permittee has not taken appropriate actions to remedy the problem.
- b. If the PWECS is determined to be abandoned or the permittee has not responded to the notice of abandonment as prescribed above, the PWECS must be removed at the permittee's sole expense within three (3) months of receipt of Notice of Abandonment. If the permittee fails to remove the system, the County may pursue legal action to have the PWECS removed at the permittee's expense.

**Section 1219. Automotive Tow Business/Impound Lot Requirements**

Impound lots, incident to the operation of an automotive tow business, may be established within districts pursuant to the zoning laws of the County for the storage of vehicles under the following conditions and requirements:

1. All automotive tow businesses/impound lots must have a minimum lot of five (5) acres.
2. The area used for an impound lot must be free of debris and regularly maintained.
3. The area used for an impound lot must be completely enclosed by a fence or natural vegetation having a minimum height of six (6) feet; if the impound lot abuts or is adjacent to a residential use, that section abutting or adjacent to the residential use shall be completely enclosed with a fence or natural vegetation having a minimum height of six (6) feet and constructed with a material or have vegetation so dense that ensures that the interior of the impound lot cannot be viewed from the residential use.
4. An impound lot may be used for the temporary storage of vehicles from which major parts have not been removed, and which are capable of being made fully operable.
5. An impound lot may be used for the storage of not more than thirty (30) vehicles at any one time.
6. Vehicle parts shall not be stored within an impound lot.
7. Vehicle parts shall not be taken or sold from vehicles stored within an impound lot.
8. Vehicles stored in an impound lot must be parked neatly in rows and meet or exceed all County, State and Federal laws governing the same.
9. No automotive tow business/impound lots will be allowed within one thousand (1,000) feet from the property line to the nearest residence; excluding: the residence of the operator or any residence other than that of the owner of the land.

## **Section 1220. Target Range Requirements.**

### **1220.01. Conditional Use Permits.**

1. No Range shall be established within the Lake County without first obtaining a Conditional Use Permit.

### **1220.02. General Regulations for All Ranges.**

1. No Conditional Use Permit shall be approved for any Range unless all of the following conditions are met (unless specifically waived by the Board of Adjustment):
  - a. A safety plan shall be submitted along with the application. The plan, once approved, shall be posted in a prominent place at the site. Any changes to the safety plan shall be submitted to the County Board of Adjustment for approval. At a minimum the safety plan must state:
    - i. A method of identifying the Range Officer when the Range Officer is present at the site. Additionally, a permanent log identifying the Range Officer who is present when required at the facility must be maintained and available for inspection by the County or local law enforcement officers.
    - ii. The authority of Range Officers to carry out the rules and regulations on the site and to enforce penalties.
    - iii. The policy for the site for the use of alcohol.
    - iv. Controlled substances are prohibited on the site.
    - v. Rules for the safe handling of weapons.
    - vi. A building and grounds maintenance plan.
    - vii. Administrative Rules to include regulations that normally govern range schedules, parking, guest policies, member/user responsibilities, hours of operation, security, program development, range supervision and other items such as sign-in procedures.
    - viii. Regulations on the type of weapon, shooting activity, caliber, shot size or type of target to ensure safety for range users and others.
    - ix. The penalties that are in force for violations of the safety plan.
    - x. The method used to control trespass or unauthorized access to the range or preserve.
  - b. Applicants must meet all state and federal requirements and follow the recommendations of the NRA Range Sourcebook
  - c. On an annual basis, applicants must provide proof of insurance.

- d. Applicants shall continuously keep the City informed as to the current names and telephone numbers of the officers of any organization having an interest in the Range. Any changes to the names or telephone numbers of the officers shall be reported to the County within thirty (30) days of the change.
- e. All Ranges must control entrance to their sites.
- f. No alcohol licenses shall be granted to any site which has a Range.
- g. Parking space for all members, owners or guests must be on-site and is not allowed on public streets or roads.

**1220.03. Special Regulations for Ranges.**

- 1. Applications for all ranges, in addition to any other requirements of this Ordinance, must also show:
  - a. A survey delineating the layout of all individual Ranges.
  - b. Setbacks to all property lines.
  - c. Method of containing projectiles within each individual range (such as earthen berms or other method).
  - d. Methods to be employed to reduce noise, including impulse noise.
    - i. The maximum noise that may escape the range into areas not controlled by the owner is 125 dB.
  - e. All Ranges shall be designed using the NRA Range Source Book as a guideline.

**1220.04. Application Requirements.**

- 1. Each application for a Range shall, at a minimum, include the following:
  - a. A description of specific activities to be conducted on-site.
  - b. The hours and days of operation.
  - c. The maximum number of people using the facility at any one time.
  - d. A plan, if applicable, for collecting and recycling used shot.
  - e. A delineation of any special events, if any.
  - f. A sewage, water and solid waste management plan.

**1220.05. Area Regulations.**

1. Minimum Lot Size: Ten (10) acres.
2. Minimum Front Yard: One hundred fifty (150) feet.
3. Minimum Side Yard: Three hundred (300) feet.
4. Back of the Range Setback: A minimum of one thousand (1000) feet from any buildings and/or roads.
5. Setback from Residences: One-quarter (1/4) mile to be measured from the firing line to the nearest residential dwelling.
6. Setback from Commercial Uses: One-quarter (1/4) mile to be measured from the firing line to the nearest commercial structure.
7. Setback from Churches and Schools: One-quarter (1/4) mile to be measured from the firing line to the nearest church or school.
8. Setback from Municipalities: Three (3) miles to be measured from the firing line to the corporate limits of the municipality
9. Berms shall be established behind shooting target areas to prevent stray shots from traveling onto adjoining property.

**1220.06. Miscellaneous Regulations.**

1. In the event that any provision of this Chapter or the Conditional Use Permit is violated, or the County otherwise reasonably believes that the health, safety or general welfare of the public is endangered by the use, or if the County reasonably believes that a public nuisance has been created, then, upon ten (10) days written notice, the County may originate action to either modify or cancel any Conditional Use Permit.

**Section 1221. Domestic Sanitary Sewer Treatment Plant/Facility Requirements.**

1. The site meets the requirements of the State Department of Environment and Natural Resources.
2. A site plan is provided indicating the following information:
  - a. Present topography, soil types, and depth to groundwater.
  - b. Location of existing water drainage, existing buildings, existing shelterbelts.
  - c. Identification of roads leading to the site.

- d. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
- e. Proposed monitoring wells, etc.
- f. No sewage treatment plant/facility will be allowed within one thousand three hundred twenty (1,320) feet from the wall line of the sewage treatment plant/facility principal and accessory structures to the wall line of the nearest residence; excluding: the residence of the sewage treatment plant/facility operator

**Section 1222. Bed and Breakfast Regulations.**

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

**Section 1223. Home Occupation Regulations.**

1. No person other than members of the family residing on the premises shall be engaged in such occupation.
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use of residential purposes by its occupants, and not more than 25 percent of the floor area of the dwelling unit shall be used in the conduct of the home occupation.

3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not to exceed sixteen (16) square feet in area, non-illuminated.
4. No home occupation shall be conducted in any accessory building.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need of parking generated by the conduct of such home occupation shall be provided off the street and other than in a required front yard.
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
7. There is no commodity sold upon the premises, except that which is prepared on the premises in connection with such occupation or activity.

**Section 1224. Sand, Gravel or Quarry Operation; Rock Crushers; and Concrete and Asphalt Mixing Plants Requirements.**

1. The site meets the requirements of the State Department of Environment and Natural Resources.
2. A site plan is provided indicating the following information:
  - a. Present topography, soil types, depth to groundwater.
  - b. Location of existing water drainage, existing buildings, existing shelterbelts.
  - c. Identification of roads leading to the site.
  - d. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
  - e. Proposed monitoring wells, etc.
  - f. A requirement for receiving a permit for extractive/mining operations shall include a haul-road agreement between the applicant and appropriate governmental entity (Federal, State, County, Township, or Municipality).
  - g. The applicant may be required to provide information regarding how potential air, noise, and water pollution would be minimized.

- h. A minimum of one thousand (1,000) feet from the wall line of the sand and gravel operation; rock crusher; and/or concrete and asphalt mixing plant principal and accessory structures to the wall line of the nearest residence; excluding: the residence of the above said uses operator(s).

**Section 1225. Sanitary Landfills, Rubble Sites, Composting Sites, Waste Tire Sites, and Restricted Use Sites Requirements.**

1. The site meets the requirements of the State Department of Environment and Natural Resources.
2. A site plan is provided indicating the following information:
  - a. Present topography, soil types, depth to groundwater.
  - b. Location of existing water drainage, existing buildings, existing shelterbelts.
  - c. Identification of roads leading to the site.
  - d. Proposed changes at the site such as new shelterbelts, new buildings, changes in topography, new fence lines.
  - e. Proposed monitoring wells, etc.
  - f. A minimum of one thousand (1,000) feet from the wall line of sanitary landfill, rubble site, composting site, waste tire site, and restricted use site principal and accessory structures to the wall line of the nearest residence; excluding: the residence of the landfill operator.

**Section 1226. Junkyards/Salvage Yards Requirements.**

1. Storage for junkyards shall be set back a minimum of two hundred (200) feet from any adjoining road right-of-way.
2. Junkyards shall be screened on all sides by a solid wall, with construction materials and design to be approved by the Board of Adjustment, at least two (2) feet above the highest stock pile or by a shelterbelt of shrubs and trees as approved by the Board of Adjustment; screening must be maintained in good repair.
3. No junkyards will be allowed within one thousand (1,000) feet from the wall line of the junkyard/salvage yard facility principal and accessory structures to the wall line of the nearest residence; excluding: the residence of the junkyard/salvage yard operator
4. All junkyards must have a minimum lot of ten (10) acres.

**Section 1227. Signs.**

**1227.01. On-premise and Off-premise Signs.**

1. Prohibited signs:

- a. No sign shall be erected or maintained which creates a hazard due to collapse, fire, collision, decay, or abandonment; or creates traffic hazards, by either:
    - i. Confusing or distracting motorists; or
    - ii. Impairing the driver's ability to see pedestrians, obstacles or other vehicles; or
    - iii. Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or
    - iv. Creates a nuisance to persons using a public right-of-way; or
    - v. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement.
  - b. Any vehicle or trailer parking on public right-of-way, public property or private property so as to be visible from the public right-of-way and which displays an advertising message, unless said vehicle is used in the regular course of a business.
2. Signs shall be permitted in zoning districts per Article III, subject to the following provisions:
- a. Wall signs may be located anywhere on the wall of a building.
  - b. Signs shall not project over public property.
  - c. Signs shall not be erected adjacent to a corner of two (2) intersecting streets, unless such signs are constructed to not obstruct the view of said intersection. See Chapter 5.01.
  - d. Each sign – size, lighting, and location - in the County shall at least meet the standards established by the South Dakota Department of Transportation.
  - e. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged, or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Zoning Official and the said Official grants a permit therefore.
  - f. The Zoning Official shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such structure complies with codes relating to outdoor advertising.
3. On-premise Signs: Each sign erected as an on-premise sign in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:
4. Each sign erected as an on-site sign in those districts where permitted shall have a maximum surface area of eighty (80) square feet and shall observe all yard and height requirements of the district in which

it is located. The maximum cumulative amount of all on-site signage allowed shall not exceed eighty (80) square feet. Further, no on-premise sign may be converted to an off-premise sign.

5. No on-premise sign may be converted to an off-premise sign.
6. Off-premise Signs: Off-premise signs erected in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:
  - a. Each sign shall have a maximum surface area of three hundred (300) square feet.
  - b. The sign structure or sign shall have a maximum height of thirty (30) feet. Height of sign is the vertical distance from the top of the sign or sign structure, whichever is greater, to the ground in a straight line directly below, measured from a point equidistant from the sides or edges of the sign.
  - c. Stacked signs (two or more signs stacked vertically on a single sign structure are prohibited).
  - d. Each sign shall not be closer than three hundred (300) feet from any street intersection and five hundred (500) feet from another permitted Off-premise sign on the same side of the street or road.
  - e. Each sign shall not be closer than ten (10) feet from any street right-of-way.
  - f. Each sign shall not be closer than two hundred fifty (250) feet from adjoining property lines.

#### **Section 1228. Repair Shops, Motor Vehicle and Equipment**

1. All repair shops must have a minimum lot of five (5) acres.
2. No abandoned vehicles may be kept on the property.
3. No more than five (5) vehicles shall be kept outdoors at any one time pending repair, and they must be fully screened from the road and adjacent properties.
4. All motor vehicle repair work shall be conducted within an enclosed structure.
5. Motor vehicle repair work shall not include:
  - a. The dismantling or wrecking of any motor or other vehicles; or
  - b. The storage of inoperable, damaged or wrecked vehicles, other than those awaiting immediate repair.
6. All fluids (oil, gasoline, transmission fluid, windshield washer fluids, etc.) and batteries from vehicles shall be stored, disposed, or recycled according to state and federal regulations.
7. All repair shops may have a maximum of three employees.

8. No repair shops will be allowed within one thousand (1,000) feet from the property line to the nearest residence; excluding: the residence of the operator or any residence other than that of the owner of the land.
9. No traffic shall be generated by such repair shop in greater volumes than would normally be expected in a residential neighborhood. Prior to the issuance of a conditional use permit for a repair shop, County Highway Superintendent and/or Township approval shall be required.
10. Any need of off-street parking generated by the conduct of such repair shop shall be provided off the street and other than in a required front yard.
11. No equipment or process shall be used in such repair shop which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

**Section 1229. Farm Implement Repair, Sales, and Service**

1. All farm implement repair, sales, and service businesses must have a minimum lot of five (5 ) acres.
2. The outdoor display of goods or materials for sale, lease, or rental may be conducted, provided the display areas are maintained in an orderly manner and are not located in any required yards.
3. No farm implement repair, sales, and service businesses will be allowed within one thousand (1,000) feet from the property line to the nearest residence; excluding: the residence of the operator or any residence other than that of the owner of the land.
4. All farm implement repair, sales, and service businesses may have a maximum of three employees.
5. No traffic shall be generated by such farm implement repair, sales, and service business in greater volumes than would normally be expected in a residential neighborhood. Prior to the issuance of a conditional use permit for a repair shop, County Highway Superintendent and/or Township approval shall be required.
6. Any need of off-street parking generated by the conduct of such farm implement repair, sales, and service business shall be provided off the street and other than in a required front yard.
7. No equipment or process shall be used in such farm implement repair, sales, and service business which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

## **Section 1230. Cannabis Dispensaries**

### **1. Maximum Number of Cannabis Dispensaries**

- a. In the development and execution of these regulations, it is recognized that there are some uses which because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a potential deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.
- b. The County shall allow up to two (2) cannabis dispensaries provided the time, place, and manner of said dispensaries comply with this ordinance.

### **2. Required Separation Distances**

- a. A cannabis dispensary shall be located not less than one thousand (1,000) feet from a public or private school existing before the date of the cannabis dispensary application.
- b. A cannabis dispensary shall be located not less than one thousand (1,000) feet from a church, residence, public park, library, daycare facility, or other cannabis dispensaries existing before the date of the cannabis dispensary application.
- c. Exemption from separation requirements. Any separation distance requirement, other than the State requirement from schools (1,000 feet), may be waived, provided:
  - i. The applicant provides documentation waiving the setback requirement from the title holder of the land benefiting from the separation.
- d. Prescribed separation/setback distances from certain existing uses are to be measured from the lot line of the property where the dispensary is proposed to the lot line of the existing use.

### **3. Other Locational Requirements**

- a. Permanent or temporary dispensaries are prohibited in all other zoning districts and not eligible for a home occupation use.
- b. It shall be unlawful to operate a dispensary in a building which contains a residence or a mixed-use building with commercial and residential uses.

### **4. Controlled Access**

- a. No cannabis establishment shall share premises with or permit access directly from another medical cannabis establishment, business that sells alcohol or tobacco, or, any other cannabis establishment.

5. Hours of Operation

- a. Cannabis dispensaries are allowed to be open between the hours of 8:00 a.m. and 8:00 p.m., Monday through Friday, and between the hours of 8:00 a.m. and 5:00 p.m. on Saturday. Cannabis dispensaries are to remain closed on Sundays and federal holidays.

6. Documentation of State Licensure

- a. No cannabis dispensary shall acquire, possess, store, deliver transfer, transport, supply or dispense cannabis, cannabis products, paraphernalia without providing documentation of licensure from the State of South Dakota.

7. Site Plan

- a. An applicant for a conditional use must provide a site plan containing the following:
  - i. Any information required for applicable building permit
  - ii. Ingress and egress plan
  - iii. Parking plan
  - iv. Lighting plan (including security lighting)
  - v. Screening/security fencing plan
  - vi. Refuse plan
  - vii. Hours of operation
  - viii. Documentation of ability to meet setback/separation requirements
  - ix. Documentation of state licensure
  - x. Any other information as lawfully may be required by the Zoning Officer to determine compliance with this ordinance

8. Building Code

- a. All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.

**Section 1231. Accessory Buildings.**

1. Only specifically authorized accessory uses allowed; accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such principal use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.

3. No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within ten (10) feet of any other building.
4. Agricultural District. In any Agricultural district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district. Intermodal shipping containers are considered customarily incidental in the Agricultural District.
5. Commercial and Industrial Districts. In any Commercial or Industrial district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district. Intermodal shipping containers are considered customarily incidental in the Commercial/Industrial District.
6. Town, Lake Park, and Planned Development Districts. Accessory uses shall be permitted for the principal permitted uses and conditional uses of the Town, Lake Park, and Planned Development Districts only in accordance with the provisions of Table 1231.1. Intermodal shipping containers are considered customarily incidental in the TD and LP-3 Zoning Districts. Intermodal shipping containers are not considered customarily incidental in the LP-1 and LP-2 Zoning Districts.
7. Where living quarters are allowed in accessory structures, no more than fifty (50) percent of the structure may be used as living quarters. Exception is for accessory structures in the Lake Park Districts where a conditional use permit has been granted.
8. Accessory structures with living quarters in the Lake Park Districts shall not be rented or leased
9. Accessory structures with living quarters in the Lake Park Districts shall meet residential use setbacks.
10. Accessory structures with living quarters in the Town District and Lake Park Districts shall require written consent of one-hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site has been received.
11. Intermodal shipping containers may be used as a temporary accessory use in the LP-1, LP-2 and TD zoning districts under the following conditions:
  - a. A permit is required;
  - b. The permit shall not be issued for more than ninety (90) days;
  - c. The Zoning Official may extend the permit one time for an additional ninety (90) days, subject to permission being granted by adjoining landowners;
  - d. The container shall be located on the property and meet all setback requirements.

**Table 1231.1 - Permitted Accessory Uses: TD, LP 1, LP 2, and PD Districts.**

<b>Principal Use</b>	<b>Permitted Accessory Uses</b>
<p>Single-family dwellings; duplexes; townhouses and multiple-family dwellings; and Day care centers</p> <p>1. Have siding material of a type customarily used on site-constructed residence. This is not to include corrugated galvanized steel or steel panel siding.</p> <p>2. Have roofing material of a type customarily used on site-constructed residence. This may include steel panels but not corrugated galvanized steel.</p> <p>3. Exception: Steel Panel Siding, not including corrugated galvanized steel, for principal uses may receive a special permitted use permit if written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site has been received.</p>	<p>1. Private garages.</p> <p>a. Attached garages shall be limited to a total area less than or equal to the gross floor area of the house and conform to the design of the house. With the exception of Shop-style Dwellings, steel panel siding is prohibited. See d. Exceptions, below.</p> <p>b. Unattached garages shall be limited to a maximum sidewall height of fourteen (14) feet and a total area one thousand five hundred (1,500) feet. See f. Exceptions, below.</p> <p>c. Unattached garages shall have siding and roofing materials of a type customarily used on site-constructed residence. Comparable to and color coordinated with principal dwelling. See e. Exceptions, below.</p> <p>d. Exceptions: Unless a special permitted use permit is granted, steel panel siding for attached garages is prohibited. Attached garages may receive a special permitted use permit to use steel panel siding materials if written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site has been received. Corrugated galvanized steel siding is prohibited.</p> <p>e. Exceptions: Unless a special permitted use permit is granted, steel panel siding for unattached garages is prohibited. Unattached garages may receive a special permitted use permit to use steel panel siding materials if written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site has been received.</p> <p>f. Exceptions: Unattached garages may receive a special permitted use permit to exceed maximum area dimensions and height requirements if written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site has been received. The maximum sidewall height shall not exceed sixteen (16) feet. The maximum area dimensions shall not exceed 1,800 square feet.</p> <p>2. Buildings or structures for customary residential storage- purposes, including weather protective canopies (carports), not over twelve (12) feet in height and not exceeding two hundred forty (240) square feet in gross floor area with a door opening no wider than seven (7) feet.</p> <p>3. In the TD Zoning District, Intermodal shipping containers may receive a special permitted use permit if written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site has been received.</p> <p>4. Readily moveable sports, recreation, or outdoor cooking equipment.</p> <p>5. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools, barbeque pits, and similar improvements provided a site plan for such facility is approved.</p> <p>6. Home occupations but only as defined herein.</p> <p>7. Non-commercial greenhouses provided that greenhouses over one hundred (100) square feet in floor area must have an approved site plan.</p> <p>8. Boathouses in the LP1 and LP2 Districts</p> <p>9. Off-street parking and storage of vehicles.</p>
<p>Churches, Convents and Monasteries</p>	<p>1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use.</p>
<p>All conditional uses</p>	<p>1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use.</p>
<p>All other items</p>	<p>1. No accessory uses permitted.</p>

**Section 1232. Structures to Have Access.** Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to private streets approved by the Board of Adjustment, and all structures shall be so located on lots as to provide safe and convenient access for services, fire protection and required off-street parking.

**Section 1233. Yards.** No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

**1233.01. Yards, Reduction in Size.** No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards and lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

**1233.02. Additional Yard Requirements.**

The following yard requirements must be observed in addition to the yard requirements of the various districts:

1. A corner lot must have a front yard on both streets.
2. On developed property, in all Town Districts and PD-Planned Development Districts, fronting on one (1) side of the street between two (2) streets where one (1) or more residences already exist, no building shall hereafter be erected and no existing building shall be reconstructed or altered in such a way that any portion thereof shall be closer to the street line than the average improved building front on that street in that block, but in no case shall the set-back line be less than twelve (12) feet from the front lot line.
3. In all Town Districts, Lake Park Districts and PD-Planned Development District, on through lots and reversed frontage lots, a front yard must be provided on both streets.
4. In all Town Districts, Lake Park Districts and PD-Planned Development District, required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.

**1233.03. Exceptions to Yard Requirements.**

The following exceptions may be made to the yard requirements in all Town Districts, Lake Park Districts and PD-Planned Development District:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed thirty-six (36) inches.
2. In commercial and industrial districts, filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.

3. An accessory building may be located in a rear yard but not occupy more than thirty (30) percent of a rear yard.
4. Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.

**Section 1234. Permanent Foundations Required For Dwellings.** No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes as defined herein.

**Section 1235. Utility Easements.** No building or addition thereto shall be erected over or across any existing public utility or upon any platted easement.

**Section 1236. Erection of More Than One Principal Structure on a Lot.** In any district, only one (1) structure housing a permitted or permissible principal use may be erected on single lot, provided that yard and other requirements are met. Exception: Secondary residences in the Agricultural Zone, per Section 10.01.04, and commercial/industrial buildings in the Commercial/Industrial District may be allowed provided that yard and other requirements are met.

**Section 1237. Shoreline Alterations, Filling, Grading, Lagooning and Dredging.** These regulations shall apply to the NR, LP-1, and LP-2 Districts. These regulations are deemed necessary along the shores of natural waters to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland.

1. Removal of Shore Cover

Tree and shrub cutting in a strip paralleling the shoreline and extending twenty-five (25) feet inland from all points along the high water mark, or as determined by the Board of Adjustment shall be limited in accordance with the following provisions:

- a. Cutting shall leave sufficient cover to screen cars, dwellings, and accessory structures, except boathouses, as seen from the water, to preserve natural beauty and to control erosion.
- b. Trees and natural shrubbery shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.
- c. The removal of trees and natural shrubbery and its replacement shall require the granting of a permit by the Zoning Official. Application for such permit shall be accompanied by a plan showing the work to be accomplished. The granting of such permit shall be conditional upon a contract requiring the applicant to give to the Zoning Official, within one (1) year after the date of grant, satisfactory evidence of compliance with such plan or pay for the cost of such compliance by the County.

## 2. Filling, Grading, Lagooning and Dredging

- a. Filling, grading, lagooning or dredging which would result in substantial detriment to natural waters by reason of erosion, sedimentation or impairment of fish and aquatic life is prohibited.
- b. A permit shall be required for any filling or grading which is within three hundred (300) feet horizontal distance of a natural body of water and which has surface drainage toward the water and in which there is:
  - i. Filling of more than five hundred (500) square feet of any wetland which is contiguous to the water;
  - ii. Filling or grading on all slopes of twenty percent (20%) or more. (This does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.)
  - iii. Where more than ten thousand (10,000) square feet of the bank of a natural body of water is exposed by grading.
  - iv. A permit shall be required before constructing, dredging or commencing work on an artificial waterway, canal, ditch, lagoon, pond, lake or similar waterway which is within three hundred (300) feet of the high-water mark, or from a point as determined by the Board of Adjustment, of a natural body of water or where the purpose is the ultimate connection with such body of water. This requirement does not apply to soil conservation practices such as terraces, runoff diversions and grassed waterways which are used for sediment retardation.
- c. A permit is not required for soil conservation practices, approved by the Natural Resources Conservation Service (NRCS), such as terraces, run-off diversions and grassed waterways which are used for sediment retardation.
- d. Building permits shall be required for all retaining walls or structures.
- e. Issuance of the permit may, at the request of the Zoning Official, include review from the Corps of Engineers, US Fish and Wildlife and/or any other applicable Federal, State or Local agencies.

### **Section 1238. Campground requirements**

#### **Section 1238.01 Purpose.**

The purpose of this chapter is to provide for areas in the county for recreational vehicles to be located and occupied as temporary living quarters in a campground setting.

## **Section 1238.02. Minimum Requirements.**

1. A campground shall comply with the following conditions:
  - a. A campground may not be permitted on a parcel that contains an existing single-family residence, unless the residence is a caretaker residence.
  - b. The minimum lot area for a campground facility shall be five (5) acres.
  - c. Each campsite shall contain at least two thousand (2,000) square feet.
  - d. Access roads shall be provided to each campsite and all access roads shall have a minimum unobstructed width of fourteen (14) feet for all one-way roads, and twenty (20) feet for all two-way roads.
  - e. No manufactured homes shall be located in the campground.
  - f. The campground(s) shall be supplied with electricity, a potable water supply, and sewage disposal facilities, which may include washing, toilets and bathing facilities, and similar facilities, and all of which shall meet all applicable State and County codes and regulations.
  - g. Garbage and rubbish storage and disposal shall be handled in such a manner so as not to create a health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. The campground shall provide a sanitary method of disposing of solid waste, in compliance with state laws, rules and regulations. It is recommended that one (1) refuse collection station shall be provided, with a minimum of one (1) two-yard dumpster situated on a concrete pad, screened on four sides, for each twelve (12) tenants or fractions thereof, conveniently located to serve tenants not more than one hundred fifty (150) feet from any camper served, and to be conveniently located for collection.
  - h. The grounds shall be kept free of rubbish, trash, or debris, which could become a safety hazard.
  - i. The growth of brush, weeds, and grass shall be controlled. All areas shall be maintained to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health.
  - j. A campground shall have a responsible person on-site.
  - k. The campground shall construct a storm shelter or have a county-approved storm shelter plan.
  - l. All applicable requirements of the South Dakota Department of Health shall be met.
  - m. The Board of Adjustment may impose other conditions to ensure that the use of property related to the private campground is conducted in a manner to be compatible with the surrounding neighborhood.
  - n. Building permits are required for decks, sheds and other accessory uses. Yard setbacks to be measured from property line. All structures to be separated from adjoining campers and other accessory structures by a minimum of five (5) feet.

- o. In the event the private campground does not comply with the terms of the conditional use permit and said permit is revoked, the owner of the private campground shall provide for, at their expense, the restoration of the site to its original condition, including the removal of all campers or RV's, dumpsters, and other related vehicles, or to a use permitted by the zoning ordinance in a time frame to be determined by the Board of Adjustment.

**Section 1238.03 Application Requirements.** An application for a campground shall be filed with the Zoning Official. The application shall contain the following:

1. The address and legal description of all property upon which the campground is to be located, together with the name, residence and mailing address of the recorded owners of all such property.
2. Plans for supplying potable water including the source, amount available and location of outlets.
3. The plans, if any, for providing toilet and bathing facilities including the source, number and location, type and the means of disposing of waste deposited.
4. The plans for holding, collecting and disposing of solid waste material.
5. The plans, if any, to illuminate the campground, including the source and amount of power and the location of lamps.
6. A sketch plan of the property showing:
  - a. Location of Camping Pads/sites.
  - b. All amenities (bathrooms, showers, drinking water, outlets, light poles, roads,
  - c. All existing and proposed buildings or additions.
  - d. Dimensions of all buildings.
  - e. Distance from all campsites/buildings to the property lines at the closest points.
  - f. Dimensions of all property lines.
  - g. Parking lots or spaces; designate each space, give dimensions of the lot, stalls and aisles.
  - h. Name and location of all adjacent streets, alleys, waterways and other public places.
  - i. Proposed grading and drainage pattern.
  - j. Proposed interior circulation pattern indicating the status of street ownership and maintenance agreement.

- k. Proposed open space uses.
- l. Proposed storm shelter, if applicable.
- m. Utility (water, sewer, electricity) plans.
- n. Relation of the proposed development to the surrounding area and comprehensive plan.
- o. Ingress and egress

**Section 1239. Agribusiness Activities:**

**Section 1239.01. Intent**

Agribusiness activities include identified commercial activities involving the handling, storage, processing and distribution of agricultural products. Agribusiness activities are intended to be operated as a principle use on a property. They may be operated as an extended home occupation, when such activities are accessory to the residential use of the lot.

**Section 1239.02. Requirements**

1. Agribusiness activities must have access to a concrete or bituminous asphalt, or county-maintained gravel street.
2. Operators of agribusiness activities shall enter into and comply with a haul road agreement for the applicable streets if deemed necessary by the applicable road authority for the maintenance of identified haul routes attendant to the operation of the proposed business.
3. Lighting on the site shall be limited to downward directed lights or other lighting customarily used for agricultural operations.
4. The number, size, and illumination standards for signs shall be determined by the Board of Adjustment.
5. No equipment or process shall be used in such extended home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
6. All vehicles and equipment stored outside shall be operable.
7. Permits for an agribusiness activity may only be changed to another agribusiness activity if specifically authorized by the Board of Adjustment.
8. Permits for Agribusiness activities may be transferred, unless otherwise stated by the Board of Adjustment.

**Section 1239.03. Applications.**

1. In addition to the following information, plans shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this chapter and all other relevant laws, ordinances, rules and regulations. The Zoning Official may waive the submission of plans if the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this chapter. The site plan shall contain the following:
  - a. The address of the property and the legal description.
  - b. The name of the project and/or business.
  - c. The scale and north arrow.
  - d. All existing and proposed buildings or additions.
  - e. Dimensions of all buildings.
  - f. Distance from all building lines to the property lines at the closest points.
  - g. Dimensions of all property lines.
  - h. Maximum number of employees expected to be employed at the site.
  - i. Hours of operation. (If it is expected that hours of operation will vary depending upon the season, the applicant should state minimum and maximum hours of operation and when those minimum and maximum hours are expected.)
  - j. Number and type of vehicles expected to use the site each day. (If it is expected that traffic will vary depending upon the season, the applicant should state minimum and maximum number of vehicles expected and when those minimum and maximum numbers are expected.)
  - k. Parking lots or spaces; designate each space, give dimensions of the lot, stalls and aisles (if applicable).
  - l. The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
  - m. Name and location of all adjacent streets, alleys, waterways and other public places.
  - n. Names and locations of proposed haul roads.
  - o. Proposed grading and drainage pattern.
  - p. Proposed interior circulation pattern indicating the status of street ownership.
  - q. Phasing plan for development (if more than one phase is planned).
2. Approved plans shall not be changed, modified, or altered without authorization from the Board of Adjustment giving final approval, and all work shall be done in accordance with the approved plans.

## **Section 1240. "Fences in the TD, PD, LP-1, LP-2 and LP-3 Districts"**

### 1. Purpose

The regulation of fences is intended to protect the public safety and welfare, provide privacy, buffer noise, and allow adequate air, light and vision. Except for customary farm and animal fencing in the Agricultural District, all fences, and walls shall require a building permit. Customary farm and animal fencing is exempt from the requirements of this Section.

### 2. Permit required

- a. Permits to construct fences exceeding thirty-six (36) inches in height shall be required in the LP-1, LP-2, and LP-3 Districts.

### 3. Location/Construction Requirements

- a. Notwithstanding other provisions of this Ordinance, fences, walls, trees, and hedges may be permitted in any required yard. Except fences and hedges which are more than thirty (30) percent solid shall conform with Section 1202.
- b. Fences, with a maximum height of not more than eight (8) feet, may be erected on any part of a lot other than in the required front yard (road front), and not closer than twenty-five (25) feet back from the OHWM (Ordinary High Water Mark).
- c. The County does not provide surveying services. The property owner is responsible for locating property lines.
- d. Fences may be built up to the property line, in the required side yard, but it is recommended that the applicant leave enough area to remove vegetation and maintain the fence along the fenceline. Fences constructed within an identified easement face the potential of removal in the event of necessary work to be conducted within the easement. Replacement of the removed fence is the responsibility of the owner of said fence.
- e. The "finished side" of the fence shall face neighboring properties or the road.
- f. Approved fencing materials include stone, brick, finished wood, vinyl, and chain link.
- g. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.
- h. Fences can be built on the property line when the fence is shared between property owners.

**Section 1241. Manufactured Home Park Minimum Standards.**

Manufactured home parks shall meet the following minimum standards:

1. Streets. Each manufactured home shall abut or face a public or private roadway or street, such roadway or street having an all-weather surface of at least thirty (30) feet in width where parking is permitted on both sides, and twenty-six (26) feet in width where parking is restricted to one side only. Where private streets are proposed, they shall have a minimum right-of-way of forty (40) feet.
2. Open Space or Buffer Zone. A landscape buffer area of ten (10) feet in width shall be provided and maintained around the perimeter of the park, except where walks and drives penetrate the buffer.
3. Lot Area. Each lot provided for the occupancy of a single manufactured home unit shall not be less than fifty (50) feet in width and have an area of not less than five thousand five hundred (5,500) square feet, and the same shall be defined by markers at each corner.
4. Density. No park shall be permitted an average net density of manufactured home lots of more than seven (7) units per acre, and each park shall provide an area of not less than two (2) acres.
5. Spacing and Yard Requirements. All manufactured housing units will be positioned on the manufactured home space in compliance and accordance with the zoning requirements at the time of establishment of the manufactured home Park. Manufactured home parks established after the effective date of this Ordinance, will comply with the following:
  - a. Front Yard. All manufactured homes shall be located at least twenty (20) feet from any road or street. The distance will be measured from the wall of the structure to the street or roadway at the closest point.
  - b. Side and Rear Yards. All manufactured homes shall have minimum side yards of seven (7) feet and a minimum rear yard of ten (10) feet.
  - c. Exceptions to minimum yard requirements.

A garage, canopy, or carport may project into a required side or rear yard provided it is located no closer than ten (10) feet to another manufactured home garage, canopy, carport, or addition thereto, and provided further that the maximum depth be twenty-four (24) feet.

A deck may project into a required side or rear yard provided it is located no closer than four feet to any other structure.

An enclosed vestibule containing not more than forty (40) square feet in area may project into a required yard for a distance not to exceed four (4) feet, but in no event closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto.

Detached accessory buildings with a projected room area of not more than one hundred and twenty (120) square feet may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure or public right-of-way.

- d. **Maximum Lot Coverage.** No manufactured home shall occupy more than twenty-five (25%) of the area of the lot on which it is situated.
6. **Parking.** Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set-aside in a location convenient to the occupants of the trailer or camping units and shall have ingress and egress by means of a public way. Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings not exceeding twenty-five (25) feet in width in the curb line of said street.
7. **Refuse Collection.** In the event that there is no individual garbage collection, the County shall require the developer of the manufactured home park to place a refuse collection station for that said purpose. The refuse collection station shall be a minimum of one (1) two-yard dumpster situated on concrete, screened on four sides, for each twelve (12) families or fractions thereof, conveniently located to serve tenants not more than one hundred fifty (50) feet from any trailer unit served, and to be conveniently located for collection.
8. **Recreation Area.** The developer of the manufactured home park may be required to dedicate no less than eight (8) percent of the gross site area to recreational facilities appropriate to the needs of the occupants. The Board of Adjustment shall approve the designated recreation area.
9. **On-Site management.** Each manufactured home park may provide on-site management, by the owner or his/her representative. This requirement may be waived if a point of contact is established to ensure that the management, repairs, maintenance and janitorial work connected with the manufactured home park and all provisions of this Chapter are complied with.
10. **Water Supply and Distribution System and Sewage Disposal.** Each manufactured home shall be connected to the sanitary sewer district.
11. **Tie Down Requirements.** All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Zoning Official, shall be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the Defense Civil Preparedness Agency TR-75, issued June 1972, by the U.S. Department of Defense or by the NFPA 225 Model Manufactured Home Installation Standards.
12. **Maximum Age Limitation.** No manufactured home placed within a manufactured home park may exceed ten years from the date of manufacture.
13. **Expansion.** Existing manufactured home parks may be extended provided the area of expansion is at least one (1) acre and complies with all other regulations herein set forth.

14. Building/Moved-in Building Permit Required

Whenever a manufactured home is moved into a manufactured home park, a permit from the Zoning Official shall be required.

15. Skirting. All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation, approved by the Zoning Official, shall be skirted within thirty (30) days of placement.

**Section 1242. Single-Family Lake Development**

1. This closed use applies to the following legal descriptions existing at (date of adoption of ordinance):

- a. Portion of Lot 1 #1904 (Traylor Court)
- b. Portion of Lot 1 #765 Hare’s Beach (Part of Trailer CRT)

2. Single-family lake development uses include the following: Site-built single-family dwelling, modular homes, manufactured homes and permitted accessory uses.

3. Structures shall meet minimum Road Front Setback of thirty (30) feet from public road right-of-way and ten (10) feet from private road right-of-way, minimum Lake Front setback of twenty-five (25) feet and a minimum ten (10) foot separation distance between residences.

**Section 1244. Solar Energy Systems (SES)**

**Section 1244.01. Purpose.**

The purpose of this Section is to facilitate the construction, installation, operation and decommission of Solar Energy Systems in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands and other sensitive lands. This ordinance will not impede personal or business solar collector development for the primary use of self-sustaining energy. This ordinance is not intended to replace safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not nullify any provisions of local, state or federal law.

**Section 1244.02. Private Solar Energy System (PSES).**

PSES shall be permitted as an accessory use and shall meet the requirements of the zoning district. A PSES shall be for a single use commercial or residential structure and used primarily for on-site consumption of power.

**Section 1244.03. Permitting.**

1. No SES shall be erected, built, or constructed without a conditional use permit having been approved by the Board of Adjustment.

2. Application(s) for SES Conditional Use Permits shall be accompanied by:
  - a. Site plan as required by 1244.05 (4)
  - b. Boundaries of the site proposed for SES and associated facilities on United States Geological Survey Map or another map as appropriate.
  - c. Map of easements for SES, if applicable.
  - d. Affidavit attesting that necessary easement agreements with landowners have been obtained, if applicable.
  - e. Aviation/Airport protection if required. See 1244.05 (6)
  - f. The fencing and gates required to be around the exterior perimeter. See 1244.05 (8)
  - g. The storm water pollution and prevention plan. See 1244.04 (1)
  - h. The decommissioning plan. See 1244.06
  - i. Weed/Grass control plan 1 See 643.05 (12)
  - j. Haul roads identified. See 1244.05 (13)
  - k. Project schedule
  - l. Any other factors relevant to the proposed system.
3. All copies of the plan must be submitted, signed and sealed by an engineer.
4. The Board of Adjustment may require an independent engineer, chosen by the County, to review plans at the petitioner's expense. Findings by the independent engineering firm are to be submitted to the Board of Adjustment.

**Section 1244.04. Compliance.**

1. All SES are subject to the State of South Dakota Storm Water Management regulations, erosion and sediment control provisions if adopted and National Pollutant Discharge Elimination System (NPDES) permit requirements, if applicable.
2. The Board of Adjustment may provide for a final site inspection before the facility is authorized to become operational.
3. An emergency contact name and phone number must be posted at the point of access on all SES sites.

4. The permit holder will allow the County, or its Authorized Agent (appointed by the County), access to the property within one (1) day of an inspection request by the County. In the event of an emergency, the County, or its Authorized Agent, has the right to access the premises.
5. All SES shall meet or exceed applicable standards and regulations of any state or federal agency.

**Section 1244.05. General Provisions for Solar Energy Systems.**

Ground-mount solar energy, designed for providing energy to off-site uses or export to the wholesale market, are permitted under the following standards:

1. **Ground Cover and Buffer Areas.** Ground-mount systems shall be maintained. Topsoils shall not be removed during development unless part of a remediation effort. Soils shall be planted to and maintained in perennial vegetation to prevent erosion, manage run off and build soil. It is required that any crops planted follow all federal and state laws protecting endangered species. This will also include pollinators such as bees. Foundations, gravel or compacted soils are considered impervious. Ground-mount systems shall be exempt from impervious surface calculations if the soil under the collector is not compacted and maintained in vegetation, including any access or service roads. A minimum thirty (30) foot managed vegetative buffer shall always be present and maintained around the perimeter of the site.
2. **Foundations.** A qualified engineer shall certify that the foundation and design of the solar panels racking and support is within accepted professional standards, given local soil and climate conditions.
3. **Power and Communication Lines.** Power and communication lines running between banks of solar panels are allowed. Power and communication lines running between banks of solar panels and to nearby electric substations or interconnections with buildings may be required to be buried underground. Exemptions may be granted in instances where the natural landscape interferes with the ability to bury lines, or distance makes undergrounding infeasible.
4. **Site Plan Required.** A detailed site plan for both existing and proposed conditions must be submitted, showing location of all solar arrays, other structures, property lines, rights-of-way, service roads, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by the Board of Adjustment.
5. **Setbacks.** Projects including multiple, adjoining properties as part of the project plan, need not adhere to setbacks at point of connection between the adjoining properties. Solar panels will be kept at least seven hundred fifty (750) feet from a residence. Exception: The Board of Adjustment may allow setback/separation distances to be less than the established distance identified if the applicant obtains waivers from all dwellings and owners of property within the separation distance. If approved, such agreement is to be recorded and filed with the County Register of Deeds. Said agreement shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land.

- a. Every SES shall observe a minimum rear and side yard setback of thirty (30) feet.
  - b. Every SES shall meet the minimum front yard setback of the applicable zoning district.
  - c. Every SES shall be setback at least one hundred (100) feet from the highwater mark of any lake, stream or river.
6. Aviation/Airport Protection: If required by state or federal agencies the applicant must complete and provide the results of the Solar Glare Hazard Analysis Tool (SGHAT) for the Airport Traffic Control Tower cab and final approach paths, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.
7. Glare: All solar energy systems shall minimize glare from affecting adjacent or nearby properties. Measures to minimize glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.
8. Safety Fencing/Gates and Locks.
- a. All SES shall be fenced around the exterior of the SES with a fence at least six (6) feet in height.
  - b. All fencing and gates shall be constructed to substantially lessen the likelihood of entry into a SES by unauthorized individuals.
  - c. All gates to the fences of all SES shall be equipped with locks and shall always remained locked except for those times when the owner and/or operator, or their respective agents is/are using the gate for ingress and/or egress or is/are otherwise present and monitoring the SES.
  - d. The fencing and gates shall be maintained in serviceable condition. Failure to maintain the fencing or gates required hereunder shall constitute a violation of this ordinance.
  - e. The fencing and gate requirements specified hereunder shall continue notwithstanding the fact that a SES is no longer operational and/or falls into disuse unless and until the SES is properly decommissioned.
  - f. Fences are exempt from Section 1616.03 and may further be constructed on property and right-of-way lines.
9. Maximum height: Solar panel arrays shall be no more than twenty (20) feet in height, not including power lines.
10. Lighting: If lighting is provided at the project site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel.
11. Outdoor Storage: Only the outdoor storage of materials, vehicles, and equipment that directly support the operation and maintenance of the solar energy system shall be allowed.

12. Weed/Grass Control Plan: The applicant shall submit an acceptable weed/grass control plan for property inside and outside the fenced area for the entire property. The operating company or successor during the operation of the SES shall adhere to the approved weed/grass control plan.

13. Roads.

- a. Public Roads. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used during the construction of the SES 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 SES. Where practical, all-weather roads shall be used to deliver cement, solar collectors and components, and all other heavy components to and from the site.
- b. The permittees shall, prior to the use of approved haul roads, make satisfactory arrangements with the appropriate state, county or township governmental body having jurisdiction over approved haul roads for construction of the SES for the maintenance and repair of the haul roads that will be subject to extra wear and tear due to transportation of equipment and SES components. The permittees shall notify the County of such arrangements upon request of the County.
- c. 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.
- d. Control of Dust. The permittees shall utilize reasonable measures and practices of construction to control dust.

14. Permit Expiration. Unless otherwise determined by the BOA, the permit shall become void if no substantial construction has been completed within three (3) years of issuance.

**Section 1244.06. Decommissioning/Restoration/Abandonment.**

1. Cost Responsibility. The owner or operator of a SES is responsible for all costs associated with decommissioning the SES facility and any associated facilities.
2. Decommissioning Plan. At least thirty (30) days prior to construction, the applicant shall file a decommissioning plan for Board of Adjustment approval in accordance with the requirements of paragraphs (2), (3) and (4) below. The plan shall include an acceptable financial assurance plan which estimates the decommissioning cost and 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 may at any time request the permittees to file a report with the County describing how the permittees are fulfilling this obligation.

3. Financial Assurance. The Board of Adjustment shall require a performance bond, surety bond, escrow account, letter of credit, corporate guarantee or other form of financial assurance that is acceptable to the Board of Adjustment to cover the anticipated costs of decommissioning the SES facility. The financial assurance plan is subject to the following provisions:
  - a. A decommissioning account is to be funded by the project owner annually at a rate of two thousand five hundred dollars (\$2,500) per megawatt of installed DC capacity per year for the first 30 years, commencing no later than the commercial operation date.
  - b. The Board of Adjustment may allow a decreased annual payment, if the Board of Adjustment determines the full rate as identified in the financial assurance plan is not necessary to cover costs of decommissioning.
  - c. All interest earned by any financial assurance account remains in the account.
  - d. A financial assurances statement is to be provided upon request to the Zoning Official.
  - e. The financial assurance plan follows ownership of the SES. The Board of Adjustment may allow current and subsequent SES owners to request a change in the type of financial assurance instrument to be utilized.
  - f. The financial assurances are not subject to foreclosure, lien, judgment, or bankruptcy.
  - g. Beginning in year ten (10) following the beginning of operation and each fifth year thereafter, the SES owner shall submit to the Board of Adjustment an estimated decommissioning date, if established, and estimated decommissioning costs and salvage values. Based on the verification of the information in this filing the Board of Adjustment may change the annual financial assurance funding rate to more closely match the estimated amount needed for decommissioning.
  - h. Funds from the financial assurances are to be paid to the SES owner at the time of decommissioning. Said funds are to be paid as decommissioning costs are incurred and paid for by the SES owner.
  - i. If the SES owner fails to execute the decommissioning requirement, the funds are payable to the landowner as the landowner incurs and pays decommissioning costs.
  - j. In the event the South Dakota Public Utilities Commission requires a Decommissioning Plan which includes a financial instrument to decommission to be filed with the State. The county may waive its required financial instrument.
4. Site Restoration. The decommissioning of the SES shall begin within eight (8) months of the expiration of this permit, or earlier termination of operation of the SES and be completed within eighteen (18) months of the expiration of this permit or earlier termination of operation of the SES. The permittees shall have the obligation to dismantle and remove from the site all solar collectors and components, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four (4) 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 and shall show the locations of all such foundations. All such agreements between the permittees and the affected landowner shall be submitted to the County 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.

5. Failure to Decommission. If the SES owner or operator does not complete decommissioning, the Board of Adjustment may take such action as may be necessary to complete decommissioning, including requiring forfeiture of the bond or other forms of final assurances. The entry into a participating landowner agreement shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the Board of Adjustment may take such action as may be necessary to decommission a SES facility.

**Section 1245. Shop-style Dwelling Standards.**

Shop-style dwellings may only be permitted provided the following conditions are met:

1. The construction of shop-style dwellings shall meet the requirements of Section 1234 Permanent Foundations Required for Dwellings;
2. Shop-style dwellings shall have a gross floor area of not less than twenty (20) percent of the structure dedicated to dwelling purposes;
  - i. Gross area is the sum of the gross horizontal area of all floors of a building measured from the exterior walls, but not including the basement or attic areas not intended for living space.
3. The owner of the building may not lease any or all portion of the building to any other person;
4. The storage/garage area must be completely within the enclosed building;
5. There must be separate outside entrances for the living area and storage/garage area;
6. The separation wall between the storage/garage and living area shall be 5/8 inch fire-code drywall;
7. The living area must include a full kitchen, living area, full bathroom, at least one (1) bedroom and laundry facilities;
8. In the LP-1, LP-2 and TD zoning districts, shop-style dwellings are required to obtain written consent of one hundred (100) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and of fifty (50) percent of the property owners within two hundred fifty (250) feet (excluding streets and alleys) of said proposed shop-style dwelling property line.

**ARTICLE XIII**  
**CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS**

**Section 1301. Intent.** An adequate supply of healthy livestock, poultry and other animals is essential to the well being of county citizens and the State of South Dakota. However, livestock, poultry, and other animals produce manure which may, where improperly stored, transported, or disposed, negatively affect the County's environment. Concentrated Animal Feeding Operations (CAFOs) and the manure generated from those facilities must be controlled where it may add to air, surface water, ground water, or land pollution. The following regulations have been adopted to provide protection against pollution caused by manure from domesticated animals. All new and proposed expansions of Concentrated Animal Feeding Operations shall comply with the regulations as outlined herein.

**Section 1302. Animal Units Equivalent to Animal Species:** Lake County uses an animal unit equivalency ratio to determine the head count of a specific animal species for the purpose of defining the specific class of concentrated animal feeding operation by animal unit. The animal species equivalents are based upon a species' manure production. The standards for determining an animal unit to animal head count equivalency are derived from the Environmental Protection Agency and the State of South Dakota General Permit. Table 1302.1 details the classes of concentrated animal feeding operations and the specific animal unit equivalency ratio. Note that the figures in Table 1302.1 relate to inventory rather than annual production.

**Table 1302.1  
Number of Animals to Define Classes of Concentrated Animal Feeding Operations**

<b>Animal Species</b>	<b>Class A CAFO (Over 2,000 Animal Units)</b>	<b>Class B CAFO (1,000-1,999 Animal Units)</b>	<b>Class C CAFO (50 to 499 Units – Zone A &amp; B Shallow Aquifer)</b>	<b>Class D CAFO (50 to 999 Units – No Aquifer)</b>	<b>Animal Unit Equivalency Ratio</b>
	<b>Animal numbers equal to or more than:</b>	<b>Animal numbers equal to:</b>	<b>Animal numbers equal to:</b>	<b>Animal numbers equal to:</b>	
<b>Cattle other than mature dairy cows or veal calves <sup>1,2</sup></b>	2,000	1,000 to 1,999	50 to 499	50 to 999	1.0
<b>Mature Dairy Cattle (milked or dry)</b>	1,400	700 to 1,399	35 to 349	35 to 699	1.43
<b>Swine (weighing over 55 lbs. )</b>	5,000	2,500 to 4,999	125 to 1,249	125 to 2,499	0.4
<b>Swine (weighing less than 55 lbs. )</b>	20,000	10,000 to 19,999	500 to 9,999	500 to 9,999	0.1
<b>Horses</b>	1,000	500 to 999	25 to 249	25 to 499	2.0
<b>Sheep or lambs</b>	20,000	10,000 to 19,999	500 to 4,999	500 to 9,999	0.1
<b>Turkeys</b>	111,100	55,501 to 111,099	2,775 to 55,500	2,775 to 55,499	0.018
<b>Chickens, other than laying hens using other than liquid manure handling system</b>	250,000	125,000 to 249,999	6,250 to 62,499	6,250 to 124,999	.008
<b>Laying hens using other than liquid manure handling system</b>	164,000	82,000 to 163,999	4,100 to 40,999	4,100 to 81,999	.0122
<b>Laying Hens &amp; Broilers using liquid manure handling system</b>	60,000	30,000 to 59,999	1,500 to 14,999	1,500 to 29,999	.0333
<b>Ducks Using liquid manure Handling system</b>	10,000	5,000 to 9,999	250 to 2,499	250 to 4,999	0.2
<b>Ducks using other than liquid manure handling system)</b>	60,000	30,000 to 59,999	1,500 to 14,999	1,500 to 29,999	.0333
<b>Geese</b>	60,000	30,000 to 59,999	1,500 to 14,999	1,500 to 29,999	.0333

1. Cattle includes but is not limited to heifers, steers, bulls and cow/calf pairs.
2. Animals are counted individually once they are separated from the mother
3. Only in accordance with Section 1110 Aquifer Protection District.

**Section 1303. Classes of Concentrated Animal Feeding Operations.**

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

<u>CLASS OF CAFO</u>	<u>NUMBER OF ANIMAL UNITS</u>
Class A	2,000 or more
Class B	1,000 to 1,999
Class C	<b><u>50 to 499 (Situated over Zone A or B Shallow Aquifer)</u></b>
Class D	50 to <u>999</u>

**Section 1304. Concentrated Animal Feeding Operation Permit Requirements.** Owners of Class A, Class B, Class C, and Class D, Concentrated Animal Feeding Operations are required to complete, where applicable, a building permit, permitted use, special permitted use and/or conditional use permit application whenever any of the following occur:

1. A new concentrated animal feeding operation is proposed where one does not exist.
2. An expansion of a concentrated animal feeding operation is proposed that exceeds the number of animal units allowed by an existing county-issued permit.
3. An expansion in the number of animal units of a Concentrated Animal Feeding Operation, without a county-issued permit, that existed prior to February 3, 2026, which would result in the creation of either a Class A, B, C, or D concentrated animal feeding operation. {Ord. 26-02}
4. If a Class A or B concentrated animal feeding operation, which has a previously issued county permit, changes ownership, the new owner has sixty (60) days in which to apply for a transfer of ownership in order to keep the current permit valid. The new owner will be required to abide by the permit requirements and letter of assurances that were issued under the permit application. If no transfer is completed within sixty (60) days, the new owner will be required to submit a new application for approval.
5. A change in ownership of any concentrated animal feeding operation with a history of pollution documented by the County Zoning Office or State of South Dakota.
6. An existing concentrated animal feeding operation is to be restocked after being idle for five (5) or more years.
7. A signed complaint has been received by the County Zoning Official or South Dakota Department of Agriculture and Natural Resources and after inspection reveals that the Concentrated Animal Feeding Operation is in violation of County or State regulations.

8. Notwithstanding 1304.4 (above) a change in ownership of a Class A or Class B concentrated animal feeding operation which does not have a previously issued county-permit.

**Section 1305. Concentrated Animal Feeding Operation Control Requirements.**

1. **No Significant Contribution of Pollution.** In general, no Concentrated Animal Feeding Operation shall be constructed, located, or operated so as to create a significant contribution of pollution as determined by the South Dakota Department of Agriculture and Natural Resources.
2. **State General Permit.** A and B concentrated animal feeding operations shall obtain a State General Permit. A County permit for a concentrated animal feeding operation may be approved conditioned on receiving a State General permit. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan and manure management plan.

It shall be at the discretion of the Zoning Official and/or the Board of Adjustment to require an applicant to submit plans for a Class C or Class D concentrated animal feeding operation to be reviewed to determine general compliance with standards adopted for a State General Permit

3. **Nutrient Management Plan.**
  - a. New Class A, B, and C concentrated animal feeding operations are required to have a nutrient management plan.
  - b. Nutrient management plan(s) for Class A and Class B concentrated animal feeding operations shall be reviewed and approved by the South Dakota Department of Agriculture & Natural Resources. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan.
  - c. The nutrient management plan(s) for Class C may be developed by a Certified Crop Advisor and meet the current Natural Resources Conservation Service (NRCS) South Dakota Technical Nutrient Management Standards and all other applicable South Dakota Department of Agriculture & Natural Resources and Lake County regulations.
  - d. The applicant must maintain records to show compliance with the approved nutrient management plan.
  - e. The applicant must comply with Manure Application Setbacks found in 1304.8.1.
  - f. Documentation of land spreading agreements showing the location for manure application shall be available upon request by the County.

4. **Manure Management and Operation Plan.** New Class A, B, and C, Concentrated Animal Feeding Operations are required to have a Manure Management and Operation Plan.

The manure management and operation plan for Class A and Class B concentrated animal feeding operations reviewed and approved by the South Dakota Department of Agriculture & Natural Resources. The issuance of a State General Permit satisfies the county's requirements for an approved manure management and operation plan.

Manure Management and Operation Plans for Class C shall at a minimum meet the current Natural Resources Conservation Service (NRCS) Standards and all applicable SDDANR and Lake County Zoning Standards.

- a. Manure Management and Operation\_Plan must include:
- i. The location and specifics of proposed animal manure management facilities.
  - ii. The operation procedures and maintenance of manure management facilities.
  - iii. Plans and specifications must be prepared or approved by a registered professional engineer, or a Natural Resource Conservation Service (NRCS) engineer. Manure management treatment facilities will require inspection by an engineer.
  - iv. Manure shall not be store longer than two (2) years unless approved by Board of Adjustment.
  - v. Manure management containment structures shall provide for a minimum design volume of three hundred sixty-five (365) days of storage. In addition, open outdoor storage shall include minimum storage for direct precipitation and/or runoff from a 25-year, 24-hour storm.
  - vi. Producers shall keep records on manure applications on individual fields which document acceptable manure and nutrient management practices have been followed. These records shall include soils test results for surface two feet of soil, actual and projected crop yields, nutrient analysis of manure, and information about date, rate and method of manure applications for individual fields. Manure management facilities utilizing methane digesters may receive on and off-site generated manure and/or organic wastes.
  - vii. The applicant will provide information regarding how manure from the concentrated animal feeding operation site will be transported to fields identified in the nutrient management plan. This may require the need for a haul road agreement and/or the applicable agreement for pipes to occupy the right-of-way or private property. Unless otherwise agreed to between the Road Authority and the applicant, the applicant to abide by minimum requirements of the adopted findings of facts for the applicable size of operation.
- b. As a condition of the permit, the Zoning Official and/or Board of Adjustment may require the applicant to participate in environmental training programs.

5. **Management Plan for Fly and Odor Control.** New Class A, B, and C, Concentrated Animal Feeding Operations shall dispose of dead animals, manure and wastewater in such a manner as to control odors or flies. A management plan is required for submission of a permit. The Zoning Official and/or Board of Adjustment will review the need for control measures on a site-specific basis. The following procedures to control flies and odors shall be considered in a management control plan:
- a. Operational plans for manure collection, storage, treatment and how said plans will be updated and implemented.
  - b. Methods to be utilized to dispose of dead animals shall be.
  - c. The location of existing and proposed tree/shrub plantings.
  - d. The County recommends the following Best Management Practices in the development of a fly and odor management plan:
    - i. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized.
    - ii. Store solid manure in containment areas having good drainage to minimize odor production.
    - iii. Remove manure from open pens as frequently as possible to minimize odor production.
    - iv. Avoid spreading manure on weekends, holidays and evenings during warm season when neighbors may be involved in outdoor recreation activities.
    - v. Avoid spreading during calm and humid days, since these conditions restrict the dispersion and dilution of odors.
  - e. To assist in mitigating odors, the County may require any or all of the following:
    - i. Use of covers on open storage systems for liquid manure systems to reduce odor production.
    - ii. The storage of solid manure in self-contained containment areas to minimize odor production.
    - iii. The use of bio-filters or other proven odor mitigation technologies on enclosed concentrated animal feeding operation barns/structures to reduce odor production. The design and installation of said bio-filters shall be reviewed by specialists at South Dakota State University or others designated by the Board of Adjustment.
6. Required Setbacks and Separation Distance for New Class A, B, C, and D, concentrated animal feeding operations and those existing, non-permitted concentrated animal feeding operations expanding into a Class A, B, C, or D Concentrated animal Feeding Operations after February 3, 2026. See Table 1304.6.2. {Ord. 26-02}

**Table 1304.6.2  
REQUIRED MINIMUM SEPARATION DISTANCES AND SETBACKS <sup>1,4</sup>**

Number of Animal Units	Under 500 Animal Units	500 to 999 Animal Units	1,000 to 1,999 Animal Units	2,000 or more Animal Units
Established Residences <sup>2,3</sup>	1,320 feet	1,320 feet	1,760 feet	2,640 feet
Churches, Businesses and Commercially Zoned Areas	1,320 feet	1,320 feet	2,640 feet	2,640 feet
Madison City Limits <sup>3</sup>	1,320 feet	2,640 feet	15,840 feet	15,840 feet
Nunda, Ramona, Wentworth City Limits, Town Districts, Sanitary Sewer District Boundaries <sup>3</sup>	1,320 feet	2,640 feet	5,280 feet	5,280 feet plus 440' for each 1,000 animal units over 2,000 animal units or portions thereof
Established Private Water Well <sup>5,6</sup>	1,320 feet	1,320 feet	1,760 feet	2,640 feet
Existing Public Water Well	1,320 feet	1,320 feet	1,760 feet	2,640 feet
Lakes and Streams classified as Fisheries as identified by the State	200 feet	200 feet	500 feet	500 feet
<b>Federal, State &amp; County Road ROW</b>				
Confinement	200 feet	200 feet	300 feet	300 feet
Open Lot	150 feet	150 feet	150 feet	150 feet
<b>Township Road ROW</b>				
Confinement	150 feet	150 feet	150 feet	150 feet
Open Lot	150 feet	150 feet	150 feet	150 feet

- 1 Two (2) or more CAFOs under common ownership are a single concentrated animal feeding operation if they adjoin each other (within one mile) or if they use a common area or system for disposal of manure. Required setbacks for the two (2) or more CAFOs treated as a single operation shall not be less than the minimum setback required for each operation if said operations were treated as individual operations.
- 2 Established residences do not include any residence established after January 20,1998 less than one-half (1/2) mile from any Concentrated Animal Feeding Operation which was active at the time of the residence's construction.
- 3 The Board of Adjustment may allow a setback of less than the minimum required provided a written waiver by the entity deriving the benefit of the setback is filed with the application
- 4 The Board of Adjustment may utilize Section1304.7 to increase or decrease the required setback.
- 5 Setback does not apply to the wells of the CAFO operator.
- 6 Established private water wells refer to wells used as a source of potable water for human consumption for at least one (1) week within one (1) year prior to application date for the proposed CAFO.

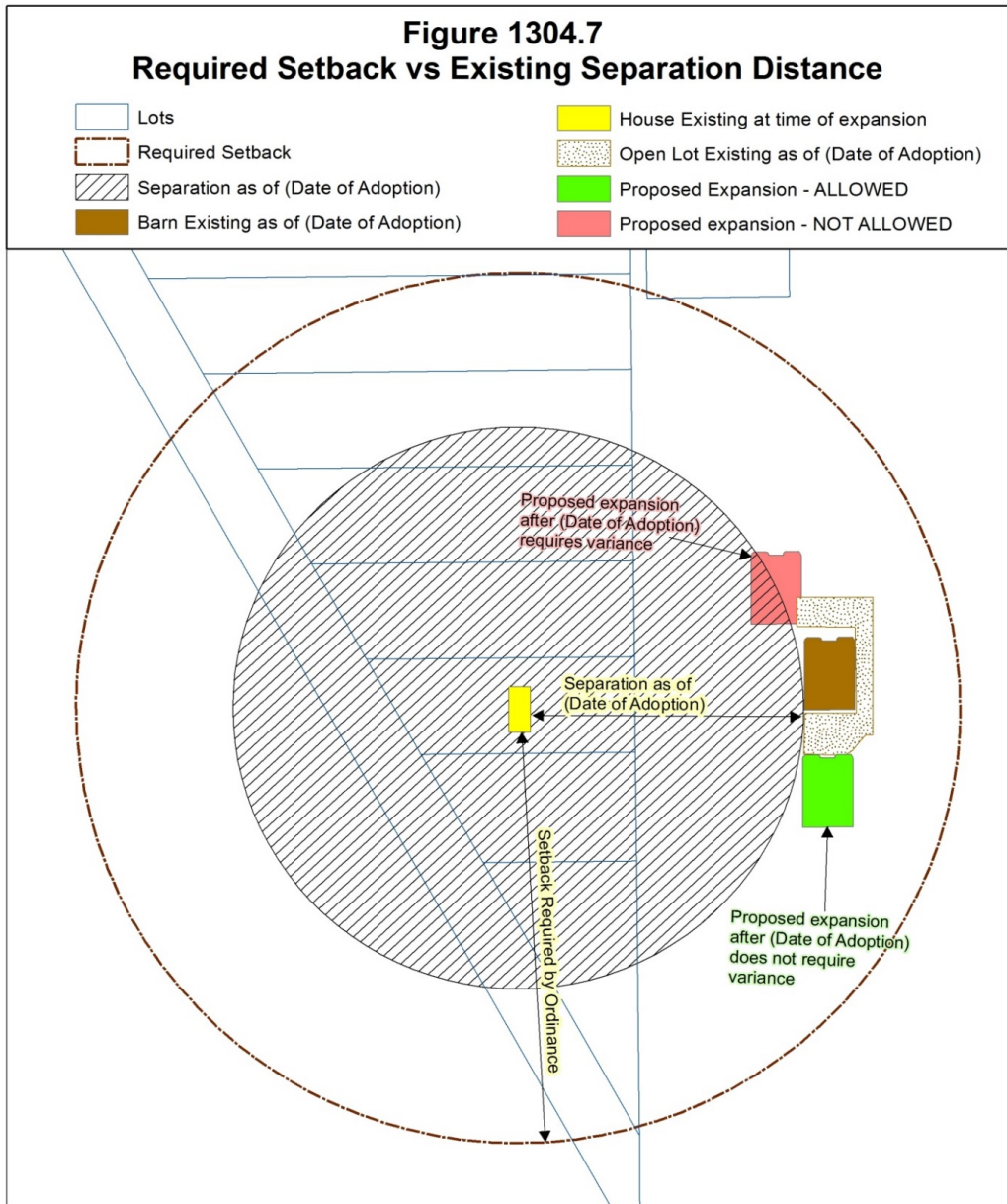
**7. Exemptions to Separation and/or Setback Distance Requirements.**

- a. A concentrated animal feeding operation that satisfies any of the criteria below shall be exempt from the applicable separation or setback distance with no variance required by the Board of Adjustment.

- b. A Concentrated Animal Feeding Operation which is expanded or constructed, if the title holder of the land benefiting from the distance separation requirement executes a written waiver with the title holder of the land where the structure is located, under such terms and conditions which the parties may negotiate. The written waiver becomes effective only upon the recording of the waiver in the office of the Register of Deeds in the county. The title holder of the land benefiting from the distance separation requirement is the residence, commercial enterprise, individual or individuals, governmental entity, religious institution, or educational institution from which separation is required. The waiver shall be binding upon the heirs, successors, and assigns of the title holder and shall pass with the land. {Ord. 26-02}
- c. A Concentrated Animal Feeding Operation constructed or expanded closer than the required separation distance within the corporate limits of an incorporated community, if the incorporated community approves a written waiver.
- d. A Concentrated Animal Feeding Operation which existed prior to the creation of residence, educational institution, commercial enterprise, religious institution, incorporated community, if the residence, educational institution, commercial enterprise or religious institution was constructed or expanded or the boundaries of the incorporated community were expanded, after the date that the concentrated animal feeding operation was established. The date that the Concentrated Animal Feeding Operation was established is the date on which the Concentrated Animal Feeding Operation commenced operating. A change in ownership or expansion shall not change the date of operation.
- e. A Concentrated Animal Feeding Operation which is expanded or constructed less than the required setback from a right-of-way (ROW) provided approval of the applicable road authority is submitted to the Zoning Official prior to issuance of any applicable building permits or stocking of the Concentrated Animal Feeding Operation if no building permits are required. County Highway Department (County right-of-way), Township Board of Supervisors (Township right-of-way), or State Department of Transportation (state right-of-way) are authorized to provide approval on behalf of the respective road authority. Other entities may provide approval on behalf of the listed entities if documentation of their authority to grant such approval is submitted.
- f. All Concentrated Animal Feeding Operations in operation prior to February 3, 2026 which do not comply with the required minimum setback/separation requirements, but continue to operate, and are not expanded in a manner which will result in the one of the following examples are exempt from the suggested separation distance:
  - i. Example 1: A Class D CAFO expands to a Class A or B CAFO
  - ii. Example 2: A Class B CAFO expands to a Class A CAFO.
  - iii. Example 3: A Class A CAFO expands by 10% of the number of animal units

Provided, that the expansion does not further encroach the setback/separation distance existing on October 1, 2025. See Figure 1304.7. {Ord. 26-02}

- g. Any Concentrated Animal Feeding Operation in operation as of February 3, 2026 which does not comply with the suggested minimum setback/separation distance requirements is allowed to be replaced in the event of a calamity without obtaining a variance. Provided, that the replacement does not further encroach the setback/separation distance existing at the time of the calamity. See Figure 1304.7. {Ord. 26-02}



8. Additional Setback and Separation Distance Requirements for Class A, B, C and D CAFOs.

Each application for a new or expanded Concentrated Animal Feeding Operation (CAFO) will be reviewed by the Board of Adjustment on a site-specific basis. The Board of Adjustment reserves the right to increase the minimum required setbacks and separation distance on a site-specific review, based on one or more of the following considerations.

a. Considerations to Increase Setbacks and/or Separation Distances

- i. Existing Concentration - A Concentrated Animal Feeding Operation of two thousand (2,000) or more animal units is proposed to be located in an area where a concentration of two thousand (2,000) animal units currently exists within one (1) mile of the proposed Concentrated Animal Feeding Operation site.

In the event the Board determines that a concentration of animal units already exists and an increase in animal units may pose air or water quality concerns, the Board may utilize the South Dakota Odor Footprint Tool or other instrument developed and/or accepted by South Dakota State University and the Board of Adjustment to determine the need to increase setback and/or separation requirements.

- ii. Due to topography and prevailing wind direction, and/or concentration of animal units, an additional setback and separation distance is appropriate to safeguard air or water quality. The South Dakota Odor Footprint Tool or other instrument developed and/or accepted by South Dakota State University and the Board of Adjustment may be utilized to determine the need to increase setback and/or separation requirements.

- iii. Siting of a Concentrated Animal Feeding Operation is in excess of 5,000 animal units. In the event the Board determines that the siting of a concentrated animal feeding operation, where one did not previously exist, with more than five thousand (5,000) animal units may pose air or water quality concerns, the Board may utilize the South Dakota Odor Footprint or other instrument accepted by the Board of Adjustment to determine the need to increase the suggested setback and/or separation requirements.

b. Considerations To Decrease Setbacks And Separation Distances

- i. The Board of Adjustment may reduce suggested setbacks and separation distances of any new or existing Concentrated Animal Feeding Operation proposing to expand based upon any or all of the following considerations:

- (a) The Board of Adjustment may reduce setback/separation distances of any new or existing Concentrated Animal Feeding Operation proposing to expand based upon any or all of the following considerations:

1. The South Dakota Odor Footprint Tool or other comparable instrument accepted by the Board of Adjustment may be utilized to determine the need to decrease suggested setback and/or separation distances.

2. Review of the operation of the Concentrated Animal Feeding Operation as it pertains to the type of manure handling system and manure application methods to be used.
  - a) Due to the type of manure handling and management of the concentrated animal feeding operation, little or no impact on adjacent property is expected. The use of Bio-filters, neoprene lagoon covers, and/or methane digesters are examples of improvements which may result in the reduction of suggested setbacks and separation distances.
  - b) Due to topography and/or prevailing wind direction little or no impact on adjacent property is expected
  - c) By limiting the proposed expansion to specific number of animal units no adverse impacts are expected.

**9. Manure Application Setbacks.**

- a. Table 1304.9.1 provides the following manure application setbacks apply to all classes of Concentrated Animal Feeding Operations.

**Table 1304.9.1  
COUNTY MANURE APPLICATION SETBACKS**

CATEGORY	SURFACE APPLIED	INCORPORATED OR INJECTED
Lakes, Rivers and Streams Classified as Fisheries	300 feet*	100 feet*
Streams and Lakes Classified as Drinking Water Supplies	1,000 feet	300 feet
Public Roads	25 feet (surface) from right-of-way 300 feet (irrigation) from right-of-way	10 feet from right-of-way
Area of 10 or More Residences	300 feet (surface) 1,000 feet (irrigation)	300 feet
Public Wells	1,000 feet	1,000 feet
Established Private Water Well **	250 feet	250 feet
A Residence Other Than the Operator	300 feet (surface) 1,000 feet (irrigation)	300 feet
Natural or Manmade Surface Drainage	200 feet*	50 feet

\* Or as prescribed within the South Dakota General Permit for Manure Application on Saturated, Snow Covered, or Frozen Soil .

\*\* Private shallow wells meeting the definition of an abandoned well shall not be considered in determining the above minimum manure application setback distances.

- b. The Board of Adjustment may require liquid manure to be incorporated or injected in order to minimize air and water quality impacts.
- c. Requests for application of liquid manure by means of irrigation will be reviewed by the Board of Adjustment on a site-specific basis. Impact on air and water quality will be taken into consideration.

**9. Standards for Conditional Use Permits**

- a. The Board of Adjustment may request information relating to a Concentrated Animal Feeding Operation not contained in these regulations.
  - b. The Board of Adjustment may impose, in addition to the standards and requirements set forth in these regulations additional conditions which the Board of Adjustment considers necessary to protect the public health, safety and welfare.
  - c. Conditional use permits for concentrated animal feeding operations shall be in effect only as long as sufficient land specified for spreading purposes is available for such purposes and other provisions of the permit are being adhered to.
  - d. When considering an application, the Board of Adjustment will take into consideration current and past violations, documented by the Environmental Protection Agency, the South Dakota Department of Agriculture and Natural Resources, or similar applicable agency in other states, in relating to Concentrated Animal Feeding Operations that the applicant has or had an interest in.
  - e. Conditional Use Permit applicants will be required to file a letter of assurances as required by the Zoning Official or Board of Adjustment. The letter of assurances will be prepared by the Zoning Official and/or Board of Adjustment and signed by both the applicant and the Zoning Official or Board of Adjustment's designee. The permit for the concentrated animal feeding operation is based upon compliance with the regulations herein, and associated letter of assurances. Any violation of these regulations or non-compliance with the letter of assurances shall be cause for revoking a permit. If a violation of these regulations or non-compliance with the letter of assurance occurs, permit holders will be notified by registered mail and a hearing before the Board of Adjustment will be held concerning status of the permit. The Board of Adjustment shall either revoke the permit or set a timeline for compliance. If compliance is not met, the permit shall be revoked, and the permit holder ordered to cease operations. Permits and letters of assurances will be reviewed on an annual basis for compliance.
10. The following information may be requested and reviewed by the Board of Adjustment prior to the issuance or as a condition to the issuance of a conditional use permit for any class of CAFO.
- a. Owner/Applicant(s)'s name, address and telephone number.
  - b. Legal descriptions of site and site plan.
  - c. Number and type of animals.

- d. Preliminary Nutrient management plan, if required.
- e. Preliminary Manure management and operation plan, if required.
- f. Preliminary Management plan for fly and odor control.
- g. Information on ability to meet designated setback requirements.
- h. As a condition of approval of any Concentrated Animal Feeding Operation over 1,000 animal units or as determined by the Board of Adjustment, the documentation of an approved general Permit from the South Dakota Department of Agriculture & Natural Resources for animal species is required. The issuance of a State General Permit satisfies the county's requirements for an approved nutrient management plan and manure management plan.
- i. Documentation of notice to public water supply officials.
- j. Information on soils, shallow aquifers, designated wellhead protection areas, and 100-year floodplain designation.
- k. Documentation of notice to whomever maintains the access road (township, county and state).
- l. Documentation of notice to all owners of property within required setback.
- m. Any other information as contained in the application and requested by the County Zoning Official.