ZONING ORDINANCE

FOR

THE CITY OF SISSETON

PREPARED BY

THE SISSETON PLANNING AND ZONING COMMISSION

WITH ASSISTANCE FROM
THE FIRST DISTRICT ASSOCIATION OF LOCAL GOVERNMENTS

ORDINANCE NO. 686

AN ORDINANCE AMENDING ORDINANCE 556, AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF SISSETON, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS 11-4 AND 11-6, 1967 SDCL, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH, AS AMENDED.

WHEREAS, Chapters 11-4 and 11-6, 1967 SDCL, empower the City of Sisseton, hereinafter referred to as the City, to enact a zoning ordinance for all land within the corporate limits of the City and to provide for its administration, enforcement, and amendment, and

WHEREAS, the Sisseton City Council, hereinafter referred to as the City Council, deems it necessary for the purpose of promoting the health, safety, morals, and general welfare of the City to enact such an ordinance, and

WHEREAS, the City Council has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and in such a manner as to lessen congestion in the streets, to secure safety from fire, panic, and other dangers; to promote the health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning Commission has given reasonable consideration among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings, and encouraging the most appropriate uses of land throughout the municipality, and

WHEREAS, the Planning Commission has made a preliminary report and held public hearings thereon, and submitted its final report to the City Council, and

WHEREAS, the City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions; and has held such public hearing, and

WHEREAS, all requirements of Chapters 11-4 and 11-6, 1967 SDCL, and amendments thereto, with regard to the preparation of the report of the Planning Commission and subsequent action of the City Council have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SISSETON:

MAYOR	DATE	ATTEST FINANCE OFFICER	DATE

TABLE OF CONTENTS

ARTICLE I General Provisions 1

Chapter 1.01 Title and Application 1

Section 1.01 Title 1
Section 1.02 Jurisdiction 1
Section 1.03 Purpose and Intent 1

Chapter 1.02 Ordinance Provisions 2

Section 1.02.01 Provisions of Ordinance Declared to Be Minimum Requirements 2
Section 1.02.02 Violations/Penalties for Violation 2
Section 1.02.03 Separability Clause 3
Section 1.02.04 Repeal of Conflicting Ordinances 3
Section 1.02.05 Effective Date 3

Chapter 1.03 Official Zoning Map 3

Section 1.03.01 Official Zoning Map 3
Section 1.03.02 Rules Where Map Designation Uncertain 4
Section 1.03.03 Changes and/or Replacement of Official Zoning Map 4
Section 1.03.04 Rules for Interpretation of District Boundaries 5
Section 1.03.05 Annexation 5

ARTICLE II District Regulations 6

Chapter 2.01 Application of District Regulations 6

Section 2.01.01 Applicability of Regulations 6
Section 2.01.02 Compliance; Generally 6
Section 2.01.03 Structures & Lots; Construction or Alteration; Limitations of 6

Chapter 2.02 Non-Conforming Uses 6

Section 2.02.01 Intent 6
Section 2.02.02 Repairs and Maintenance 7
Section 2.02.03 Uses and Structures 7
Section 2.02.04 Uses Under Conditional Use Provisions Not Non-Conforming Uses 8
Section 2.02.05 Non-conforming Lots of Record 8

Chapter 2.03 District Regulations 9

Chapter 2.03.01 Generally 9

Section 2.03.02 Zoning Districts 9

Chapter 2.04 “A” Agricultural District 10

Section 2.04.01 Permitted Uses 10
Section 2.04.02 Permitted Accessory Uses 10
Section 2.04.03 Conditional Uses 10
Section 2.04.04 Prohibited Uses 11
Section 2.04.05 Area/Construction Regulations 11

Chapter 2.05 "R1" Single Family Residential District 12

Section 2.05.01 Permitted Uses 12
Section 2.05.02 Permitted Accessory Uses 12
Section 2.05.03 Special Permitted Uses 12
Section 2.05.04 Conditional Uses 12
Section 2.05.05 Prohibited Uses 13
Section 2.05.06 Construction/Area Regulations 13

Chapter 2.06 "R2" General Residential District 15

Section 2.06.01 Permitted Uses 15
Section 2.06.02 Permitted Accessory Uses 15
Section 2.06.03 Special Permitted Uses 15
Section 2.06.04 Conditional Uses 15
Section 2.06.05 Prohibited Uses 17
Section 2.06.06 Area/Construction Regulations 17

Chapter 2.07 "R3" Multiple Family Residential District 19

Section 2.07.01 Permitted Uses 19
Section 2.07.02 Permitted Accessory Uses 19
Section 2.07.03 Special Permitted Uses 19
Section 2.07.04 Conditional Uses 19
Section 2.07.05 Prohibited Uses 20
Section 2.07.06 Area/Construction Regulations 20

Chapter 2.08 "C1" Central Commercial District 23

Section 2.08.01 Permitted Uses 23
Section 2.08.02 Permitted Accessory Uses 23
Section 2.08.03 Special Permitted Uses 24
Section 2.08.04 Conditional Uses 24
Section 2.08.05 Prohibited Uses 24
Section 2.08.06 Area/Construction Regulations 25

Chapter 2.09 "HC" Highway Commercial District 27

Section 2.09.01 Permitted Uses 27
Section 2.09.02 Permitted Accessory Uses 27
Section 2.09.03 Special Permitted Uses 28
Section 2.09.04 Conditional Uses 28
Section 2.09.05 Prohibited Uses 28
Section 2.09.06 Area/Construction Regulations 29

Chapter 2.10 "I1" – Light Industrial District 31

Section 2.10.01 Permitted Uses 31
Section 2.10.02 Permitted Accessory Uses 32
Section 2.10.03 Special Permitted Uses 32
Section 2.10.04 Conditional Uses 32
Section 2.10.05 Prohibited Uses 32
Section 2.10.06 Area/Construction Regulations 32
Section 2.10.07 Performance Standards 34

Chapter 2.11 "I2" – Heavy Industrial District 36

Section 2.11.01 Permitted Uses 36
Section 2.11.02 Permitted Accessory Uses 36
Section 2.11.03 Special Permitted Uses 36
Section 2.11.04 Conditional Uses 36
Section 2.11.05 Prohibited Uses 37
Section 2.11.06 Area/Construction Regulations 37

Chapter 2.12 Planned Unit Development 40

Section 2.12.01 Purpose 40
Section 2.12.02 Application and Modification Powers 40
Section 2.12.03 Procedure 40
Section 2.12.04 Final Application and Rezoning 41
Section 2.12.05 Review 41
Section 2.12.06 Final Development Plan 42

Chapter 2.13 "RR-I" Railroad Redevelopment Industrial Overlay District 43

Section 2.13.01 Purpose 43
Section 2.13.02 Applicability 43
Section 2.13.03 Permitted Uses 43
Section 2.13.04 Permitted Accessory Uses 43
Section 2.13.05 Special Permitted Uses 43
Section 2.13.06 Conditional Uses 44
Section 2.13.07 Prohibited Uses 44
Section 2.13.08 Area/Construction Regulations 44
Section 2.13.09 Performance Standards 45

Chapter 2.14 "IF-R" Railroad Redevelopment Industrial Overlay District 46

Section 2.14.01 Purpose 46
Section 2.14.02 Applicability 46
Section 2.14.03 Permitted Uses 46
Section 2.14.04 Permitted Accessory Uses 46
Section 2.14.05 Special Permitted Uses 47
Section 2.14.06 Conditional Uses 47
Section 2.14.07 Prohibited Uses 47

Section 2.14.08 Area/Construction Regulations 47
Section 2.14.09 Contracting Service, motor vehicle repair, auto body repair in The IF-R District 47

Chapter 2.99 Flood Damage Prevention Regulations 49

Section 2.99.01 Statutory Authorization, Findings of Fact, Purpose and Methods Of Reducing Flood Losses 49
Section 2.99.02 Definitions 50

Section 2.99.03 General Provisions 59
Section 2.99.04 Administration 60

Section 2.99.05 Variance Procedures 63
Section 2.99.06 General Standards for Flood Hazard Reduction 65
Section 2.99.07 Specific Standards for Flood Hazard Reduction 67
Section 2.99.08 Standards for Subdivision Proposals 69
Section 2.99.09 Floodways 70

ARTICLE III Administration 71

General 3.01 General 71

Section 3.01.01 Permits Required 71
Section 3.01.02 Applications 71
Section 3.01.03 Issuance of Permits 71
Section 3.01.04 Fee Schedule 71
Section 3.01.05 Expiration of Permits 72

Chapter 3.02 Administrative Official 72

Section 3.02.01 Establishment and Purpose 72
Section 3.02.02 Duties 72
Section 3.02.03 Powers 73

Chapter 3.03 Board of Adjustment 73

Section 3.03.01 Establishment 73
Section 3.03.02 Procedures for Meetings 73
Section 3.03.03 Powers and Duties of Board of Adjustment 74
Section 3.03.04 Hearings; Appeals; Notice 74
Section 3.03.05 Stay of Proceedings 75

Chapter 3.04 Planning Commission 75

Section 3.04.01 City Planning Commission Created 75
Section 3.04.02 Membership of the Planning Commission 75
Section 3.04.03 Terms of Members 75
Section 3.04.04 Compensation 75
Section 3.04.05 Organizations, Rules, Staff and Finances 75
Section 3.04.06 Duties of Planning Commission 76

Chapter 3.05 Procedures for Applications 76

Section 3.05.01 Building/Use Permits 76
Section 3.05.02 Conditional Uses 77
Section 3.05.03 Variances 79
Section 3.05.04 Procedures for Approval of Special Permitted Use Permit 81
Section 3.05.05 Board has Powers of Administration Official on Appeals; Reversing Decision of Administrative Official 82
Section 3.05.06 Appeals 82
Section 3.05.07 Zoning Amendments 82
Section 3.05.08 Reapplication 84

ARTICLE IV Supplemental Regulations 85

Chapter 4.01 Visibility/Fences 85

Section 4.01.01 Visibility at Intersections in Residential Districts 85
Section 4.01.02 Fences 85

Chapter 4.03 Accessory Uses 86

Chapter 4.04 Signs and Outdoor Advertising 89

Section 4.04.01 Prohibited Signs 89
Section 4.04.02 General Requirements 89
Section 4.04.03 Signs in the Residential Zoning District 90
Section 4.04.04 Signs in Business and Industrial Zoning District 91
Section 4.04.05 Portable Signs 92
Section 4.04.06 Electronic Message Signs 92
Section 4.04.07 Signs on Otherwise Vacant Lots (as Conditional Use) 92

Chapter 4.05 Parking 93

Section 4.05.01 Parking, Storage, or Use of Major Recreation Equipment 93
Section 4.05.02 Parking and Storage of Certain Vehicles 93
Section 4.05.03 Off-Street Parking Requirements 93
Section 4.05.04 Design and Maintenance 95
Section 4.05.05 Off-Street Loading Requirements 95

Chapter 4.06 Structures to Have Access 95

Chapter 4.07 Yards 96

Section 4.07.01 Yards, Reduction in Size 96
Section 4.07.02 Additional Yard Requirements 96
Section 4.07.03 Exceptions to Yard/Height Requirements 96

Chapter 4.08 Erection of More Than One Principal Structure on a Lot 97

Chapter 4.09 Private Wastewater Treatment Systems (Septic Tanks) 97

Chapter 4.11 Manufactured Home Provisions 98

Section 4.11.01 Modular Homes 98
Section 4.11.02 Type I and Type II Manufacture Homes 99
Section 4.11.03 Manufactured Home Park Minimum Standards 101
Section 4.11.04 Application Procedure 103

Chapter 4.12 Permanent Foundations Required for Dwellings 104

Chapter 4.13 Utility Easements 104

Chapter 4.14 Moved-In Buildings 104

Chapter 4.14A Moved Out Buildings 105

Chapter 4.15 Screening 106

Chapter 4.16 Maintenance 106

Chapter 4.17 Refuse 106

Chapter 4.18 Exempt Structures 106

Chapter 4.19 Lighting Standards 107

Chapter 4.20 Outside Storage and Displays 107

Chapter 4.21 Cannabis Establishments 107

Chapter 4.22 Adult Uses 109

Section 4.22.01 Setbacks 109
Section 4.22.02 Conditions & Regulations Governing Operation; Violation; Penalty 110

Chapter 4.23 Bed and Breakfast (B&B'S) 111

Chapter 4.24 Home Occupation 112

Section 4.24.01 Performance Standards 112

Chapter 4.25 Private Storage Structures In Residential Districts 113

Section 4.25.01 Private Storage Structure as a Special Permitted Use 113
Section 4.25.02 Private Storage Structure as a Conditional Use 114
Section 4.25.03 Required Development Lot Agreement for Special Permitted Use 115

Chapter 4.26 Caretaker/Watchman's Quarters 116

ARTICLE V Definitions 118

TABLE OF CONTENTS – TABLES

Table 2.04.05.1 11
Table 2.04.05.2 11
Table 2.05.06.1 13
Table 2.05.06.2 14
Table 2.06.06.1 17
Table 2.06.06.2 18
Table 2.07.06.1 21
Table 2.07.06.2 22
Table 2.08.06.1 25
Table 2.08.06.2 26
Table 2.09.06.1 29
Table 2.09.06.2 30
Table 2.10.06.1 33
Table 2.10.06.2 33
Table 2.11.06.1 38
Table 2.11.06.2 39
Table 2.13.08.1 44
Table 2.13.08.2 45
Table 4.02.2 86
Table 4.03.7 87
Table 4.04.03.3 90
Table 4.04.04 91
Table 4.05.03 94

TABLE OF CONTENTS – FIGURES

Figure 2.05.06.1 14
Figure 2.06.06.1 17
Figure 2.07.06.1 21
Figure 2.08.06.1 25
Figure 2.09.06.1 29
Figure 2.10.06.1 33
Figure 2.11.06.1 38
Figure 4.01.01 85
Figure 4.03.8.a 88
Figure 4.03.8.d 89

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ARTICLE I
GENERAL PROVISIONS

CHAPTER 1.01 TITLE AND APPLICATION.

Section 1.01 Title.

This Ordinance shall be known and referred to as "The Zoning Ordinance of the City of Sisseton, South Dakota."

Section 1.02 Jurisdiction.

The provisions of this Ordinance shall apply to all territory within the boundaries of the City of Sisseton, South Dakota, as established on the Official Zoning Map of the City of Sisseton.

Section 1.03 Purpose and Intent.

The Zoning Ordinance is enacted for the purpose set forth and provided for in South Dakota Compiled Laws and Amendments, Chapters 11-4 and 11-6, that is, among other things to promote the health, safety, and general welfare of the community. Any land use conducted in conformance with the Zoning Ordinance of the City of Sisseton is hereby deemed to be consistent with the purpose of this Ordinance.

This Ordinance has been prepared in accordance with the Comprehensive Land Use Plan for the City and is designed to coordinate physical development of the community with needs for public services and facilities. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

1. To assist in the implementation of the City of Sisseton's Comprehensive 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 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 City as a whole.

5. To prevent excessive population densities and overcrowding of the land with structures.

6. To foster the provision of adequate off-street parking and off-street truck loading facilities.

7. To facilitate the appropriate location of community facilities and institutions.

8. To protect and enhance real estate values.

9. To safeguard and enhance the appearance of the City, including natural amenities.

10. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the Comprehensive Plan.

11. 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.

12. To regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of buildings, structures, and land.

CHAPTER 1.02 ORDINANCE PROVISIONS

Section 1.02.01 Provisions of Ordinance Declared to Be Minimum Requirements.

Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements shall govern.

Section 1.02.02 Violations/Penalties for Violation.

Violations of the Ordinance shall be treated in the manner specified below.

1. Any person who starts work for which a permit (building, conditional use, variance, rezoning) 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 administrative fees assessed there under shall be rounded to the nearest whole dollar.

    a. Upon finding such violation, the Administrative Official shall notify the owner of property 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 date of mailing of the certified letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the fee for the Building/Use 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 from the date of mailing of the certified letter notifying the party thereof, there shall be imposed an administrative fee in the amount of two (2) times the normal fee for the associated Building/Use Permit, conditional use permit, variance, and/or rezoning plus the cost of the postage for mailing the aforementioned notice. 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 Ordinance shall be in addition to any other fees or charges required under this Ordinance.

2. It is declared unlawful for any the owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been

committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist to violate any of the terms and provisions of these regulations or other official control adopted by the City Council 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 five hundred dollars ($500.00) or imprisonment for not more than thirty (30) days, or both, 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 shall constitute a separate offense. All fines for violation shall be paid to the City Finance Officer and shall be credited to the General Fund of the City.

3. In the event any building or structure is erected, constructed, reconstructed, altered, converted, repaired, or, maintained; or any building or structure or land is used in violation of this Ordinance or other regulation the Administrative Official, or the City of Sisseton, as a corporation or any interested person, in addition to other remedies, may institute injunction, mandamus, or any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of land, to restrain, correct or abate such violation, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business, or use in and to and of such premises.

4. Any taxpayer of the City may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

Section 1.02.03 Separability Clause.

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

Section 1.02.04 Repeal of Conflicting Ordinances.

All prior Ordinances or parts of prior Ordinances in conflict with this Ordinance, including Ordinance 556, as amended, are hereby declared repealed to the extent necessary to give this Ordinance full force and effect.

Section 1.02.05 Effective Date.

This Ordinance shall be in full force and effect from and after its passage, approval, publication, and effective date according to South Dakota Codified Law.

CHAPTER 1.03. OFFICIAL ZONING MAP

Section 1.03.01 Official Zoning Map.

The City 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 Mayor of the City attested by the City Finance Officer under the following words: “This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number 686 of the City of Sisseton, State of South Dakota,” together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the City Finance Officer.

If, in accordance with the provisions of this Ordinance and South Dakota Compiled Laws Chapter 11-4, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not become effective until after said changes have been made on the Official Zoning Map by the City Finance Officer or in his/her absence a person designated by the City Council. Any unauthorized change by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Chapter 1.02, Section 1.02.02.

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 City Offices, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

Section 1.03.02 Rules Where Map Designation Uncertain.

Where uncertainty exists with respect to the various zoning districts as shown on the Zoning Map, the following rules shall apply:

1. The district boundaries are either streets or alleys, highways, rights-of-way, railroad rights-of-way, waterways, lot lines, property lines, quarter section lines, half section lines, or full section lines, unless otherwise shown.

2. Where the designation on the Zoning Map indicates the various districts are approximately bounded by lot lines, the lot lines shall be the boundaries of such districts unless boundaries are otherwise indicated on the map.

Section 1.03.03 Changes and/or Replacement of Official Zoning Map:

1. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution 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 Mayor attested by the City Finance Officer, 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 the City of Sisseton, State of South Dakota.”

2. 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.

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

4. Changes to the Official Zoning Map shall require amendment of this regulation by Ordinance, as provided for in Chapter 3.05, Section 3.05.07 of these regulations.

Section 1.03.04. Rules for Interpretation of District Boundaries.

Where uncertainty exists with respect to the various zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. The district boundaries are the center lines of streets, alleys, and highways; rights-of-way, railroad rights-of-way, waterways, lot lines, property lines, quarter section lines, half section lines, or full section lines, unless otherwise shown.

2. Where the designation on the Official Zoning Map indicates the various districts are approximately bounded by lot lines, the lot lines shall be the boundaries of such districts unless boundaries are otherwise indicated on the map.

Section 1.03.05 Annexation.

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the City of Sisseton shall be automatically placed into the “A” Agricultural Zoning District, unless and until such time as the area is rezoned by amendment of these regulations by Ordinance, as provided for in Chapter 3.05, Section 3.05.07 of these regulations.

ARTICLE II
DISTRICT REGULATIONS

CHAPTER 2.01 APPLICATION OF DISTRICT REGULATIONS

Section 2.01.01 Applicability of Regulations.

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

Section 2.01.02 Compliance; Generally.

1. No building, structure, land, or any part thereof shall hereafter be used or occupied; nor

2. Shall any building, structure, land, or any part thereof shall hereafter be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved, or used; nor

3. Shall any premises be used for any purpose other than a purpose permitted in the District in which said building or premise is located, except as hereinafter provided.

Section 2.01.03 Structures & Lots; Construction or Alteration; Limitations of.

1. No building or other structure shall hereafter be erected or altered:

    a. To exceed the height or bulk;

    b. To accommodate or house a greater number of families;

    c. To occupy a greater percentage of lot area;

    d. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this Ordinance.

2. 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 or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

CHAPTER 2.02 NON-CONFORMING USES

Section 2.02.01 Intent.

Within the districts established by this Ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of structure and land in combination shall not be extended, expanded, or enlarged after passage of this Ordinance by the addition of other structures or uses, or a nature of which would be prohibited generally elsewhere in the district involved.

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

Section 2.02.02 Repairs and Maintenance.

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding ten (10) percent of the replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance and is declared by the administrative 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 2.02.03 Uses and Structures.

A lawful use or structure existing at the time this Ordinance is adopted or amended may continue even though such use does not conform to the district regulations subject to the following provisions:

1. Whenever, a non-conforming use or structure has been changed to a conforming use, it shall not be changed back to a non-conforming use.

2. If any non-conforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six (6) months after such casualty and completed within a reasonable time thereafter. However, if the damage caused by such casualty is such as to cause a loss in value exceeding fifty (50) percent of the replacement value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. 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.

3. When a non-conforming use or the use of a non-conforming structure is discontinued for a period of 1 (one) year, it shall not be continued unless in conformance with the requirements of this Ordinance and SDCL 11-6-39.

4. Any non-conforming use may be extended throughout any part of a structure, which was arranged or designed for such use previous to the adoption of this Ordinance but shall not be extended outside such structure.

5. No existing non-conforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted or conditional use. This is not to include normal repairs and maintenance, which do not enlarge, move, or structurally alter a non-conforming use.

6. "Non-Conforming Land Use" shall be deemed to include non-conforming manufactured home courts existing at the time of the adoption of this Ordinance, and the substitution or replacement of Type I and Type II Manufactured Homes to said manufactured home court shall not be deemed to have changed the use thereof from a non-conforming to a conforming use.

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

    a. Enlargements, extensions, conversions, or structural alterations may be made as required by law or Ordinance.

    b. Structural alteration of buildings or structures may otherwise be made if such changes do not further encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located.

    c. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.

8. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the City Planning and Zoning Commission as set forth elsewhere in this Ordinance.

Section 2.02.04. Uses Under Conditional Use Provisions Not Non-Conforming Uses.

Any use which is permitted as a conditional use in a district under the terms of this Ordinance shall not be deemed a non-conforming use in such district but shall without further action be considered a conforming use.

Section 2.02.05 Non-conforming Lots of Record.

In any district in which single-family dwellings are permitted, a single-family dwelling 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 lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such a lot fails to meet the requirements of area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations of the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment; however the Board of Adjustment is not obligated to grant said variance(s).

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 amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and area, the land 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 with width or area below the requirements in this Ordinance.

CHAPTER 2.03 DISTRICT REGULATIONS

Section 2.03.01 Generally.

The district regulations included in this Chapter may be qualified or supplemented by additional regulations appearing elsewhere in this Ordinance.

Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses are existing at the effective date of these regulations and qualify as non-conforming uses, or unless a Conditional Use Permit is granted as provided for in Chapter 3.05, Section 3.05.02 of these regulations.

The Board of Adjustment may establish additional requirements and standards for uses and structures permitted by Conditional Use Permit in accordance with Section 3.05.02 of this Ordinance.

Section 2.03.02 Zoning Districts.

The following zone and use districts are hereby established for the purposes of administration and enforcement of this Ordinance.

A	Agricultural District
R1	Single Family Residential District
R2	General Residential District
R3	Multiple Family Residential District
C1	Central Commercial District
HC	Highway Commercial District
I1	Light Industrial District
I2	Heavy Industrial District
PUD	Planned Unit Development

The following districts shall be designated as zoning overlay districts, imposing special regulations on the properties that fall within these overlay districts without abrogating the requirements imposed by the underlying land use district regulations:

IF-R	Industrial Fringe Residential Overlay District
RR-I	Railroad Industrial Redevelopment Overlay District
FP	Floodplain Protection District

CHAPTER 2.04 "A" - AGRICULTURAL DISTRICT

Section 2.04.01. Permitted Uses.

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

1. Any form of agriculture activity and related farm buildings, but excluding animal feed lots and auction yards/barns;

2. Site-built single family dwellings;

3. Type I manufactured homes (See Section 4.11.02);

4. Orchards and tree farms;

5. Public parks and recreation areas;

6. Utilities substations

Section 2.04.02 Permitted Accessory Uses.

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

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limits of this district;

2. Roadside stands for sales of agricultural products grown or produced on the premises;

3. Signs conforming to Chapter 4.04.

Section 2.04.03 Conditional Uses.

The following uses may be permitted by Conditional Use Permit in the "A" Agricultural District by the Board of Adjustment subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare.

1. Type II manufactured homes, including type I manufactured homes without permanent foundations;

2. Veterinary clinics with outside runs;

3. Public or Private stables and kennels with outside runs;

4. Religious institutions, churches and/or cemeteries;

5. Public buildings or facilities erected or established and operated by any governmental agency;

6. Utility substations, railroad, and other public utilities facilities;

7. Livestock sales;

8. Commercial nurseries and greenhouses;

9. Golf course and driving range;

10. Game propagation areas;

11. Privately operated outdoor recreational facilities, including campsite;

12. Telecommunication facilities;

13. Home occupations (See Chapter 4.24);

14. Horticulture services.

Section 2.04.04. Prohibited Uses.

All uses and structures not specifically permitted by Permitted Use, Special Permitted Use, or Conditional Use shall be prohibited in the "A" Agricultural District.

Section 2.04.05. Area/Construction Regulations.

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

Table 2.04.05.1

	Minimum Lot Area	**Minimum Lot Width**	**Maximum Height**
Single Family Residential	43,560 square feet	150'	35'
Towers or Steeples	To be determined by the Board of Adjustment		75'
Principal building excluding tower or steeple			45'
Other Conditional Uses	To be determined by the Board of Adjustment		

Table 2.04.05.2

	Minimum Front Yard		**Minimum Rear Yard**	**Minimum Side Yard**
	Primary	**Secondary**		
Permitted Uses	75'	37.5'	50'	30'
Conditional Uses	To be determined by the Board of Adjustment			

CHAPTER 2.05 "R1" SINGLE FAMILY RESIDENTIAL DISTRICT

Section 2.05.01 Permitted Uses.

The following uses and structures shall be permitted in the "R1" Single Family Residential District:

1. Site-built single-family dwellings;

2. Modular homes;

3. Type I manufactured homes

4. Public park and recreation areas including public and private swimming pools;

5. Public and private schools;

6. Public utilities and services required by the resident population.

Section 2.05.02. Permitted Accessory Uses.

The following accessory uses, and structures shall be permitted in the "R1" Single Family Residential District:

1. Accessory uses and structures customarily incidental to permitted uses in accordance with Chapter 4.03.

2. Signs conforming to Chapter 4.04.

Section 2.05.03 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the "R1" General Residential District.

1. Detached accessory structure with sixteen (16) foot sidewalls, provided written consent of all adjoining property owners is submitted with the application.

Section 2.05.04 Conditional Uses.

The following uses may be permitted by Conditional Use Permit in the "R1" Single Family Residential District by the Board of Adjustment, subject to such requirements as Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare.

1. Bed and breakfast establishments;

2. Home occupations (See Chapter 4.24);

3. Hospitals, nursing homes, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance;

4. Licensed commercial day care facilities and day care homes caring for children, provided that such facilities shall provide not less than twenty-five (25) square feet of floor area not including halls or bathrooms and outdoor recreation space for each child. In addition, such facilities shall supply at least one off-street parking space per six children cared for at the day care home unless the Board of Adjustment approves some other suitable plan for the loading and unloading of children so as not to obstruct public streets or create other traffic or safety hazards;

5. Religious institutions and/or cemeteries;

6. Public and private golf courses including clubhouses, community center, and country club;

7. Public buildings or facilities established and operated by a governmental agency;

8. Utility substations;

9. Museums;

10. Multiple-family dwellings, including condominiums and townshouses not to exceed eight (8) units;

Section 2.05.05. Prohibited Uses.

All uses and structures not specifically permitted by Permitted Use, Special Permitted Use, or Conditional Use shall be prohibited in the "R1" Single Family Residential District."

Section 2.05.06 Construction/Area Regulations.

Table 2.05.06.1

	Minimum Lot Area	**Minimum Lot Width**	**Maximum Height**	**Maximum Percent Lot Coverage**
Single Family Residence	9,000 square feet	75'	35'	30%
2 Dwelling Units	6,000 square feet	85'	35'	30%
3 - 4 Dwelling Units (D.U)	6,000 square feet (First D.U); 2,400 square feet (each additional D.U.) (a)	100' (a)	35'	30%
Greater than 4 Dwelling Units	13,200 square feet (First D.U); 1,815 square feet (each additional D.U.) (a)		45'	30%
Conditional Uses	To be determined by the Board of Adjustment			

**Maximum height for steeples and towers shall be seventy-five (75) feet*

a. Where individually owned, attached single-family units (i.e., Condominium, townhouse, duplex, etc.) are constructed, minimum lot area, width, and coverage are calculated on the basis of the lot upon which the shared structure is constructed.

Figure 2.05.06.1

Table 2.05.06.2

	Minimum Front Yard		Minimum Rear Yard	Minimum Side Yard
	Primary	Secondary		
SYMBOL				
Permitted Uses and Two-Family Dwellings	30'	15’	25'	7'(a)
Three to Eight-Family Dwellings	30’	15’	25’	10’(a)
Conditional Uses	To be determined by the Board of Adjustment			

a. Upon subdivision into individual units, two family dwellings will be allowed one “shared” wall (required yard = zero (0) feet) provided all other yard requirements are met.

CHAPTER 2.06 "R2" GENERAL RESIDENTIAL DISTRICT

Section 2.06.01 Permitted Uses.

The following uses and structures shall be permitted in the "R2" General Residential District:

1. Site built single-family dwellings;

2. Two-family dwellings;

3. Modular homes;

4. Public park and recreation areas;

5. Type I Manufactured Homes;

6. Public and private schools;

7. Multiple family dwellings including condominiums and townhouses, not to exceed eight (8) units.

Section 2.06.02 Permitted Accessory Uses:

The following uses and structures shall be permitted as accessory uses in the "R2" General Residential District.

1. Accessory uses and structures customarily incidental to permitted uses.

2. Signs conforming to Chapter 4.04.

Section 2.06.03 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the "R2" General Residential District.

1. Private storage buildings used exclusively for storage and not for performance of any other services, provided siding consists of that customarily used for site-built single family dwellings. See Section 4.25.01.

2. Detached accessory structure with sixteen (16) foot sidewalls, provided written consent of all adjoining property owners is submitted with the application.

Section 2.06.04 Conditional Uses.

The following uses may be permitted by Conditional Use Permit in the "R2" General Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare.

1. Multiple-family dwellings, including condominiums and townhouses, exceeding eight (8) units;

2. Funeral homes and mortuaries

3. Bed and breakfast establishments;

4. Home occupations (See Chapter 4.24);

5. Religious institutions, cemetery, and parish houses;

6. Public buildings or facilities established and operated by any governmental agency;

7. Licensed residential treatment or group home;

8. Clinics, offices, and financial service institutions;

9. Condominiums as single family zero lot line developments with eight or more contiguous lots by original plan; and

10. Hospitals, convalescent and nursing homes, supervised care facilities and congregate housing;

11. Licensed commercial day cares or day care homes caring for children, provided that such facilities shall provide not less than twenty-five (25) square feet of floor area not including halls or bathrooms and outdoor recreation space for each child. In addition, such facilities shall supply at least one off-street parking space per six children cared for at the day care home unless the Board of Adjustment approves some other suitable plan for the loading and unloading of children so as not to obstruct public streets or create other traffic or safety hazards;

12. Utility substations;

13. Public and private golf courses, including clubhouses;

14. Public and private swimming pools;

15. Museums;

16. Public buildings or facilities erected or established and operated by any governmental agency;

17. Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility and service structures;

18. Private storage buildings used exclusively for storage and not for performance of any other services, provided siding consists of that customarily used for site-built single family dwellings. See Section 4.25.02;

19. Personal services operated in a structure occupied as a single-family residence prior to February 17, 2003;

20. Contractor shop and yard in operation as of January 1, 2023.

Section 2.06.05 Prohibited Uses.

All uses and structures not specifically permitted by Permitted Use, Special Permitted Use, or Conditional Use shall be prohibited in the "R2" General Residential District.

Section 2.06.06 Area/Construction Regulations.

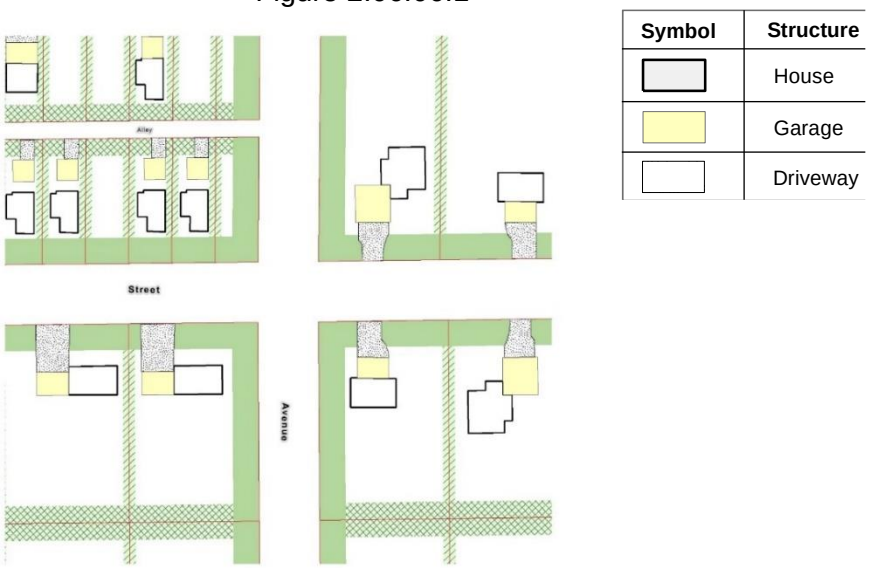
Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

Table 2.06.06.1

	Minimum Lot Area	**Minimum Lot Width**	**Maximum Height**	**Maximum Percent Lot Coverage**
Single Family Residential	5,000 square feet	50'	35'	35%
Two (2) Dwelling Units (a)	5,000 square feet/dwelling unit	85'	35'	40%
Three (3) - Eight (8) Dwelling Units (a)	10,000 plus 1,000 square feet for each dwelling unit over four (4)	100'	45'	40%
Assisted Living, Nursing and Rest Homes, etc.	2,000 square feet/dwelling unit	60'	35'	40%
Churches, synagogues, chapels, and other similar places of worship	87,120 square feet (2 acres)	75'	35'*	30%
Conditional Uses	To be determined by the Board of Adjustment			

**Maximum height for steeples and towers shall be seventy-five (75) feet*
***Construction between 35' and 45' is allowed only if fire suppression sprinklers are installed and maintained with the most recently published version of the International Fire Code.*

Figure 2.06.06.1



a. Where individually owned, attached single-family units (i.e., Condominium, townhouse, duplex, etc.) are constructed, minimum lot area, width, and coverage are calculated on the basis of the lot upon which the shared structure is constructed.

Table 2.06.06.2

	Minimum Front Yard		**Minimum Rear Yard**	**Minimum Side Yard**	
	Primary	**Secondary**		**Party Wall Side**	**Non-Party Wall Side**
SYMBOL					
Single Family Residential	20'	10’	15'	6'	
Two (2) Dwelling Units	20'	10’	10'	0'	7'
Three (3) or More Dwelling Units	25'	12.5’	25'	0'	10'
Detached Accessory Structure with 16’ sidewalls (2.05.03.2)	25’	12.5’	15’	12’	
Hospitals, convalescent and nursing homes, supervised care facilities and congregate housing	50’		30’	30’	
Conditional Uses	To be determined by the Board of Adjustment				

a. Upon subdivision into individual units, two family dwellings will be allowed one “shared” wall (required yard = zero (0) feet) provided all other yard requirements are met.

CHAPTER 2.07 "R3" MULTIPLE FAMILY RESIDENTIAL DISTRICT

Section 2.07.01 Permitted Uses.

The following uses and structures shall be permitted:

1. Site built single-family dwellings;

2. Multiple Family Dwellings, including condominiums and townhouses;

3. Two-family dwellings;

4. Modular homes;

5. Public and private schools;

6. Public buildings or facilities erected or established and operated by any governmental agency;

7. Public park and recreation areas;

8. Type I manufactured homes.

Section 2.07.02. Permitted Accessory Uses:

The following uses and structures shall be permitted as accessory uses in the "R3" Multiple Residential District.

1. Accessory buildings and uses customarily incident thereto, excluding stables;

2. Signs conforming to Chapter 4.04;

3. Type II manufactured home in a permitted manufactured home park.

Section 2.07.03 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the "R3" Multiple Residential District.

1. Private storage buildings used exclusively for storage and not for performance of any other services, provided siding consists of that customarily used for site-built single family dwellings. See Section 4.25.01.

2. Detached accessory structure with sixteen (16) foot sidewalls, provided written consent of all adjoining property owners is submitted with the application.

Section 2.07.04 Conditional Uses.

The following uses may be permitted by Conditional Use Permit in the "R3" Multiple Family Residential District by the Board of Adjustment, subject to such requirements as the Board seems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare.

1. Type II manufactured home not in a permitted manufactured home park;

2. Manufactured home park developments;

3. Clinics, offices, and financial institutions;

4. Licensed residential treatment or group home;

5. Single family zero lot line developments with eight or more contiguous lots by original plan;

6. Home occupations (See Chapter 4.24);

7. Hospitals, convalescent and nursing homes, supervised care facilities and congregate housing;

8. Day care homes caring for children, provided that such facilities shall provide not less than twenty-five (25) square feet of floor area not including halls or bathrooms and outdoor recreation space for each child. In addition, such facilities shall supply at least one off-street parking space per six children cared for at the day care home unless the Board of Adjustment approves some other suitable plan for the loading and unloading of children so as not to obstruct public streets or create other traffic or safety hazards;

9. Religious Institutions, churches and/or cemetery or memorial garden;

10. Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility and service structures;

11. Community center, country club, public swimming pool;

12. Off-site parking lots as an accessory use to Conditional Uses;

13. Private storage buildings used exclusively for storage and not for performance of any other services, provided siding consists of that customarily used for site-built single family dwellings. See Section 4.25.02

Section 2.07.05 Prohibited Uses.

All uses and structures not specifically permitted by Permitted Use, Special Permitted Use, or Conditional Use shall be prohibited in the “R3” Residential District.

Section 2.07.06 Area/Construction Regulations.

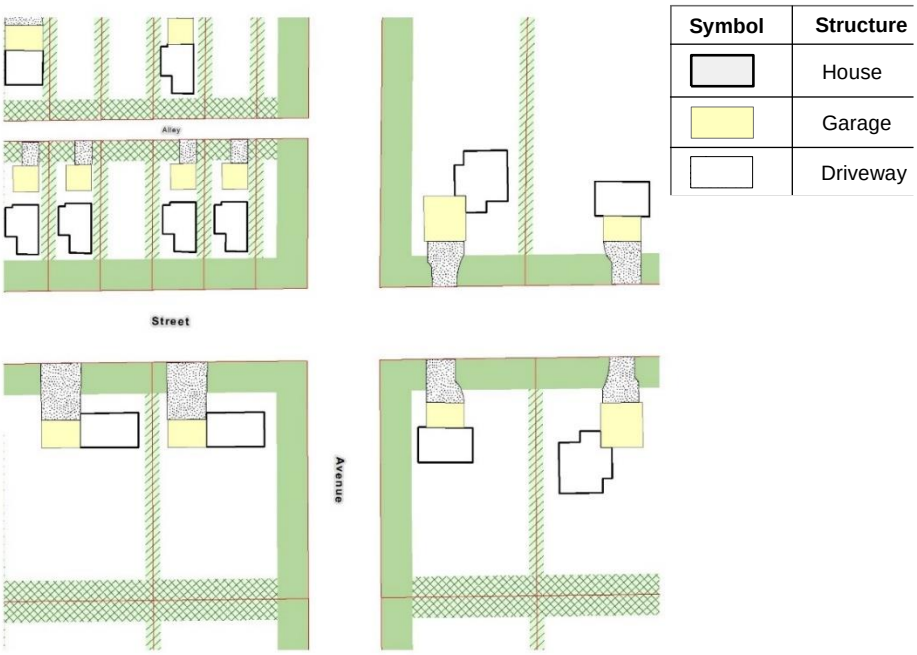
Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

Table 2.07.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	6,000 square feet	50'	35'	35%
Two (2) to Four (4) Dwelling Units (a)	6,000 square feet plus 2,400 square feet for each dwelling unit over one (1)	85'	35'	40%
Five (5) – Eight (8) Dwelling Units (a)	6,000 square feet plus 1,815 square feet for each dwelling unit over four (4)	100'	45'	40%
Greater than eight (8) Dwelling Units (a)	18,645 square feet plus 1,500 square feet for each dwelling unit over eight (8)	125'	45'	40%
Churches, synagogues, chapels, and other similar places of worship	87,120 square feet (2 acres)	75'	35'*	30%
Conditional Uses	To be determined by the Board of Adjustment			

**Maximum height for steeples and towers shall be seventy-five (75) feet*
***Construction between 35' and 45' is allowed only if fire suppression sprinklers are installed and maintained with the most recently published version of the International Fire Code.*

Figure 2.07.06.1



a. Where individually owned, attached single-family units (i.e., Condominium, townhouse, duplex, etc.) are constructed, minimum lot area, width, and coverage are calculated on the basis of the lot upon which the shared structure is constructed.

Table 2.07.06.2

	Minimum Front Yard		Minimum Rear Yard	Minimum Side Yard	
	Primary	**Secondary**		**Party Wall Side**	**Non-Party Wall Side**
SYMBOL					
Single Family Residential	20'	10’	15'	7'	
Two Dwelling Units	25'	12.5’	15'	0'	7'
Three (3) to Eight (8) Dwelling Units	30'	10’	25'	0'	10'
Nine (9) or more Dwelling Units	30'	10’	25'	0'	15'
Conditional Uses	To be determined by the Board of Adjustment				

CHAPTER 2.08 "C1" CENTRAL COMMERCIAL DISTRICT

Section 2.08.01 Permitted Uses:

The following uses and structures shall be permitted in the "C1" Central Commercial District:

1. Retail and wholesale sales;
2. Finance, insurance and real estate services;
3. Business services excluding any warehousing and storage services;
4. Religious institutions, welfare and charitable services; business associations, professional membership organizations, labor unions, and similar labor organizations, and civic, social and fraternal associations;
5. Eating establishments;
6. Communication and utility uses;
7. Public buildings and grounds;
8. Service establishments;
9. Professional, governmental and education services;
10. Bar or tavern;
11. Printing and publishing establishments;
12. Offices;
13. Parking lot and/or parking garages;
14. Bed and breakfast;
15. Hotels and motels;
16. Theaters, bowling alleys, and pool halls;
17. Clinic.

Section 2.08.02 Permitted Accessory Uses

The following accessory uses, and structures shall be permitted in the "C1" Central Commercial District.

1. Accessory buildings and uses customarily incidental to permitted uses; and
2. Signs conforming to Chapter 4.04

Section 2.08.03 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the “C1” Central Commercial District.

1. Cannabis Dispensary (see Chapter 4.21).

Section 2.08.04 Conditional Uses:

The Board of Adjustment, subject to such requirements, may permit the following uses as a Conditional Use in the “C1” Central Commercial District as the Board deems necessary to protect and promote the health, safety, and general welfare:

1. Apartments;
2. Licensed day care centers;
3. On/off-sale liquor establishments;
4. Lumberyards;
5. Repair shops, gas and service stations;
6. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided;
7. Second floor apartments;
8. Nursing home;
9. Assisted living center;
10. Group Home;
11. Laundromat;
12. Public and private hospitals;
13. Public and private business or trade schools;
14. Wholesale business;
15. Bus Depot;
16. Automobile sales.

Section 2.08.05 Prohibited Uses.

All uses and structures not specifically permitted by Permitted Use, Special Permitted Use, or Conditional Use shall be prohibited in the “C1” Central Commercial District.

Section 2.08.06 Area/Construction Regulations.

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

Table 2.08.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted uses	2,640 Square Feet	22’	45'	35%
Conditional Uses	To be determined by the Board of Adjustment			

Figure 2.08.06.1

Table 2.08.06.2

	Minimum Front Yard		Minimum Rear Yard		Minimum Side Yard	
	Frontage on Main Avenue, Veterans Avenue, or Second Avenue	**All other Streets**	**Adjacent to Industrial, Ag, or Commercial Districts**	**Adjacent to and Shared with Residential Districts**	**Adjacent to Industrial, Ag, or Commercial Districts**	**Adjacent to and Shared with Residential Districts**
Symbol						
Permitted Uses	0’	20'	0'	25'	0'	15'
Conditional Uses	To be determined by the Board of Adjustment					

2. All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.

3. Screening - Where any use in the “C1” Central Business District is adjacent to any Residential Zone, that use (building, parking, or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with Chapter 4.01 or 4.02.

CHAPTER 2.09 "HC" HIGHWAY COMMERCIAL DISTRICT

Section 2.09.01 Permitted Uses.

The following uses and structures shall be permitted in the "HC" Highway Commercial District:

1. Horticulture and the raising of field crops;
2. Automobile service stations and automobile repair not to include auto-body repair;
3. Utility substations;
4. Wholesale or retail sales and warehouse;
5. Hotel, motel, conference/banquet hall;
6. New and used automobile, recreational vehicle sales and farm equipment and implement sales;
7. Mortuaries and funeral homes;
8. Truck or bus terminal
9. Offices, and clinics;
10. Eating or drinking establishment and bar/tavern;
11. Electronic and appliance repair;
12. Personal services;
13. Car or truck wash;
14. Parking lot or parking garage;
15. Hospital;
16. Religious institutions.

Section 2.09.02 Permitted Accessory Uses.

The following accessory uses, and structures shall be permitted in the "HC" Highway Commercial District.

1. Accessory buildings and uses customarily incidental to permitted uses; and
2. Signs conforming to Chapter 4.04.

Section 2.09.03 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the "HC" Highway Commercial District.

1. Cannabis Establishment (See Chapter 4.21).

Section 2.09.04 Conditional Uses.

The following uses may be permitted by Conditional Use Permit in the "HC" Highway Commercial District by the Board of Adjustment subject to such requirements, as the Board deems necessary to protect and promote the health, safety, and general welfare.

1. Assisted living, nursing, or convalescent home;

2. Veterinary services and kennels;

3. Light manufacturing;

4. Public utility building and storage;

5. Grain elevators and terminal;

6. Bowling alley;

7. Private and public recreational facilities;

8. Butcher shop/meat locker;

9. Private or commercial campground and recreation;

10. Contractor shop and yards;

11. Communication towers or antenna over forty-five (45) feet in height;

12. Public buildings or facilities erected or established and operated by any governmental agency unless;

13. Propane distribution facility;

14. Signs on an otherwise vacant lot. See Section 4.04.07.

Section 2.09.05 Prohibited Uses.

All uses and structures not specifically permitted by Permitted Use, Special Permitted Use, or Conditional Use shall be prohibited in the "HC" District.

<u>Section 2.09.06 Area/Construction Regulations</u>.

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

Table 2.09.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted uses	20,000 Square Feet	100’	45'	75%
Conditional Uses	To be determined by the Board of Adjustment			

Figure 2.09.06.1

Table 2.09.06.2

	Minimum Front Yard	Minimum Rear Yard		Minimum Side Yard	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts
Symbol					
Permitted Uses	25'	20'	35'	10'	35'
Conditional Uses	To be determined by the Board of Adjustment				

2. All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.

3. Screening - Where any use in the “HC” Highway Commercial District is adjacent to any Residential Zone, that use (building, parking, or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with Chapter 4.01.

CHAPTER 2.10 "I1" – LIGHT INDUSTRIAL DISTRICT

Section 2.10.01 Permitted Uses.

The following uses and structures shall be permitted in the "I1" Light Industrial District:

1. Horticulture and the raising of field crops;

2. Utility substations;

3. Motor freight terminals, fuel stations, garaging and equipment maintenance;

4. Contractor shops and offices;

5. Storage plants, lumber yards, distributing stations and warehouses;

6. Wholesale business;

7. Research facilities;

8. Light manufacturing - light assembly work, machine shops doing assembling or shaping and light cutting and sampling with all phases of manufacture, assembly and storage of materials performed indoors;

9. Woodworking shops or plants;

10. Public utility buildings and storage;

11. Public highway/public works garages;

11. Automobile garages, repair shops,

12. Automobile, truck, and machinery sales;

13. Welding shops;

14. Uses operated by a governmental entity;

15. Parking lots and garages;

16. Grain elevator;

17. Wholesale distributing companies, all commodities, except live animal;

18. Commercial communication towers and transmitters; and

19. Auto and farm equipment service, storage, and/or body repair, not to include salvage operation.

Section 2.10.02 Permitted Accessory Uses.

The following accessory uses, and structures shall be permitted in the "I1" Light Industrial District:

1. Buildings and structures customarily incidental to permitted uses; and

2. Signs conforming to Chapter 4.04.

Section 2.10.03 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the "I1" Light Industrial District.

1. Caretaker/Watchman's quarters in accordance with Chapter 4.28.

Section 2.10.04 Conditional Uses.

The following uses may be permitted by Conditional Use Permit in the "I1" Light Industrial District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety, and general welfare:

1. Poultry and livestock processing (meat locker);

2. Communication towers over forty-five (45) feet in height;

3. Contractor yards;

4. Auto and truck wash;

5. Bulk fuel, oil, and other liquid storage;

6. Grain and feed milling;

7. Signs on an otherwise vacant lot (See Section 4.04.07);

8. Adult Uses (See Chapter 4.22).

Section 2.10.05 Prohibited Uses.

All uses and structures not specifically permitted by Permitted Use, Special Permitted Use, or Conditional Use shall be prohibited in the "I1" Light Industrial District.

Section 2.10.06 Area/Construction Regulations.

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

Table 2.10.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	30,000 square feet	150'	50'	50%
Conditional Uses	To be determined by the Board of Adjustment			

Figure 2.10.06.1

Table 2.10.06.2

	Minimum Front Yard	Minimum Rear Yard		Minimum Side Yard	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts
Symbol					
Permitted Uses	50'	25'	35'	10'	35'
Other Conditional Uses	To be determined by the Board of Adjustment				

2. All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.

3. Screening - All outdoor storage within 500 feet of a residential District must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stockpile which fence shall be maintained in safe and good repair.

4. No storage yard for junk shall be allowed on any lot in an “I1” Industrial zone that is within five hundred (500) feet of a residential zone.

Section 2.10.07 Performance Standards

1. Purpose. The guiding of urban development so as to develop a compatible relationship of uses depends upon certain standards being maintained. Uses permitted in the various district; conditional and accessory uses shall conform to the following standards. These standards shall apply in all industrial districts.

2. Noise. Any use established shall be so operated that no noise resulting from said use is perceptible beyond the boundaries of that plat line of the site on which such use is located. This standard shall not apply to incidental traffic, parking, loading, construction, or maintenance operations.

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. 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.

5. Smoke and Particulate Matter. Any use established, enlarged or remodeled after the effective date of this Orifice shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or shall endanger the public health, safety, comfort or general welfare of the public. For purpose of grading the density of the smoke, the Ringelmann Chart published and used by the United States Bureau of Mines shall be employed. The emission of smoke shall not be a density greater than Number 2 on the Ringelmann Chart.

6. Toxic or Noxious Matter. Any use established shall be so operated as not to discharge across the boundaries of the lot or through percolation into the subsoil beyond the boundaries of the lot wherein such use is located toxic or noxious matter is such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare or cause injury or damage to property or business

7. Vibration. Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. The standard shall not apply to vibrations created during the process of construction.

8. Glare Or Heat. Any use requiring an operation producing an intense heat or light transmission shall be performed with the necessary shielding to prevent such heat or light from being detectable at the lot line of the site on which the use is located. Lighting in all instances shall be diffused or directed away from residentially zoned districts and public streets.

9. Explosives. Any use requiring the storage utilization or manufacturing of products which could decompose by detonation shall be located not less than four hundred (400) feet from any residentially zoned district line provided that this section shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes.

10. 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 radio-active nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.

11. Fire Hazard. All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the City Council.

12. Physical Appearance. All operations shall be carried on within an enclosed building except that new or operable equipment and waste materials stored in enclosed containers, not readily visible from the street, may be displayed or stored in the open.

CHAPTER 2.11 "I2" – HEAVY INDUSTRIAL DISTRICT

Section 2.11.01 Permitted Uses.

The following uses and structures shall be permitted in the "I2" Heavy Industrial District:

1. Horticulture and the raising of field crops;
2. Utility substations;
3. Motor freight terminals, fuel stations, garaging and equipment maintenance;
4. Contractor shops and offices;
5. Storage plants, distributing stations and warehouses;
6. Light and heavy manufacturing;
7. Woodworking shops or plants;
8. Welding shops;
9. Uses operated by a governmental entity;
10. Grain elevator;
11. Wholesale distributing companies, all commodities, except live animal;
12. Commercial communication towers and transmitters; and

Section 2.11.02 Permitted Accessory Uses.

The following accessory uses, and structures shall be permitted in the "I2" Heavy Industrial District:

1. Buildings and structures customarily incidental to permitted uses; and
2. Signs conforming to Chapter 4.04.

Section 2.11.03 Special Permitted Uses:

The following uses and structures shall be permitted Special Permitted Use in the "I2" Heavy Industrial District.

1. Caretaker/Watchman's quarters in accordance with Chapter 4.28.

Section 2.11.04 Conditional Uses.

The following uses may be permitted by Conditional Use Permit in the "I2" Heavy Industrial District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety, and general welfare:

1. Acid manufacturer;
2. Automobile wrecking, cars and parts, storage and sale;
3. Cement, lime, gypsum, or plaster of Paris manufacture;
4. Distillation, manufacture or refining of bones, coal, or tar asphalt;
5. Explosives, manufacture or storage;
6. Fat, grease, lard, or tallow rendering or refining;
7. Fertilizer manufacture from organic material;
8. Glue or size manufacture;
9. Garbage, offal, or dead animal reduction or dumping;
10. Junk and salvage, such as metal, paper, rags, waste or glass, storage, treatment or bailing;
11. Paper manufacture;
12. Petroleum or asphalt refining;
13. Petroleum products terminal;
14. Smelting of tin, copper, zinc, or iron ores;
15. Storage or processing of raw hides or furs;
16. Stockyards or slaughter of animals;
17. Radio and television studios, transmitting and receiving stations and towers; and

Section 2.11.05 Prohibited Uses.

All uses and structures not specifically permitted by Permitted Use, Special Permitted Use, or Conditional Use shall be prohibited in the “I2” District.

Section 2.11.06 Area/Construction Regulations.

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

Table 2.11.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	30,000 sq. ft.	150'	50'	50%
Conditional Uses	To be determined by the Board of Adjustment			

Figure 2.11.06.1

Table 2.11.06.2

	Minimum Front Yard	Minimum Rear Yard		Minimum Side Yard	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to and Shared with Residential Districts
Symbol					
Permitted Uses	50'	25'	50'	50'	
Storage yards for junk or salvage	100'	35'	50'	35'	50'
Other Conditional Uses	To be determined by the Board of Adjustment				

2. All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.

3. Screening - All outdoor storage within 500 feet of a residential District must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stockpile which fence shall be maintained in safe and good repair. All side/rear yards bordering a residential district shall be landscaped or fenced in a suitable manner to buffer residential uses.

4. No storage yard for junk shall be allowed on any lot in an "I" Industrial zone that is within five hundred (500) feet of a residential zone.

CHAPTER 2.12 PLANNED UNIT DEVELOPMENT

Section 2.12.01 Purpose.

The purpose of a Planned Unit Development (PUD) is to permit great flexibility in the use and design of structures and land in situations where modifications of specific provisions of this Ordinance will not be contrary to its intent and purpose of significantly inconsistent with the planning on which it is base and will not be harmful to the neighborhood in which they occur.

Section 2.12.02 Application and Modification Powers.

The provisions of this section may be applied, upon application of the owner, to any area exceeding five (5) acres in size. The owner shall file with the Planning Commission a proposed site plan, a description of the structures to be erected, and the other facilities of the project and the land uses involved. In addition, he/she shall furnish such other information as the Planning Commission may reasonably require. In acting upon the application, the city may alter setback requirements, height limits, building size limits, off-street parking regulations, landscaping rules and density limits. It may also authorize uses not permitted in the district where the lot is located, providing such uses are desirable or convenient for the users of the lot as developed or the immediate neighborhood, and provided that such uses are planned so as to assure that they will not materially alter the existing character of the neighborhood. Where the city determines application is consistent with the purpose of the section and with other requirements hereof, it shall enter an order authorizing development and use in accordance with the site plan and description contained in the application, modified as the city may require to carry out the intent and purpose of this section and containing any conditions or restrictions which the city may consider necessary to carry out the purposes of this Ordinance and to protect the public health, safety and welfare. The order shall recite the reasons and findings of fact upon which it is based.

Section 2.12.03 Procedure.

The following procedural and informational requirements shall be followed for planned unit development requests:

1. Planning Commission and Staff Review: Applicant shall meet with the Planning Commission on an informal basis at its regular meeting to relate his intent. The Planning Commission will evaluate the consistency of his intent with the Comprehensive Plan. Thereafter, the Planning Commission may refer the application to the city staff or consultants to review materials presented and to discuss the plan proposal, suggest alternatives as necessary, and authorize presentation of concept plan and supportive information.

    a. Concept Plan and Supportive Information: Applicant shall prepare the following supportive graphic and written information materials as follows:

    b. Property description and acreage, identification of owner and developer.

    c. Existing conditions, area relationships, surrounding property ownership, relationship to guide plan, existing land use, transportation, zoning, utilities, etc.

    d. Natural features, water, topography, soils, vegetation, etc., and their implications, if any, for development.

e. Concept plan showing land use areas, land use intensities, acreage, number of units, proposed circulation, open space, recreation and development staging'

f. Written information describing proposed land use and land use objectives, the type and character of buildings, methods of providing utilities, etc.

2. Final Development Plan:

a. Applicant shall prepare a final development plan for that part to be rezoned. Required graphic and written information for the final plan is on file at City Hall.

b. Applicant shall prepare the following supportive graphic and written information materials as follows:

i) Legal descriptions of all parcels to be rezoned.

ii) Detailed site plan showing all dimensions, structures, parking and streets, utilities, common open spaces, and grading.

iii) Covenants and restrictions, if any, applying to each tract and to open spaces and including the responsibility for the maintenance and operation of common areas and facilities.

iv) Density and gross building computations.

v) Preliminary architectural drawings for each different building type, except single- family dwellings, showing building elevations, schematic floor plans, unit relationships, activity areas, building materials, etc.

vi) Construction and occupancy schedule.

vii) A description of the nature and character of non-residential developments including a description of waste emissions, activities conducted on the premises, etc.

Section 2.12.04 Final Application and Rezoning.

Applicant shall file a rezoning petition, pay fees, and submit all required information for review by the Planning Commission.

Section 2.12.05 Review.

The Planning Commission shall review the final development plan to determine if it conforms with the Comprehensive Plan and the approved concept plan and shall recommend approval, revision or reapplication or denial of the final development plan and rezoning before making its recommendation to the City Council. The City Council shall hold public hearings and approve or disapprove the rezoning request.

Section 2.12.06 Final Development Plan.

Requested changes in the final development plan, if the approval has been granted, will require a public hearing and the submission of an emended plan document unless the changes are minor enough to authorize by administrative judgment. Building permits for construction in a planned development shall be issued by the Administrative Official based on the approved final development plan and the zoning.

CHAPTER 2.13 "RR-I" RAILROAD REDEVELOPMENT INDUSTRIAL OVERLAY DISTRICT

Section 2.13.01. Purpose.

In addition to those stated purposes statements of the underlying zoning districts, the purpose of the "RR-I" Railroad Redevelopment Industrial Overlay District is to:

1. Allow for the redevelopment while preserving the original development pattern which established near the railroad prior to the adoption of the Zoning Ordinance of the City of Sisseton provided necessary performance standards are met for the safe operation of those uses.

Section 2.13.02 Applicability.

The provisions of this Chapter shall apply to any project on a lot or parcel in the "RR-I" Railroad Redevelopment Industrial Overlay District as described herein.

The "RR-I" Railroad Redevelopment Industrial Overlay District may be expanded to include other areas as recommended by the Comprehensive Land Use Plan of the City of Sisseton or other ancillary studies by recommendation of the Planning Commission and action of the City Council.

Where the provisions of Chapter 2.13 conflict with other provisions of this Title, the provisions of Chapter 2.13 shall prevail. Standards, uses, and regulations not addressed in Chapter 2.13 shall be regulated as defined elsewhere in this Title.

Section 2.13.03. Permitted Uses.

The following uses and structures shall be permitted in the "RR-I" Railroad Redevelopment Industrial Overlay District:

1. Permitted Uses in the "RR-I" Railroad Redevelopment Industrial Overlay District include all Permitted Uses in the underlying district which each respective lot is located.

2. Outdoor storage of equipment, machinery, raw materials, or finished products for any permitted or conditional use.

Section 2.13.04. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "RR-I" Railroad Redevelopment Industrial Overlay District:

1. Accessory uses and structures customarily incidental to permitted uses.

Section 2.13.05. Special Permitted Uses.

The following special permitted uses and structures shall be permitted in the "RR-I" Railroad Redevelopment Industrial Overlay District:

1. Special Permitted Uses in the "RR-I" Railroad Redevelopment Industrial Overlay District include all Special Permitted Uses in the underlying district which each respective lot is located.

Section 2.13.06. Conditional Uses.

The following uses may be permitted as a Conditional Use in the "RR-I" Railroad Redevelopment Industrial Overlay District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

1. Conditional Uses in the "RR-I" Railroad Redevelopment Industrial Overlay District include all Conditional Uses in the underlying district which each respective lot is located.

2. Any use listed as a Permitted, Special Permitted, or Conditional Use in the I1 – Industrial District where the underlying zoning district is R3.

Section 2.13.07. Prohibited Uses.

1. All other uses and structures not specifically listed as a permitted use, special permitted use (in the underlying district), accessory use, or conditional use shall be prohibited in "RR-I" Railroad Redevelopment Industrial Overlay District.

Section 2.13.08. Area/Construction Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements in the "RR-I" Railroad Redevelopment Industrial Overlay District shall be regulated in accordance with the following tables:

Table 2.13.08.1

	Minimum Lot Area (A) (B)	Minimum Lot Width	Maximum Height
Permitted Uses	*10,000 square feet*	*50'*	45'
Conditional Uses	To be determined by the Board of Adjustment		

a. Any two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership on December 31, 2022, which do not meet the requirements established for lot width and/or area shall be considered to be an undivided, buildable lot in the "RR-I" District, 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 Chapter, nor shall any division of any parcel be made which creates a lot with width or area below the requirements in this Chapter.

b. Any lot created after December 31, 2022, shall comply with the minimum lot area and width established herein except in where a lot which complies with the minimum lot area described above is subdivided as a "Condominium" to establish individuals lots, units, suites, etc. and common facilities in accordance with SDCL 43-15A. Any structure subdivided in accordance with SDCL 43-15A shall be placed upon a lot which would otherwise meet the minimum lot area and width.

c. Maximum height is subject to exceptions listed elsewhere in this ordinance.

Table 2.13.08.2

	Minimum Front Yard		Minimum Rear Yard		Adjacent to Railroad Right-of-way	Minimum Side Yard	
	Adjacent to 1st Ave W., 2nd Ave W., and 3rd Ave W., Cherry, Oak, and Main Streets	**Adjacent to all other streets**	**Adjacent to Industrial, Ag, or Commercial Districts**	**Adjacent to and Shared with Residential Districts**		**Adjacent to Industrial, Ag, or Commercial Districts**	**Adjacent to and Shared with Residential Districts**
Permitted Uses	0’	20'	5'	30'	1’	5'	30'
Conditional Uses	To be determined by the Board of Adjustment						

Section 2.13.09 Performance Standards.

1. Because of the range of land uses permitted within the in the “RR-I” Railroad Redevelopment Industrial Overlay District, other design standards may be considered for Conditional Uses, major amendments, or final development plans.

2. No storage yard for junk shall be allowed on any lot in an “RR-I” District.

3. Any additional standards shall be designed to eliminate or offset potential negative impacts to the landscape of this district which may result from development.

CHAPTER 2.14 "IF-R" INDUSTRIAL FRINGE RESIDENTIAL OVERLAY DISTRICT

Section 2.14.01. Purpose.

In addition to those stated purposes statements of the underlying zoning districts, the purpose of the "IF-R" Industrial Fringe Residential Overlay District is to:

1. Allow certain contracting and repair businesses to be operated out of buildings which may not comply with certain siding and size requirements elsewhere in Residential Zoning Districts.

2. Allow the gradual transition between existing industrially oriented public uses, other industrial uses, and residential development on the northern (developed) fringe of the City which already includes a mix of these uses in close proximity to existing residential development.

Section 2.14.02 Applicability.

The provisions of this Chapter shall apply to any project on any "R-2" or "R-3" zoned lot or parcel in the "IF-R" Industrial Fringe Residential Overlay District as described herein.

The "IF-R" Industrial Fringe Residential Overlay District shall include certain lots adjacent to the water treatment plant; and those blocks adjacent to Chestnut Street and west of 4th Avenue East. Further, the "IF-R" Industrial Fringe Residential Overlay District may be expanded to include other areas as recommended by the Comprehensive Land Use Plan of the City of Sisseton or other ancillary studies by recommendation of the Planning Commission and action of the City Council.

Where the provisions of Chapter 2.14 conflict with other provisions of this Title, the provisions of Chapter 2.14 shall prevail.

Standards, uses, and regulations not addressed in Chapter 2.14 shall be regulated as defined elsewhere in this Title.

Section 2.14.03. Permitted Uses.

The following uses and structures shall be permitted in the "IF-R" Industrial Fringe Residential Overlay District:

1. Permitted Uses in the "IF-R" Industrial Fringe Residential Overlay District include all Permitted Uses in the underlying district which each respective lot is located.

Section 2.14.04. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "IF-R" Industrial Fringe Residential Overlay District:

1. Accessory uses and structures customarily incidental to permitted uses, including vertical metal siding despite not complying with Chapter 4.03.

Section 2.14.05. Special Permitted Uses.

The following special permitted uses and structures shall be permitted in the "IF-R" Industrial Fringe Residential Overlay District:

1. Permitted Uses in the "IF-R" Industrial Fringe Residential Overlay District include all Special Permitted Uses in the underlying district which each respective lot is located.

Section 2.14.06. Conditional Uses.

The following uses may be permitted as a Conditional Use in the "IF-R" Industrial Fringe Residential Overlay District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

1. Conditional Uses in the "IF-R" Industrial Fringe Residential Overlay District include all Conditional Uses in the underlying district which each respective lot is located.

2. Contracting services, motor vehicle repair, auto body repair in accordance with Section 2.14.09.

Section 2.14.07. Prohibited Uses.

1. All other uses and structures not specifically listed as a permitted use, special permitted use (in the underlying district), accessory use, or conditional use shall be prohibited in the "IF-R" Industrial Fringe Residential Overlay District.

Section 2.14.08. Area/Construction Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements in the "IF-R" Industrial Fringe Residential Overlay District shall be regulated in accordance with the underlying zoning district:

Section 2.14.09 Contracting Service, motor vehicle repair, auto body repair in the IF-R District.

1. For the purpose of this section, provided all requirements are met, the following shall be considered contracting services, in addition to motor vehicle repair and auto body repair and therefore allowed in the "IF-R" Industrial Fringe Residential Overlay District:

    a. General residential or commercial contracting/construction services (home and accessory structure builders; commercial builders);

    b. Electrical contracting and service;

    c. Plumbing contracting and service;

    d. Commercial excavating contractor;

2. Performance Standards

    a. A contracting service or other use in accordance with this section may not be converted to another use listed here except by the issuance of a separate conditional use permit.

b. Not more than four (4) employees may be employed during any shift on-site.

c. There shall be no visible evidence of the conduct of such business other than one on-premise sign, not to exceed sixteen (16) square feet in area, non-illuminated.

d. The only retail sales allowed shall consist of the sale of commodities/products prepared on the premises in connection with such occupation or activity.

e. There shall be no outdoor storage of materials, vehicles, etc. related to the contracting business except vehicles used during the course of business, unless the aforementioned storage is placed behind a fence approved by the Board of Adjustment.

f. 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.

g. Structures for contracting services, motor vehicle repair, and auto body repair shall have a maximum sidewall height of fourteen (14) feet unless the provisions of Section 2.06.03.2 are met.

CHAPTER 2.99 FLOOD DAMAGE PREVENTION REGULATIONS.

Section 2.99.01. 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 City Council of the City of Sisseton, South Dakota, ordains as follows:

   The City of Sisseton 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 the City of Sisseton'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 the City of Sisseton 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 City of Sisseton.

   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 2.99.02. Definitions.

In addition to the Definitions in Article II of this ordinance, unless specifically defined below, words or phrases used in Chapter 2.99 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 2.99.02 shall supersede the definitions in Article II of this ordinance only in the interpretation of Chapter 2.99 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 of the supporting pilings or columns. Breakaway walls apply only to V or VE Zones.

Building—see S*tructure*.

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 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 2.99, 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 2.99, 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: 2.99.05. 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), (e)(2), (e)(4), or (e)(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 17.17.03. 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 Sisseton.

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 The City of Sisseton,” dated November 4, 2009 with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this Ordinance.

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 17.17.04. Administration.

1. Designation of the Floodplain Administrator.

The Administrative Official of this Ordinance, see Chapter 17.19, 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 2.99.05. 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 2.99.05.10 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 2.99.05 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 2.99.06. 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 2.99.06.3 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 2.99.06.2 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 2.99.07. 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 2.99.07.1 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 2.99.04.4, PERMIT PROCEDURES, and the elevation and anchoring requirements for "manufactured homes" of this section.

Section 2.99.08. 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.

6. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Section 2.99.09. Floodways.

Floodways located within SFHAs are extremely hazardous areas due to the velocity of flood waters that carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

1. Designate a regulatory floodway that will not increase the base flood level more than 1 foot.

2. Encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase greater than 0.00 feet in flood levels within the community during the occurrence of the base flood discharge.

3. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this ordinance.

4. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the NFIP Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.

ARTICLE III
ADMINISTRATION

CHAPTER 3.01 GENERAL

Section 3.01.01 Permits Required.

1. No building or other structure shall be erected, moved, or added to without a permit issued by the Administrative Official. No permit shall be issued by the Administrative Official except in conformity with the provisions of this Ordinance, unless a written order from the Board of Adjustment is issued in the form of an administrative review, Conditional Use Permit, or Variance as provided by this Ordinance.

2. A permit shall be required whenever there is a structural change in any building, including the installation of egress windows. Notwithstanding the foregoing provisions, however no permit shall be required for window replacement, or maintenance/replacement of siding, shingling, or painting of any buildings.

Section 3.01.02 Applications.

All applications for permits shall be accompanied by a site plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information necessary to determine conformity with and provide for the enforcement of this Ordinance as lawfully may be required by the Administrative Official.

Section 3.01.03 Issuance of Permits.

Permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and other use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 1.02.02 of the Zoning Ordinance of the City of Sisseton, South Dakota.

Section 3.01.04 Fee Schedule.

The City Council shall by resolution establish a schedule of fees, charges, and expense and a collection procedure for building/use permits, Conditional Use Permits, variances, amendments, appeals, and other matters pertaining to this Ordinance. The schedule of fees may be altered or amended only by the City Council.

The current fee schedule shall be available from the Administrative Official. All fees shall be the property of the City and shall be paid over to the City Finance Officer for credit to the General Fund of the City, which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 3.01.05 Expiration of Permits.

1. If the work described in any building permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Administrative Official. 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 permit has been obtained. A building/use permit may be extended for a period of up to one (1) year provided application is made prior to the expiration of said permit.

2. Unless otherwise specified by the Board of Adjustment, any variance, special permitted use permit, conditional use permit, or other use permit shall expire if actual construction or occupancy of the land in accordance with the permit has not occurred within two (2) years from the date of issuance of the applicable use permit or variance, or two (2) years from the date of completion of any final appeal to said decision (whichever is later.) For the purposes of this section, the term, actual construction, means that construction materials are being permanently placed and the construction work is proceeding without undue delay.

CHAPTER 3.02 ADMINSTRATIVE OFFICIAL

Section 3.02.01 Establishment and Purpose.

The position of Administrative Official is hereby established for the City of Sisseton. The Administrative Official shall be appointed by the Mayor subject to the approval of the City Council. Further, he/she may be provided with the assistance of such persons as the City Council may direct. The Administrative Official shall administer and enforce this Ordinance. It is the intent of this Ordinance that questions of interpretation and enforcement shall be first presented to the Administrative Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

Section 3.02.02 Duties.

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

1. Issue all building/use permits and make and maintain records thereof.

2. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected.

3. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.

4. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.

5. 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.

6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.

7. Provide public information relative to all matters arising out of this Ordinance.

8. Forward to the Planning Commission all applications for amendments to this Ordinance.

9. Forward to the Board of Adjustment, applications for appeals, variances, Conditional Uses, or other matters on which the Board of Adjustment is required to pass under this Ordinance.

10. 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. The Administrative Official shall receive applications for Building Permits, Special Permitted Use Permits, Conditional Uses, Variances, and Zoning Amendments.

For Building/Use Permits, the Administrative Official shall issue Building/Use Permits and Special Permitted Use Permits only in accordance with the provisions of this Ordinance.

For Conditional Uses and Variances, the Administrative Official shall review the application, and shall provide a review of the application to the Board of Adjustment.

For Zoning Amendments, the Administrative Official shall review the application, and shall provide a review of the application to the Planning Commission and City Council.

Section 3.02.03 Powers.

If the Administrative Official shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the persons responsible for such violations, indicating the nature of the violation, and ordering the action necessary to correct it.

He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

CHAPTER 3.03 BOARD OF ADJUSTMENT

Section 3.03.01 Establishment.

A Board of Adjustment is hereby established. The Sisseton City Council and Mayor shall act as Board of Adjustment. Two members of the City Planning Commission shall be appointed by the Mayor and approved by the City Council as alternates to the Board of Adjustment.

Section 3.03.02 Procedures for Meetings.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions. A draft of the unapproved, unofficial minutes will be prepared and available for public inspection ten (10) days following each meeting. Upon adoption by the Board of Adjustment, all of which shall be a public record and immediately filed in the office of the City Finance Officer of the City of Sisseton, South Dakota.

Section 3.03.03 Powers and Duties of Board of Adjustment.

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

1. Administrative Review:

   To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal made by the Administrative Official in the carrying out or enforcement of any provision of this Ordinance, and for the interpretation of the Zoning Map.

2. Conditional Uses:

   To hear and decide only such conditional uses as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether Conditional Use Permits should be granted; and to grant Conditional Use Permits with such conditions and safeguards as are appropriate under this Ordinance, or to deny Conditional Use Permits when not in harmony with the purpose and intent of this Ordinance.

3. Variances:

   To hear requests for variances from this Ordinance in instances where strict enforcement would cause unnecessary hardship; and to authorize upon appeal in specific cases such variance from the terms of this Ordinance as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

Section 3.03.04 Hearings; Appeals; Notice.

Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person meeting the definition of an “aggrieved person” within this Ordinance or by any officer of the governing body of the city affected by any decision of the Administrative Official. Such appeals shall be taken by filing with the Administrative Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing on the appeal, give notice thereof as well as due notice to the parties in the same reasonable. At the hearing, any party may appear in person or by agent or attorney.

Section 3.03.05 Stay of Proceedings.

An appeal stays all proceedings in furtherance of the action appealed from unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause an imminent peril to life and property. In such case proceedings shall not be stayed other 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 Administrative Official from whom the appeal is taken and on due cause shown.

CHAPTER 3.04 PLANNING COMMISSION

Section 3.04.01 City Planning Commission Created.

There is hereby created a City Planning Commission for the City of Sisseton, South Dakota and for land within three miles of its corporate limits.

Section 3.04.02 Membership of the Planning Commission.

The City Planning Commission shall consist of five (5) members to be appointed by the Mayor subject to the approval of the City Council. The members of this Planning Commission shall be resident electors of the City of Sisseton qualified by knowledge or experience to act in matters pertaining to the development and administration of the Comprehensive Land Use Plan. A City Council liaison and administrative officials of the City may be appointed as ex-officio members of the commission by the Mayor as appropriate.

Section 3.04.03 Terms of Members.

The term of each member of the Planning Commission shall be for five years, except that when such Planning Commission is first appointed, three members shall be appointed to serve a term of five years, and three members shall be appointed for a term of three years. Thereafter appointment of each member shall be for five years so that there will be an overlapping of tenures.

Section 3.04.04 Compensation.

All members of the City Planning Commission shall be paid an amount as established by resolution of the City Council.

Section 3.04.05 Organizations, Rules, Staff and Finances.

Such Planning Commission shall elect its chairman from among its members for a term of one year with eligibility for re-election and may fill such other of its offices as it may create in a manner prescribed by the rules of such Commission. The Commission shall hold at least one regular meeting every six (6) months and shall adopt rules for transaction of its business and keep a record of its resolutions, transactions, findings, and determinations which shall be a public record. The Planning Commission may appoint such employees as it may deem necessary for its work whose appointment, promotion, demotion, and removal shall be subject to the same provisions of law, including Civil Service Regulations as govern other corresponding civil employees of the municipality. The Commission may also contract with city planners, engineers, architects, and

other consultants for such services as it may require. The expenditures of the Commission, exclusive of those made from funds received by it, shall be within the amount appropriated for the purpose by the City; Council which shall provide the funds, equipment, and accommodations necessary for the commission's work.

Section 3.04.06 Duties of Planning Commission.

The Planning Commission shall have the following duties:

1. Comprehensive Land Use Plan:

   To propose a plan for the physical development of the city, including areas outside the boundary and within its planning jurisdiction which, in the commission's judgment bear relation to the planning of the municipality.

2. Zoning Ordinance:

   To develop and adopt a Zoning Ordinance 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 law may be included as an adjunct to the comprehensive plan.

3. Subdivision:

   a. To adopt regulations governing the subdivision of land within its jurisdiction.

   b. To review proposals for subdivision to determine whether such subdivisions comply with the subdivision Ordinance of the City of Sisseton and make recommendation relating to the approval of subdivisions.

4. Amendments:

   a. The Planning Commission may from time to time propose amendments, extensions, or additions to the comprehensive plan, Zoning Ordinance, and subdivision regulations.

   b. To review and forward recommendation to the City Council relating to amendments to the Comprehensive Plan, Zoning Ordinance, and subdivision regulations when initiated.

CHAPTER 3.05 PROCEDURES FOR APPLICATIONS

Section 3.05.01 Building/Use Permits.

No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this Ordinance including use, height, number of occupants, lot area, off street parking or yard requirements, shall occur without a building permit issued by the Administrative Official. Building permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, or construction set forth in such approved plans and specifications. Any use, arrangement, or construction at variance without authorization shall be deemed a violation of this regulation and shall be punishable as provided by this regulation. The failure to obtain the necessary building permit shall be punishable under this regulation.

1. The landowner, or applicant on behalf of the landowner, requesting the Building/Use Permit shall complete an application for a Building/Use Permit, accompanied with the appropriate fee, available from the Administrative Official. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:

    a. Applications for Building/Use Permits shall be accompanied by a site plan drawn to scale with the following information indicated in order to determine compliance with this Ordinance:

        i) A site plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.

        ii) The location of the said lot with respect to existing rights-of-way and adjacent lots.

        iii) The applicant may be required to submit a survey of the property, including the proposed site plan, by the Administrative Official to determine compliance with the provisions of this Ordinance.

        iv) Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.

2. The applicant may be required to stake out the building site for inspection by the administrative official prior to the issuance of the building/use permit.

3. One copy of the application shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved and attested to the same by signing said copy of the plans. The Administrative Official, for City records, shall retain one copy of the application, similarly marked.

4. The Administrative Official shall then, if the application is approved, issue a signed Building/Use Permit. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a Building/Use Permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.

5. Building/Use Permits are intended to be posted in a conspicuous place upon the premises and visible from a public right-of-way at all times from the beginning until completion of such construction, alteration, or repair.

Section 3.05.02 Conditional Uses.

Conditional Uses are allowed for certain uses in some districts, as identified in Article II District Regulations. Uses not listed in Article II District Regulations as eligible for a Conditional Use Permit shall not, in any circumstances, be granted a Conditional Use Permit.

The following procedure for requesting a Conditional use Permit shall be followed:

1. The Board of Adjustment shall adhere to the following procedure in considering a Conditional Use Permit. A Conditional Use Permit is intended by this Ordinance to be granted by the Board of Adjustment provided:

    a. A written application for a Conditional Use Permit is submitted, indicating the section of this Ordinance under which the Conditional Use Permit is sought and stating the grounds on which it is requested.

    b. Property owners adjacent to the proposed site shall be notified of the Conditional Use Permit request by certified mail, at the cost of the applicant.

    c. Notice of hearing shall be published once, not less than ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.

    d. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

    e. 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 Permit, and that the granting of the Conditional Use Permit will not adversely affect the public interest.

    f. The granting of any Conditional Use Permit, by the Board of Adjustment shall be based upon written findings certifying compliance with the specific rules governing individual Conditional Use Permits and that satisfactory provision and arrangements have been made concerning the following, where applicable:

        i) Access:

            a) 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.

            b) Reasonable provisions have been made for safe vehicular and pedestrian entrance and exit of the property for daily and emergency traffic.

        ii) Parking and internal traffic:

            a) The parking areas and driveways will be covered in materials appropriate for the internal traffic generated by the use.

            b) The number of parking spaces is appropriate for the proposed use of the property.

        iii) Utilities and refuse:

            a) The manner by which electricity, water, sewer, natural gas and other utilities will be provided has been described.

b) Consideration has been given to the location of refuse and service areas and manner for disposing of trash, junk, or other debris.

iv) Screening, buffering, and open space:

a) 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.

v) Lighting:

a) Lights associated with the use will not create a nuisance nor distract traffic.

b) Brightness, intensity, glare of lights will be similar to lighting which would be customarily used for permitted uses in the applicable zoning district.

vi) General compatibility with adjacent properties and other properties in the district.

a) Any use listed as a Conditional Use is generally compatible in the district it is listed in.

b) General compatibility is used when prescribing conditions for approval of a permit.

2. In granting any Conditional Use Permit the Board of Adjustment may prescribe conditions and safeguards in conformity with this regulation. Violation of such conditions and safeguards may result in revocation of the permit. Violation of such conditions, when made a part of the terms under which the Conditional Use Permit is granted, shall further be deemed a violation of this regulation and punishable under the terms of the City of Sisseton Zoning Ordinance.

3. The concurring vote of a majority of the present and voting members of the Board of Adjustment is required to pass any application for a Conditional Use Permit.

a. If no work has commenced, unless otherwise specified by the Board of Adjustment, a Conditional Use Permit shall expire two (2) years from the date upon which the Conditional Use Permit becomes effective or two (2) years following completion of any final appeal of the decision of the Board of Adjustment to issue the permit.

Section 3.05.03 Variances.

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

1. A written application for a variance is submitted, indicating the section of this Ordinance under which the variance is sought and stating the grounds on which it is requested.

2. Property owners adjacent to the proposed site shall be notified of the variance request by certified mail, at the expense of the applicant.

3. Notice of hearing shall be published once, ten (10) days prior to the Board of Adjustment public hearing, in a paper of general circulation in the area affected.

4. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

5. The Board of Adjustment shall make a finding that it is empowered under the section of this Ordinance described in the application to grant the variance, and that the granting of the variance will not adversely affect the public interest. A variance from the terms of this Ordinance shall only be granted if all of the following are demonstrated by the applicant:

   a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district;

   b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

   c. That the special conditions and circumstance do not result from the actions of the applicant;

   d. Financial disadvantage of the property owner is not being used to constitute conclusive proof of unnecessary hardship within the purposes of zoning.

   e. That granting the variance request will not 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 non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming 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. Violations 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 Chapter 1.02, Section 1.02.02 of the City of Sisseton Zoning 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 five (5) members of the Board of Adjustment is required to pass any application for variance.

9. If no work has commenced, unless otherwise specified by the Board of Adjustment, a variance shall expire two (2) years from the date upon which the variance becomes effective or two (2) years following completion of any final appeal of the decision of the Board of Adjustment to issue the variance.

Section 3.05.04. Procedures for Approval of Special Permitted Use Permit.

1. The special permitted use procedure is an administrative review process, where the Administrative 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 Administrative Official shall review the application for conformance with this Ordinance.

   c. If the Administrative Official determines that the application is in conformance with the prescribed performance standards, the Administrative 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 Administrative Official shall then issue the special permitted use permit subject to the applicant agreeing to any conditions prescribed by this Ordinance or the Administrative Official for the special permitted use permit.

   e. The Administrative 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 Administrative Official shall determine that the application is not in conformance with this Section and appropriate special permitted use standards. The applicant may, as appropriate:

      i) Apply for a variance from lot area, or size of yards, and open spaces.

      ii) Apply for Conditional Use Permit, if eligible.

      iii) Appeal the decision of the Administrative Official in accordance with Section 3.03.04 and 3.05.05.

   g. A special permitted use permit shall expire two (2) years from the date upon which the special permitted use becomes effective or two (2) years following completion of any final appeal of the decision of the administrative official to issue the permit. Upon written request to the Administrative 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 Administrative Official.

Section 3.05.05 Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official:

1. It is the intent if this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

    a. All appeals filed in accordance with Section 3.05.05 relating to a particular action, decision, or property shall be consolidated and heard at the same hearing.

    b. Ministerial acts or other preliminary acts to bring an application or matter before the Board may not be appealed to the Board of Adjustment.

2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.

3. The concurring vote of two-thirds (2/3) of the full membership of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to affect any variation in the application of this Ordinance.

Section 3.05.06 Appeals.

Any person or persons, jointly or severally aggrieved by any decision of the Board of Adjustment may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the City Finance Officer.

Section 3.05.07 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 City Planning - Commission, as provided herein, the City Council may change zoning district boundaries, use groups, or the regulations established by this Ordinance. A proposed change of zoning district boundaries or regulations may be initiated in the following manners:

    a. The City Council 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 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 Administrative Official.

2. Unless otherwise provided for in these regulations, any change in these regulations, shall require City Council approval of an Ordinance describing said changes. The City Council 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:

   a. The landowner or other person(s) requesting the Amendment/Boundary change shall complete an application, available from the Zoning Officer. Completed applications shall be returned to the Zoning Officer for review. To be considered by the Planning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:

      i) Any required attachments and fees, including mail costs; and

      ii) Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for enforcement of this Ordinance.

      iii) The Administrative 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.

      iv) The Administrative Official shall set the date, time, and place for a joint public hearing to be held by the Planning Commission and City Council. The Administrative 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 the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Administrative Official shall notify all owners of property within 250 feet of the proposed boundary change, by mail at the expense of the applicant, at least ten (10) days before the public hearing.

      v) The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.

      vi) The Planning Commission shall either recommend or not recommend approval of the amendment to the City Council.

      vii) The City Council 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.

viii) When the City Council approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds (2/3) of the City Council.

b. Protest Standard: The protest shall be signed by at least 40% of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within two hundred fifty (250) feet of the area affected by the amendment.

Section 3.05.08. Reapplication.

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

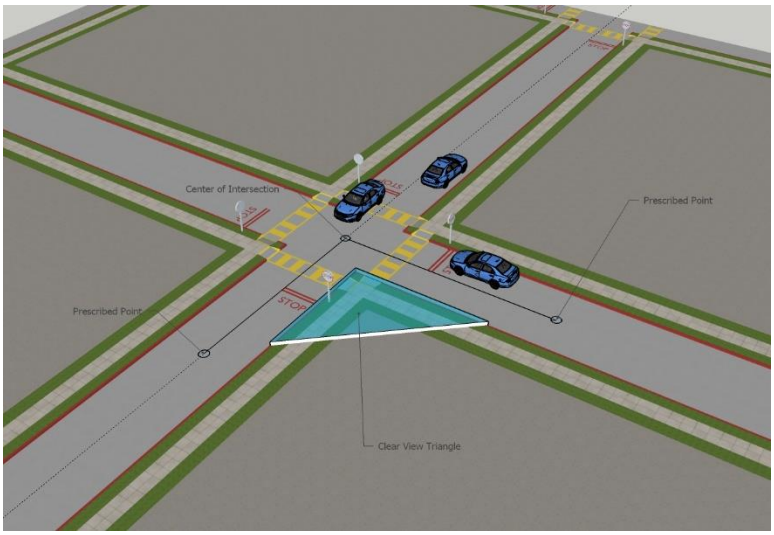
ARTICLE IV
SUPPLEMENTAL REGULATIONS

CHAPTER 4.01 VISIBILITY/FENCES

Section 4.01.01 Visibility at Intersections in Residential Districts.

On a corner lot in any zoning district, no planting or obstruction to impede the vision between a height of three (3) and ten (10) feet above the centerline grades the intersecting streets shall be placed or maintained within the triangular area formed by the intersection of street right-of way lines and a straight line connecting points on said road right-of-way line, each of which is fifty (50) feet from the point of intersection (Clear View Triangle). See Figure 4.01.01.

Figure 4.01.01



Chapter 4.02 Fences:

1. Construction and Materials:

    a. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the City of Sisseton corporate limits any fences of any character or material, without obtaining a building permit.

    b. Fences, walls, and hedges which are more than thirty (30) percent solid shall abide by Section 4.01.

    c. Approved fencing materials include stone, brick, wood, vinyl, and chain link. The City further requires fencing materials to be “new” – used for first time installation. Individuals wishing to utilize “used” – not first-time installation fencing materials shall require Board of Adjustment approval. No electric or barbed wire fence shall be used in the construction of any fences within the City of Sisseton, except that barbed wire may be used in connection with a security fence when the barbed wire is at least six feet from the ground.

d. That side of the fence considered being the face (facing as applied to fence post) should face abutting property.

2. Location/Setback Requirements

Table 4.02.2

		Maximum Height	Required Setback
Primary front yard	***Greater than 30% Solid***	3 feet	1 foot from Right-of-Way line
	Greater than 30% Solid	7 feet	Minimum Setback in applicable Zoning District
	Less than 30% Solid	4 feet	1 foot from Right-of-Way line
	Less than 30% Solid	7 feet	Minimum Setback in applicable Zoning District
Secondary front yard (A)	***Greater than 30% Solid***	3 feet	1 foot from Right-of-Way line
	Greater than 30% Solid	7 feet	8 feet from Right-of-Way line
	Less than 30% Solid	4 feet	1 foot from Right-of-Way line
	Less than 30% Solid	7 feet	8 feet from Right-of-Way line
Rear yard setback no Alley (B)		7 feet	1' (C)
Rear yard setback with Alley (B)			5' from alley line and street line (Right-of-Way line)
Side yard setback (B)			1' (C)

(A) On corner or reversed frontage lots a secondary front yard is the yard adjacent to the street but not used for direct vehicular access to a street.

(B) Any form of fence meeting the materials requirements of Section 4.02.1.C. above.

(C) Fences may be placed upon the property line if application is made by both property owners which share the fence.

CHAPTER 4.03 ACCESSORY USES

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 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 structure or use may be located in a required front or side yard.

4. No accessory building may be used for residential dwelling purposes at any time.

5. Residential districts.

   Accessory uses shall be permitted for the principal permitted uses and Conditional Uses for the residential districts only in accordance with the provisions of Table 4.03.7.

Table 4.03.7

Permitted uses:

Principal Use	**Permitted Accessory Uses**
Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and day care centers.	1. Private garages. i. Attached garages shall conform to the design of the house provided setback and lot coverage requirements are met. ii. Unless otherwise specified in this Ordinance, unattached garages shall be limited to a maximum sidewall height of fourteen (14) feet and shall conform to the design of the house. iii. Unattached garages shall have siding material of a type customarily used on site-constructed residence, comparable to dwelling and be color coordinated to dwelling. 2. Buildings or structures for customary residential storage-purposes, including weather protective canopies (carports), not over ten (10) feet in height and not exceeding two hundred (200) square feet in gross floor area. 3. Readily moveable sports, recreation, or outdoor cooking equipment. 4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools (with an approved security fence), barbeque pits, and similar improvements provided a site plan for such facility is approved. 5. Home occupations but only as defined herein. 6. Non-commercial greenhouses provided that greenhouses over 100 square feet in floor area must have an approved site plan. 7. Off-street parking and storage of vehicles, but only as provided in Chapter 4.05 of this Ordinance.
Religious Institutions	1. All uses, and structures determined by the administrative official to be customarily incidental and reasonably necessary to promote the primary purposes of the principal use.
All Conditional Uses	1. All uses, and structures determined by the administrative official to be customarily incidental and reasonably necessary to promote the primary purposes of the principal use.
Prohibited and non-conforming uses	1. No accessory uses/structures permitted.

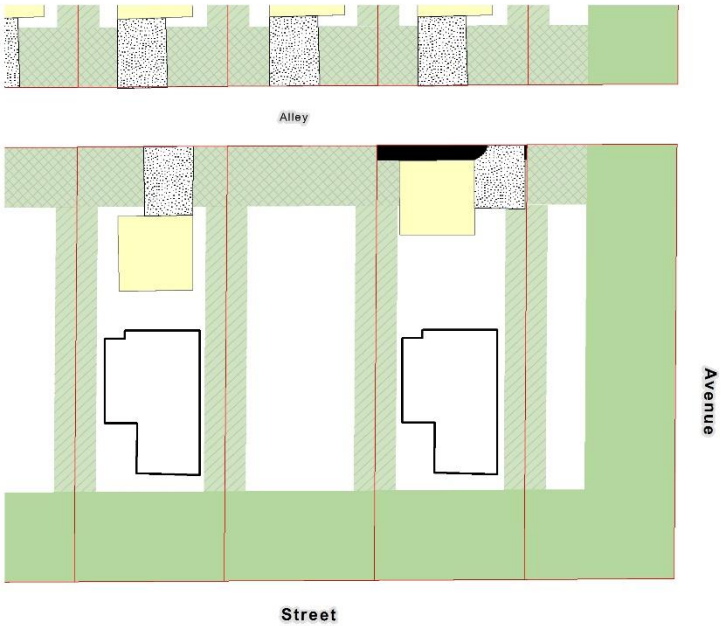
6. Commercial/Industrial Districts.

   In any commercial or industrial district, any accessory use customarily incident to the Permitted Use or Conditional Use shall be permitted except those uses or structures expressly prohibited in the districts.

7. Height and Placement Regulations for Accessory Structures.

   a. General Requirements. Except as otherwise provided in this Ordinance, accessory uses shall meet the standards specified below. See Figure 4.03.9.a

Figure 4.03.8.a



Symbol	Structure
	House
	Garage
	Driveway

Symbol	Required Yard	Setback*
	Front Yard	A
	Rear Yard	B
	Side Yard	C
	Parallel Accessory Building	5'

A. Minimum required front yard setback in applicable district.

B. Minimum required rear yard setback in applicable district.

C. Minimum required side yard setback in applicable district.

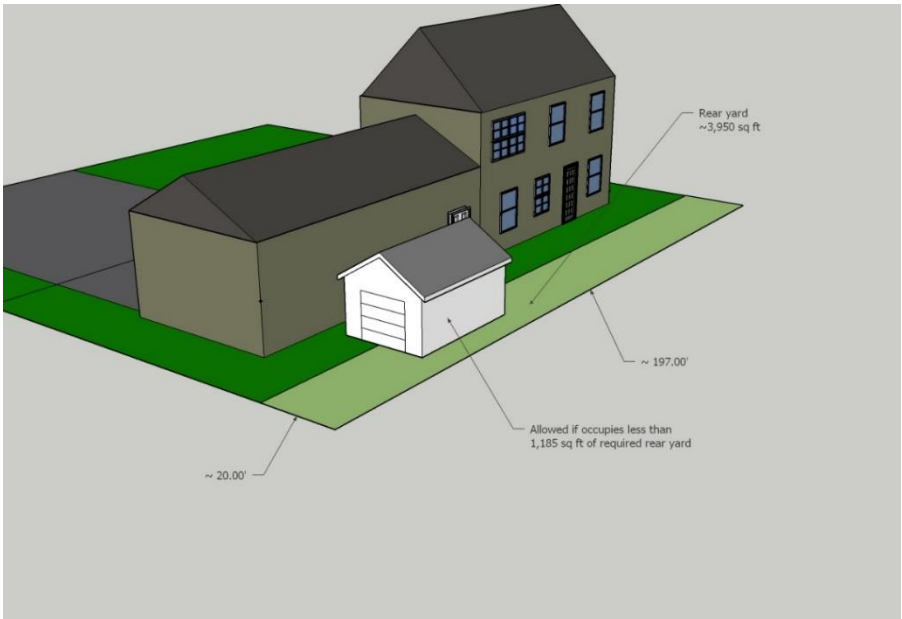
   b. Accessory buildings which are attached to or located within ten (10) feet of the main building shall be considered part of the principal structure and shall comply with the same yard requirements as the main building.

   c. Detached accessory structures adjacent to and entered parallel to an alley may be located five feet from the right-of-way line of the alley. Any detached accessory structure entered perpendicular to and facing the alley shall meet the setbacks for primary structures. See Figure 4.03.8.a

   d. Accessory buildings not part of the main building may be located in the required rear yard, but such accessory buildings may not occupy more than thirty (30) percent of the required rear yard. See Figure 4.03.8.d.

   e. No separate accessory building shall be erected within five (5) feet of any other building.

Figure 4.03.8.d



CHAPTER 4.04 SIGNS AND OUTDOOR ADVERTISING

Section 4.04.01 Prohibited Signs.

1. Confusing or distracting motorists; or

2. Impairing the driver's ability to see pedestrians, obstacles, or other vehicles; or

3. Impairing the driver's ability to see and interpret any official traffic sign, signal, or device; or

4. Creates a nuisance to persons using a public right-of-way; or

5. Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement.

6. 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 Administrative Official and said Official grants a permit therefor.

Section 4.04.02 General Requirements.

Signs shall be permitted in zoning districts per Article II, subject to the following provisions:

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

2. Signs shall not project over public property.

3. 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 4.01.

4. Each sign – size, lighting, and location - in the City shall at least meet the standards established by the South Dakota Department of Transportation.

5. Other than notices for municipal events, utility fixtures or holiday decorations.

6. The Administrative 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.

Section 4.04.03 Signs in the Residential Zoning Districts.

1. Permanent freestanding signs and wall signs are prohibited for single family residences, manufactured homes, modular homes, and multiple family dwellings with three (3) or less units in Residential Zoning Districts.

2. Temporary signs for Permitted and Conditional Uses in Residential Zoning Districts shall comply with the requirements of Table 4.04.03.3.

3. Freestanding and wall signs erected accessory to any Conditional Use in the any residential Zoning Districts shall be constructed in accordance with the building permit issued for the sign and, unless specified elsewhere in this Ordinance, conform to Table 4.04.03.3.

   a. The sign structure or sign shall have a maximum height of ten (10) 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.

   b. Notwithstanding the provisions of Section 4.04.02.5, Each sign shall be constructed in accordance with minimum setback requirements of the applicable district except that a sign may be constructed in any location in the front yard provided it shall not be closer than one (1) foot from any street right-of-way and shall comply with all other requirements of this Chapter.

Table 4.04.03.3

	Area		**Number**	
Sign Type	**Adjacent to Municipal Right-of-Way**	**Adjacent to State or Federal Right-of-Way**	**Adjacent to Municipal Right-of-Way**	**Adjacent to State or Federal Right-of-Way**
Freestanding	50 Square Feet		1	
Wall				
Temporary	32 Square Feet		1(A)	

(A) Up to six (6) additional temporary signs may be placed on a residentially zoned property for a period of up to three (3) months prior to an election and one (1) month following an election, provided no additional sign exceeds nine (9) square feet.

Section 4.04.04 Signs in Business and Industrial Zoning Districts.

Freestanding and wall signs erected in the Commercial and Industrial Districts shall be constructed in accordance with the building permit issued for the sign and, unless specified elsewhere in this Ordinance, conform to Table 4.04.04

1. The sign structure or sign shall have a maximum height of thirty-two (32) feet or six (6) feet above the height of the peak of the tallest building on site, whichever is greater. 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.

2. Notwithstanding the provisions of Section 4.04.02.5, each sign shall not be closer than one (1) foot from any street right-of-way and shall not overhang above any right-of-way.

Table 4.04.04

		Area	**Number**	
Sign Type	Setback from Residentially Zoned Property	Adjacent to all Streets	Adjacent to Municipal Right-of-way	Adjacent to County, State, or Federal Highway Right-of-Way
Freestanding	100 Feet	• 2 sq. ft. per lineal foot of frontage not to exceed 120 square feet per sign on a single frontage lot; • 2 sq. ft. per lineal foot of frontage not to exceed 75 square feet per sign on a multiple frontage lot (See (A) below)	1 per 100 lineal feet of frontage (B)	1 per 100 lineal feet of frontage (B)
Wall	Applicable Setback for Primary Structures	7% of wall area facing right-of-way (C)	n/a	
Temporary	Applicable Side or Rear Setback for Primary Structures	32 square feet	1	

(A) In the case of lots with multiple frontages, maximum sign area for each sign is based upon the lineal feet of the narrowest frontage on the lot.
(B) For lots with less than one hundred (100) feet of frontage on any given street, one (1) sign is allowed per frontage.
(C) Wall sign(s) may face the parking lot of a commercial use, despite not facing the right-of-way however maximum sign area is based upon area facing the right-of-way.

Section 4.04.05 Portable Signs.

Temporary use of portable or moveable signs shall be allowed in Business and Industrial Districts in excess of and in addition to the sign limitations of this Section. The following provisions shall apply:

1. Portable signs shall be permitted only four times per twelve-month period for a maximum of 14 consecutive days per period;

2. The maximum permitted size of a portable sign is six (6) feet in height and ten (10) feet in length.

3. A portable sign shall not be located closer than twenty (20) feet to any intersection and shall not be located closer than three (3) feet from any sidewalk;

4. Only one portable sign shall be allowed per 150 feet of lot frontage;

Section 4.04.06 Electronic Message Signs.

1. Electronic message sign displays shall be limited to displays, which are gradual movements, including, but not limited to, dissolve, fade, scrolling, or traveling. However, sudden movement is prohibited, including, but not limited to, blinking and flashing.

2. Any permitted signs may be or may include as an individual component of the total sign area, electronic message signs.

3. Electronic messages or graphic displays may be changed at periodic intervals by gradual entry and exit display modes provided that messages and animation shall be displayed at periodic intervals by various modes, such as fade, dissolve, scrolling, or traveling.

Section 4.04.07 Signs on Otherwise Vacant Lots (as Conditional Use).

In those districts identified in Article II the Board of Adjustment may, by Conditional Use Permit, allow freestanding signs on a lot with no other principle permitted use provided the following conditions are met:

1. The requirements of Sections 4.01.01 and 4.04.01 are met;

2. Not more than one (1) sign per one hundred fifty (150) feet of frontage.

3. No sign shall exceed two hundred (200) square feet in area.

4. No sign shall be constructed less than one hundred (100) feet from a residentially zoned property;

5. The Board of Adjustment shall consider the following factors when determining whether a sign on an otherwise vacant lot would adversely affect the public interest:

    a. Width of the right-of-way

    b. Speed limit of adjacent right-of-way

    c. Distance the sign is placed from the right-of-way.

CHAPTER 4.05 PARKING

Section 4.05.01 Parking, Storage, or Use of Major Recreation Equipment.

No off-street parking of motor vehicles, recreational vehicles, watercraft, or trailers should be permitted in the required front yard of any residence except as follows:

1. Upon a driveway providing direct access to the garage or rear yard;

2. Upon any other driveway provided that it is no wider than twenty-two (22) feet;

3. Upon the yard area between the driveway and the nearest side lot line.

No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Section 4.05.02 Parking and Storage of Certain Vehicles.

Automotive vehicles or trailers of any kind or type which are inoperable or without current license plates or shall not be parked or stored on any zoned property other than in completely enclosed buildings.

Section 4.05.03 Off-Street Parking Requirements.

Except in the “C1” Central Commercial District, off-street motor vehicle parking and loading spaces shall hereafter be provided on the same lot as, and in the number stated, for each use set forth in the Schedule of Minimum Off-street Parking and Loading Requirements in Table 4.05.03 below. In the event the minimum number of spaces specified cannot be reasonably provided on the same lot as the principal use for which the spaces are required, the Board of Adjustment may permit such spaces to be provided on other off-street property within four hundred (400) feet of the entrance to such principal use.

Table 4.05.03

USE OR STRUCTURE	MINIMUM OFF-STREET PARKING REQUIREMENTS	MINIMUM OFF-STREET LOADING REQUIREMENTS
Bed & Breakfast	One (1) space for each guest room	None
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Car Wash	Three (3) spaces per wash stall	None
Churches	One (1) space for each four (4) seats in the main seating area	None
Eating & Drinking Places	One (1) space for each three- (3) customer seating spaces	One space per establishment
Gas Stations	Three (3) per bay plus one (1) per employee on duty	One space per establishment
Hospitals	One (1) space for each three (3) beds	Three spaces per establishment
Hotels/Motels	One (1) space for each guest room plus one (1) per employee at largest shift	One space per establishment
Industrial Uses	One (1) space for each two (2) employees on the maximum working shift	Two spaces per establishment
Libraries	One (1) space for each five hundred- (500) square feet of floor area	One space per establishment
Medical or dental clinics	One (1) space for each examining or operating room plus one (1) space for each doctor and employee	None
Manufactured home parks	Two (2) spaces for each manufactured home	None
Mortuaries & funeral homes	Five (5) spaces for each reposing room	Two spaces per establishment
Multiple family dwellings, Assisted Living, Nursing, Convalescent & Rest Homes	Two (2) spaces for each dwelling unit or one (1) space per bedroom, whichever is greater.	None
Museums	1 per employee on duty plus 5 per 1000 sq. ft.	One (1) space per establishment
Office	1 per 250 sq. ft. gross floor area	None
Private Clubs, Lodges, Social or Fraternal Organizations	One (1) space for each one hundred (100) square feet or one (1) space for each three (3) seats at bars or dining tables, whichever is greater	None
Schools	One (1) space for each twenty-five students	One (1) space per school
Service Establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Retail sales establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Single family dwellings	Two (2) spaces for each dwelling unit exclusive of required yards	None
Theatres, auditoriums, & places of public assembly	One (1) space for each four (4) seats of design capacity	One (1) space per establishment
Warehouse, wholesale & distribution	One (1) space for each two (2) employees on the maximum working shift	Two (2) spaces per establishment

*The Board of Adjustment may decrease the minimum required parking spaces by taking into account on-street parking and common or public lots.

Section 4.05.04 Design and Maintenance:

1. Access and parking areas shall be designated so as to provide inadequate means of access to a public alley or street. Said driveway access shall not exceed thirty (30) feet in width at the public street right-of-way line and shall be so limited so as to cause the least interference with the traffic movement. All public-parking areas shall have access off driveways and not directly off a public street. All outside parking spaces shall be clearly marked on the pavement

2. Each parking space shall be not less than nine (9) feet wide and twenty (20) feet in length and each space shall be served adequately by access drives.

3. Minimum parking setbacks from property lines and buildings located on adjacent properties shall be five (5) feet.

4. All parking areas shall be surfaced with a durable; all weather surface material, graded to dispose of surface water and regularly cleaned and maintained.

5. Off-street parking (except in parking or development districts) shall be on the same site as, or under common ownership with, the structure it is intended to serve and shall not occupy more than one-half (1/2) of the required front yard setback of any building.

6. Each space shall be designed to allow the exit of the car therein without first moving another car.

7. Required off-street parking space in all districts shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for lease, rent or sale

Section 4.05.05 Off-Street Loading Requirements:

1. The following minimum requirements apply to loading areas:

    a. No open, exterior, loading facility shall be located between the principal structure and the street (loading facility includes dock, berth, maneuvering area) except in I-2.

    b. Loading areas, parking bays and access cave shall be surfaced with a durable all- weather surface material and shall be so graded to dispose of surface water.

    c. Unless otherwise specified the first berth required shall note less than twelve 12) feet in width and fifty (50) feet in length. Additional berths shall be not less than twelve (12) feet in width and twenty-five (25) feet in length; all loading berths shall maintain a height of fourteen (14) feet or more

    d. All berths shall be screened from view from the street by plant materials, walls, earth berms, or fences, except in I-2 District.

CHAPTER 4.06 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.

CHAPTER 4.07 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.

Section 4.07.01 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.

Section 4.07.02 Additional Yard Requirements.

The following yard requirements must be observed in addition to the yard requirements of the various districts:

1. Except in the, “A”, and “C1” Districts, a corner lot must have a front yard on both streets

2. On through lots and reversed frontage lots, a front yard must be provided on both streets.

3. 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.

Section 4.07.03 Exceptions to Yard/Height Requirements

The following shall not be considered to be encroachments on yard requirements:

1. Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, ornamental features, mechanical devices, cornices, eaves, gutters and the like, provided they do not extend more than two and one-half (2 1/2) feet, off-street parking except as hereinafter regulated.

2. Yard lights and nameplate signs for one and two family dwellings, lights for illuminating parking area, loading areas or yards for safety and security purposes, provided the direct source off light is not visible from the public right-of-way or adjacent residential property may be located to within five (5) feet of the front lot line.

3. Fences which do not exceed two and one-half (2 1/2) feet in height or as required elsewhere in this Ordinance and terraces, steps, uncovered porches, stoops or similar structures, which do not extend above the height of the ground floor level of the principal building and extend to a distance of less than two (2) feet from any lot line.

4. Inside or rear yards only; bays not to exceed a depth of two (2) feet nor to contain an area of more than twenty (20) square feet, fire escapes not to exceed a width of three (3) feet, fences and walls not to exceed a height of seven (7) feet above grade and open off-street parking.

5. Rear yard only: balconies, accessory structures except that no structure shall be closer than five (5) feet from the rear lot- line, breezeways, detached outdoor picnic shelters and recreational equipment, except as regulated hereinafter.

6. Inside yards only: accessory structures except that no accessory structure shall be closer than seven (7) feet from any side lot line.

7. On a corner lot, nothing shall be placed or allowed to grow in such a manner as to materially impede vision between a height of two and one-half (2 1/2) and ten (10) feet above the centerline grades of the intersecting streets within fifteen (15) feet of the street intersecting right-of-way lines.

8. In no event shall off-street parking space, structures of any type, buildings, or other features cover more than seventy (70) percent of the lot area resulting in less than twenty-five (25) percent landscaped area in Residential Districts.

9. Rear yards: recreational and laundry drying equipment, picnic tables, open arbors and trellises, balconies, breezeways, porches, detached outdoor living rooms, and outdoor eating facilities, provided these are no less than two (2) feet from any lot line.

10. On any lot sloping downhill from the street, which has an average ground slope on that portion of the lot to be occupied by the main building of twenty-five (25) percent or more (measured in the general direction of the side lot lines) and additional twelve (12) feet of height may be permitted in such main building provided the lowest floor shall not be less than ten (10) feet below the average established property line grades along the front of the lot. The floor of the basement shall be considered the lowest floor and a cellar floor shall not be counted.

11. 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.

12. An accessory structure may be located in a rear yard but not occupy more than 30 percent of a rear yard.

13. 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.

CHAPTER 4.08 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT

In any district, unless authorized by the Board of Adjustment in granting a Conditional Use Permit, or in the case of more than multiple family dwelling on a single lot in the appropriate zoning district(s), only one (1) structure housing a permitted or permissible principle use may be erected on single lot, provided that yard and other requirements are met.

CHAPTER 4.09 PRIVATE WASTEWATER TREATMENT SYSTEMS (SEPTIC TANKS)

1. All existing septic tanks shall be considered Non-conforming Uses on lots within 200 feet of the city sanitary sewer system. All structures which are used for human habitation, commercial and industrial use and located on lots within 200 feet of the city sanitary sewer system must be connected to the city sanitary sewer system.

2. Private wastewater treatment systems (septic tanks) may be used for applicable structures on lots located greater than 200 feet from the city sanitary sewer system, provided the property owner agrees to pay for replacement of the wastewater system by connecting it to the city sanitary sewer system upon request, if and when the city sanitary sewer system becomes located within 200 feet of the lot. Private wastewater systems shall be installed in accordance with the rules of the South Dakota Department of Agriculture and Natural Resources.

3. These requirements may be waived at the discretion of the City Council in the event that connection to the City's sanitary sewer system would result in the construction of a lift station.

CHAPTER 4.10 EXCEPTIONS TO HEIGHT REGULATIONS

Height limitations shall not apply to barns, silos, and other structures on farms: to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flay poles; public and public utility facilities; transmission towers of commercial and private radio broadcasting station; television antennae, and parapet walls extending not more than four (4) feet above the limiting height of the building except as hereinafter provide.

CHAPTER 4.11 MANUFACTURED HOME PROVISIONS

Section 4.11.01 Modular Homes.

1. Modular homes are completely fabricated and assembled (partly) units or elements delivered to and erected on site to form a whole, or part of a structure and shall meet the following regulations.

    a. Modular homes shall meet or exceed International 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. The foundation shall be to a depth below the frostline

    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 3/12-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 4.11.02 Type I and Type II Manufactured Homes.

1. For the purpose of this Ordinance, manufactured homes will be regulated by type. Two types of homes are defined under these regulations.

a. Type I manufactured home shall:

i) Be a dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards Code.

ii) Have more than one thousand (1,000) square feet of occupied space in a double section or larger multi section unit.

iii) The running gear and hitch have been removed.

iv) Has been anchored to a foundation and permanent footing below the frost line.

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

b) 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.

c) Type I Manufactured Homes which are not placed on a permanent foundation are considered Type II Manufactured Homes. (See Section 4.11.02.1.b)

v) Have a gabled roof with a pitch of at least 3/12 feet.

vi) Have siding material of a type customarily used on site-constructed residences.

vii) Have roofing material of a type customarily used on site-constructed residences.

viii) The manufactured house may not exceed ten (10) years from the date of manufacture.

b. Type II manufactured home shall:

i) Have more than seven hundred (700) square feet of occupied space in a single, double, expando or multi-section unit.

ii) Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in 4.11.02.B.2.

iii) Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the Federal Manufactured Housing Construction and Safety Standards Code.

iv) Have siding material of a type customarily used on site-constructed residences.

v) Have roofing material of a type customarily used on site-constructed residences.
vi) Have a gabled roof with a pitch of at least 3/12 feet.

vii) The manufactured house may not exceed fifteen (15) years from the date of manufacture.

viii) Be place onto a support system. In accordance with approved installation standards, as specified in Section 4.11.02.2

2. Installation standards

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

   b. Foundation Siding/Skirting

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

   c. Support System

      i) All HUD-Code manufactured homes of the Type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.

      ii) Type II 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 ANTI/NFPA 501A 1977 installation standards.

3. Non-conforming Homes.

   A manufactured home placed and maintained on a tract of land and deemed to be a legal non-conforming use prior to the adoption of this Ordinance shall continue to be a legal non-conforming use. If the non-conforming use is discontinued for a period of one year, the land thereafter must be used in conformity with all provisions of this Ordinance.

4. Structural Alteration.

   Due to its integral design, the Administrative Official after it is placed on the site must approve any exterior structural alteration or modification of a manufactured home.

5. Variance from Maximum Age Requirement

   Type I and Type II manufactured homes may receive a variance from the maximum age requirement (Sections 4.11.02). The Board of Adjustment may grant a variance if the manufactured home meets the following requirements:

   A. The applicant shall provide a photograph of the manufactured home's exterior and interior.
   B. That it shall have been shown to the satisfaction of the Administrative Official that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of the City of Sisseton.
   C. That the applicant shall obtain the written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site.

Section 4.11.03 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 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. Any permit allowing a manufactured home court shall require the development of a minimum of ten (10) sites within twelve (12) months from the date of issuance of permit.

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.

i) 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.

ii) A deck may project into a required side or rear yard provided it is located no closer than four feet to any other structure.

iii) 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.

iv) Detached accessory buildings with a projected room area of not more than one hundred and twenty (120) square feet may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure or right-of-way.

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 manufactured home 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:

If individual refuse collection is not available, one refuse collection station shall be provided, with 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 (150) feet from any trailer unit served, and to be conveniently located for collection.

8. Recreation Area:

The developer of the manufactured home park shall be required to dedicate no less than 8 (eight) percent of the gross site area shall to recreational facilities appropriate to the needs of the occupants. The Planning and Zoning Commission shall approve the designated recreation area.

9. On-Site management:

Each manufactured home park may be required to 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 City sanitary sewer and water system.

11. Tie Down Requirements

All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Administrative Official, shall be anchored to the ground, in accordance with the manufacturer's specifications or as prescribed by the Federal Manufactured Housing Construction and Safety Standards Code.

12. Maximum Age Limitation:

No manufactured home placed within a manufactured home park within the City limits of Sisseton may exceed ten years from the date of manufacture.

13. Expansion.

Existing manufactured home parks may be extended to a total area of no less than two (2) acres provided the area of expansion 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 Administrative 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 Administrative Official, shall be skirted within thirty (30) days of placement.

16. Storm Shelter:

Management shall provide or make arrangements for suitable storm shelter for the residents of the park.

Section 4.11.04 Application Procedure:

Each application for a Manufactured Home Park shall be accompanied by a development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:

The following requirements pertain to a Manufactured Home Park:

1. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to Federal and State highways, and County, Township, and City roads/streets;

2. Property lines and square footage of the proposed park;

3. Location and dimensions of all easements and right-of ways;

4. Proposed general lay-out, including parking and recreation areas;

5. General street and pedestrian walkway plan;

6. General utility, water, and sewer plan.

Upon approval of the application, the plan becomes part of the permanent record, and it shall serve as the basis for the final site plan submission.

CHAPTER 4.12 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 in an approved manufactured home park, provided said manufactured homes are anchored with tie downs to prevent the manufactured home from dangerous motion during high wind or other weather-related events.

CHAPTER 4.13 UTILITY EASEMENTS

No structure, building or addition thereto shall be erected over or across any existing public utility or upon any platted easement.

CHAPTER 4.14 MOVED-IN BUILDINGS

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.

    a. The fee for said permit as prescribed in Section 3.01.04, shall have been paid.

    b. Before any house or other structure is moved onto a vacant lot, the Planning and Zoning Commission shall report to the Board of Adjustment whether the structure will be compatible with other development in the area. If the Board of Adjustment concurs with the decision of the Planning and Zoning Commission that a structure would depreciate the area into which it is to be moved, it may withhold issuance of a permit for such relocation. The applicant shall submit photographs taken from two (2) or more angles of the structure to be moved and photos of the lot on which the structure is to be located together with adjacent lots and structures. These requirements do not apply to construction sheds or other temporary structures to be located on a lot for eighteen (18) months or less.

    c. That it shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical, and construction requirements of the City of Sisseton.

d. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.

e. If the applicant does not utilize a licensed mover, the applicant may also be required to file with the City Finance Officer a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the city, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

f. Any building, which is not newly constructed to be used for first occupancy, shall also meet the following minimum requirements to obtain a permit.

   i. The written consent of sixty-six (66) percent of property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site.

CHAPTER 4.14A MOVED OUT BUILDINGS

1. It shall be unlawful to move any house or other building off of any lot within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.

   a. The fee for said permit as prescribed in Section 3.01.04, shall have been paid.

   b. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.

   c. The applicant shall also file with the City Finance Officer a map of roadways upon which the building will be carried within city limits. Further, the applicant may be required to provide documentation of condition of said roadways, including right of way, utilities, private property, etc., both prior to, and following the moving of the structure.

   d. If damage occurs, the applicant shall be held financially responsible for the repair of roadways, including right of way, utilities, private property, etc. to their respective condition prior to the damage. All work shall be performed to the standards of the City of Sisseton.

   e. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the City, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

   f. When no replacement structure is to be moved in or constructed, the applicant shall agree to restore the lot to a buildable condition. This may include but is not limited to concrete basement removal, collapsing of the basement walls, earthwork, landscaping and/or reseeding

CHAPTER 4.15 SCREENING

1. Where any commercial or industrial use (structure, parking or storage) is adjacent to property zoned or developed for residential use that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Administrative Official. Exception, screening is not required if written consent from the affected property owner is provided in lieu of providing the screening

2. The screening required herein shall consist of a solid fence or wall at least fifty (50%) percent opaque not less than five (5) feet nor more than six (6) feet in height but shall not extend within fifteen (15) feet of any street or driveway opening onto a street. The screening shall be placed along the property lines or in case of screening along a street, fifteen (15) feet from the street right-of-way with landscaping (trees, shrubs, grass and other planting) between the screening and the pavement. A louvered fence shall be considered solid if it blocks direct vision. Planting of a type approved by the Planning and Zoning Commission may also be required in addition to or in lieu of fencing.

CHAPTER 4.16 MAINTENANCE

In all districts, all structures, required landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions.

CHAPTER 4.17 REFUSE

In all zoning districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a complete enclosed building or specially designed closed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property free of trash.

CHAPTER 4.18 EXEMPT STRUCTURES

The following structures or uses are exempt from the regulations of this Ordinance and shall be permitted in any district:

1. Poles, wires, cables, conduits, laterals, pipes, mains, valves or any other similar equipment for transmission or distribution to customers of telephone or other communication services, electricity, gas, steam or water, or the collection of sewage or surface water, operated or maintained by; the City of Sisseton, the Public Utilities Commission, or a Public Utilities.

2. Railroad tracks, signals, bridges and similar facilities and equipment located on a railroad right-of-way.

3. Public street identification signs, traffic signs and directional signs in any parking area where such signs are necessary for the orderly movement of traffic.

4. Any other uses or structures listed as exempt elsewhere in this Ordinance.

CHAPTER 4.19 LIGHTING STANDARDS

Except for single family residential structures (for the purposes of this Chapter, manufactured homes and modular homes are included as “single family structures,”) exterior lighting shall not be directed upon adjacent land or the public right-of-way.

CHAPTER 4.20 OUTSIDE STORAGE AND DISPLAYS

1. Outside Storage R1 and R2 Districts--In residential districts, outdoor storage of materials, supplies, junk; and equipment shall not be permitted except for recreation vehicles, automobiles, and trucks of not more than three-quarter ton capacity. All such materials, supplies, junk, and equipment not so excepted shall be stored within a completely enclosed building. In the R3 District, a specific area or areas shall be set aside for the storage of recreation vehicles.

2. Displays--Merchandise not on display for direct sale, rental or lease to the ultimate consumer or user shall be stored within a completely enclosed building in all districts. **Exception:** Merchandise which is offered for sale, rental or lease as described heretofore may be displayed beyond the confines of a building in any Commercial District.

CHAPTER 4.21 CANNABIS ESTABLISHMENTS

1. Maximum Number of Cannabis Establishments.

    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 City of Sisseton shall limit the number of dispensaries to 2 and have no limit on the number of cannabis cultivation facilities, cannabis product manufacturing facilities, and cannabis testing facilities provided the time, place, and manner of said cannabis establishments comply with this ordinance.

2. Required Separation Distances

    a. A cannabis establishment shall be located not less than 1,000 feet from a public or private school existing before the date of the cannabis establishment application;

    b. A cannabis establishment shall be located not less than 500 feet from a single or multi-family residence, church, child daycare facility, library, public park, hospital, clinic, long term care facility, mental health facility, substance abuse facility, correctional facility, drug education and/or counseling center, funeral home, shelter, group home, other cannabis establishment existing before the date of the cannabis establishment 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 cannabis establishment is proposed.

3. Other Locational Requirements

   a. Permanent or temporary cannabis establishment are prohibited in all other zoning districts and not eligible for a home occupation use.

   b. It shall be unlawful to operate a cannabis establishment in a building which contains a residence or a mixed-use building with commercial and residential uses.

   c. It shall be unlawful to operate any portion of a cannabis establishment outdoors. All business activity and operational activity shall occur in a secure building/structure not accessible to the public.

4. Controlled Access - No cannabis establishment shall share premises with or permit access directly from another cannabis establishment, business that sells alcohol or tobacco, or, if allowed by law, other cannabis establishment.

5. Hours of operation:

   a. Cannabis dispensaries are allowed to be open between the hours of 9:00 am and 9:00 pm on Monday through Sunday.

   b. There shall be no limitation on hours of operation for a cannabis cultivation facility, a cannabis product manufacturing facility, or a cannabis testing facility.

6. Documentation of State Licensure.

   a. No cannabis establishment 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. The zoning official is authorized to issue permits (building/use) for cannabis establishments subject to following:

   a. Submission of 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. Any other information as lawfully may be required by the Zoning official to determine compliance with this ordinance and State Law.

b. Documentation of ability to meet setback/separation requirements.

c. Documentation of State Licensure.

8. All Cannabis Establishments are required to be constructed in conformance with the 2021 Edition of the International Building Code and International Fire Code.

CHAPTER 4.22 ADULT USES

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 4.22.01 Setbacks.

1. None of the following uses may be established, operated or maintained within five hundred (500) feet of a residence, a cemetery, 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 Facility.

   e. Any use which has as a part of its operation an adult use component 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.

2. Not more than two of the following uses may be established, operated or maintained within three hundred fifty (350) feet of each other:

   a. Adult bookstore.

   b. Adult motion picture theater.

   c. Adult photo studio.

   d. Adult entertainment facility.

   e. Any use which has as a part of its operation an adult use component 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.

4. The 350-foot restriction provided for in 4.22.01.2 above may be waived and a conditional use permit issued upon proper application if the Board of Adjustment 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 4.22.02 Conditions & Regulations Governing Operation; Violation; Penalty.

1. Adult uses shall be operated in accordance with the following regulations:

   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. 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.

   d. No adult use shall be permitted unless the premise on which such business is located complies with the requirements of the zoning ordinance.

e. 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.

f. 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 4.22.02.1, 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 facility:

   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. Any person in violation of this Chapter shall be subject to violations and penalties in accordance with Section 1.02.02 of this Ordinance.

CHAPTER 4.23 BED AND BREAKFAST (B & B'S)

A Bed and Breakfast (B & B's) is 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 residential properties and should comply with the following conditions:

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. Preference will be given to structures with historic or other unique qualities.

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 two (2) square feet in area.

4. Such uses shall be an incidental use with an owner-occupied principle 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 principle 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.

CHAPTER 4.24 HOME OCCUPATION

A home occupation is a business conducted in a dwelling unit, provided that the occupation is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use. For the purposes of minimizing conflicts with neighboring residentially used property, the City of Sisseton has established minimum performance standards for Home Occupations.

Section 4.24.01 Performance Standards.

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 subordinated to its use for residential purposes by its occupants, and not more than 25 percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation. Exception: in-home day cares providing care for less than 12 children in a 24-hour period may utilize more than twenty-five percent (25%) of the floor area of the dwelling unit;

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 exceeding two (2) square-foot in area, non-illuminated, and mounted flat against the wall of the principle building; and

4. 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.

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 for parking generated by the conduct of such home occupation shall be met off the street.

6. Notwithstanding the preceding standards, any operation that provides care for more than 12 children in a 24-hour period shall not be considered a home occupation.

CHAPTER 4.25 PRIVATE STORAGE STRUCTURES IN RESIDENTIAL DISTRICTS

Private storage structures (private sheds or private garages) may be constructed on lots without a primary structure in any district where this use as listed as a Special Permitted Use or Conditional Use and subject to the provisions of this Chapter.

Section 4.25.01 Private Storage Structure as a Special Permitted Use.

Private storage structures may be permitted in accordance with Section 3.05.04 in any district where this use is listed as a Special Permitted Use subject to the following minimum requirements established by this ordinance:

1. The structure shall be used exclusively for personal storage by the owner of the lot;

2. The structure may not be used to operate a business of any kind;

3. The structure shall conform to the design and have similar siding to the house to which the structure is adjacent to, but separated by an alley or other right-of-way.

4. The structure shall consist of a maximum sidewall height of fourteen (14) feet. The Administrative Official may allow a maximum sidewall height of sixteen (16) feet provided:
   a. The applicant submit with the application the written consent of two-thirds (66%) all of the owners of property adjoining the lot upon which the proposed structure will be constructed shall be submitted with the application; and

   b. The minimum required side yard (setback) shall be doubled for any storage structure with a sidewall height of sixteen (16) feet.

5. The lot upon which the structure is constructed shall be adjacent to, but across a right of way from the residence for which the structure is accessory.

   a. The structure shall be considered accessory to the residence which is across the alley or right-of-way.

   b. The applicant shall submit the Development Lot Agreement in Section 4.25.03 agreeing that the property upon which the storage building will be constructed may only be

transferred in the future if sold with the property upon which the adjacent residence, for the purposes of recording at the Roberts County Register of Deeds.

c. Any combination of adjacent lots under common ownership but not separated by an alley or other right-of-way at the time of building permit application do not require a Special Permitted Use to construct an accessory structure.

6. If at any time after the construction of the private storage structure it should become accessory to an allowable primary use on the same lot, the use of the structure shall conform with the accessory use provisions of this ordinance.

Section 4.25.02 Private Storage Structure as a Conditional Use.

Private storage structures may be permitted on a lot or lots not adjacent to the lot to which the structure is accessory if done so in accordance with Section 3.05.02 in any district where this use is listed as a Conditional Use subject to the following minimum requirements established by this ordinance:

1. Each private storage structure shall require a conditional use permit;

2. The structure shall be used exclusively for personal storage by the owner of the lot;

3. The structure may not be used to operate a business of any kind;

4. The structure shall consist of a maximum sidewall height of fourteen (14) feet.

5. Private storage structures may exceed the maximum area established by this section and/or be constructed with a sidewall height of sixteen (16) feet provided:

   a. The applicant submit with the application the written consent of two-thirds (66%) all of the owners of property adjoining the lot upon which the proposed structure will be constructed shall be submitted with the application; and

   b. The minimum required side yard (setback) shall be doubled.

   c. The minimum required secondary front yard (setback) shall be doubled on lots with more than one frontage.

6. If at any time after the construction of the private storage structure it should become accessory to an allowable primary use on the same lot, the use of the structure shall conform with the accessory use provisions of this ordinance.

Section 4.25.03 Required Development Lot Agreement for Special Permitted Use.

Prepared by:
Owner Name
Owner Address
Owner City, Owner State Owner Zipcode
Owner Phone Number

DEVELOPMENT LOT AGREEMENT

THIS AGREEMENT IS MADE and entered into this __ day of *(Month), (Year)* by (Owner), land owner, hereafter "Owner", and the City of Sisseton, a municipal corporation of the State of South Dakota, hereinafter "City", and is subject to the following terms and conditions:

1. Recitals.

   A. Owner owns real property located at (*address*), Sisseton, South Dakota and described as:

      Property where primary structure is located

   B. Owner also owns real property in Sisseton, South Dakota described as:

      Legal description of property where building permit is requested

   C. Owner has applied for Building Permit #_____ to construct a private storage structure on the property described in "1.B." above.

2. Owner's Obligations.

   A. Owner agrees, on behalf of himself, and Owner's successors and assigns, that (*Property in 1.A.)*, and (*Property in 1.B.)*, ("Property") will be held as one parcel of real estate and no part thereof will be sold separately.

   B. All terms and conditions herein shall extend to, and be binding upon, the heirs, assigns and successors in interest of Owner and are deemed a covenant running with the above described Property. Furthermore, it is agreed that, in accepting title to the above-described Property any grantee, heir, assign, or successor in interest to the undersigned expressly agrees to be bound by the terms of this agreement which shall, upon its execution, be recorded in the Roberts County Register of Deeds Office.

Owner

_____
By:*(Name)*

STATE OF SOUTH DAKOTA
SS ACKNOWLEDGEMENT
COUNTY OF ROBERTS

On this _____ 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 acknowledge that he or she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public
State of South Dakota
(Seal) My commission expires:

CHAPTER 4.26 CARETAKER/WATCHMAN'S QUARTERS

1. Caretaker/watchman's quarters on parcels in any commercial or industrially zoned property shall require a conditional use permit.

2. Caretaker or watchman's living quarters shall be limited to not more than one (1) dwelling unit

3. The dwelling unit shall be occupied by person(s) associated with the operation or maintenance of the business or building. If it is found that the occupant(s) are not associated with such operation or maintenance the living area shall be removed.

4. The total area of the dwelling unit shall consist of not more than (30%) of the total area of the building.

5. The dwelling unit shall maintain an entrance other than that of the business associated with the caretaker or watchman's living quarters. Exceptions:

    a. If a single entrance enters into a common hallway or corridor in which the business and dwelling unit are entered separately, the dwelling unit may be allowed to use the same entrance as the business.

    b. Entrance to the dwelling unit is accessible only by employees of the business.

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ARTICLE V
DEFINITIONS

Chapter 17.43 GENERAL TERMS

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 number includes the singular.

The word “building” shall include the word “structure,” and the word “shall” is mandatory, not discretionary, the word “may” is permissive;

The word “person” includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual; the word “lot” includes the words 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 Use or Structure: As applied to use or structure means customarily subordinate or incidental to, and on the premises of such use or structure.

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 Figures Below:

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 Facility: 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 section.

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 section.

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 herein defined.

Adult Use: The term “adult use” shall include adult entertainment facility, adult bookstores, adult motion picture theaters, and adult photo studios as defined in this section.

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.

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.

Agriculture: The cultivation of the soil, and all activities incident thereto, except that said term shall not include the raising and feeding of hogs, sheep, goats, cattle, poultry, or fur bearing animals.

Alley: a public or private right-of-way which affords secondary means of access to abutting property.

Animal unit: One animal unit is equivalent to 1.0 beef cow, steer, or fat beef animal, 0.5 horse; 0.7 mature dairy cow; 1.7 finishing swine; 6.7 sheep/goats; 55 turkeys; 5 ducks/geese; 33 hens, cockerels, capons, or broilers.

Apartment: a room or suite of rooms designed for, intended for, or used as a residence for one family or individual and equipped with cooking facilities.

Apartment Building: An apartment building is a detached dwelling designed for, or occupied by, three or more family units.

Attached Garage: A garage which is attached by a common wall side by side, extending from the basement floor to the roof, or a detached garage which is within ten (10') feet of the dwelling.

Automobile Service Station: Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. This definition does not include storage, body repair or auto salvage operations.

Bar/lounge/tavern: An establishment that is licensed to sell alcoholic beverages by the drink.

Basement: A basement is any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

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.

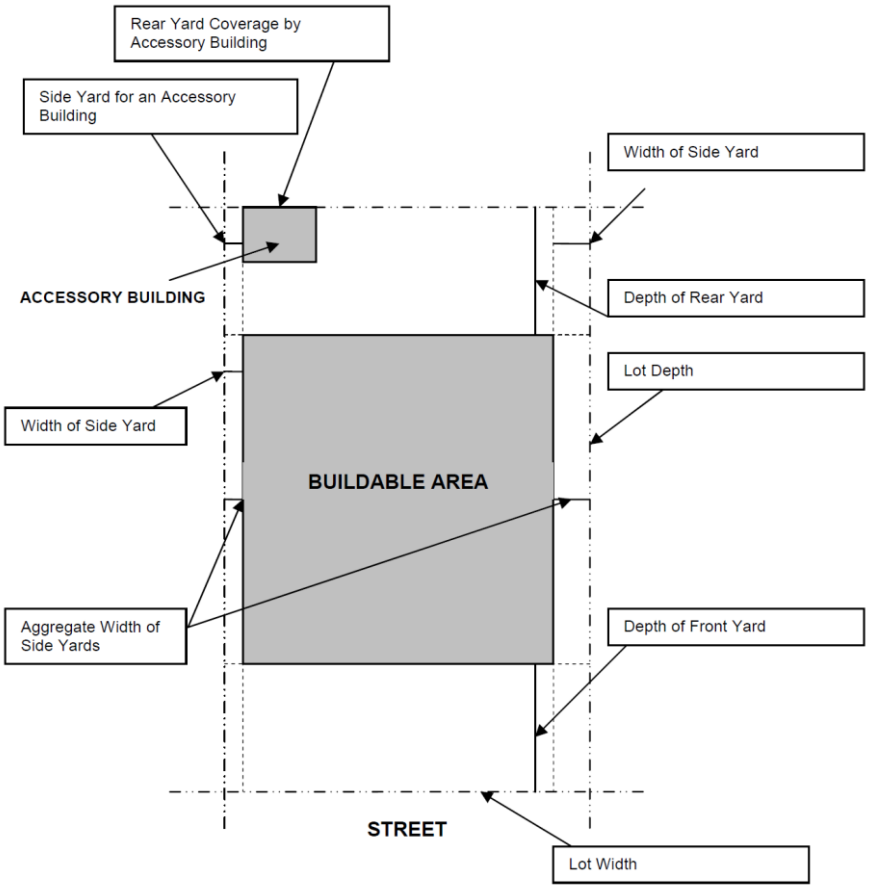
Block: a tract of land bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, unsubdivided acreage or boundary line of the corporate limits of the city.

Boarding House: A building other than a motel, hotel, or restaurant, where lodging and meals are provided for three (3) or more persons, but not exceeding ten (10) persons, and not open to public or transients.

Buffer: The use of land, topography, space, fences, or landscape planting to partially screen a use or activity from another property and thus reduce undesirable views or influences.
Building: 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.

Buildable Area: That portion of the lot that can be occupied by the principal use, thus excluding the front, rear, and side yards. 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



Building Height: The vertical distance from the mean curb level along the front lot line or from the mean ground level for all that portion of the structure having frontage on a public right-of-way, whichever is higher, to the top of the cornice of a flat roof, to the top line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, or to the mean distance of the highest gable on a pitched or hip roof.

Butcher Shop: A retail store supplying meat and poultry products where meat processing is limited to making cuts of meat from pre-processed carcasses.

Campground: Shall mean a plot of ground for public use upon which two 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. Campgrounds for tent trailers and recreational vehicles shall be sited with consideration for access to the property. The campground shall be designed to minimize the impact from adjacent major thoroughfares.

Cannabis (or Marijuana): 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 term includes an altered state of marijuana absorbed into the human body. The term does not include fiber produced from the mature stalks of such plant, or oil or cake made from the seeds of such plant. The term does not include the plant Cannabis sativa L. (hemp) 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: This term is 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: This term is 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: This term is 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: This term is defined as a legally licensed entity legally authorized to analyze the safety and potency of cannabis.

Car Wash: A facility used to clean the exterior, and sometimes the interior, of automobiles.

Caretaker's Residence/Watchman's Quarters: A Dwelling unit which is occupied by one who is employed by a business located on the same premises or within the same structure as said dwelling unit.

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. The definition of "church" includes all religious institutions.

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).

Clinic: An establishment where patients are not lodged overnight, but are admitted for examination and treatment by physicians, psychologists, optometrists, chiropractors or dentists and other health care professionals practicing medicine together and including facilities for training and rehabilitation.

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 Vehicle: Any motor vehicle, trailer, or semi-trailer designed or used to carry freight, passengers for a fee, or merchandise in the furtherance of any commercial enterprise and having a gross weight of more than 10,000 pounds.

Commission: The Planning Commission of the City of Sisseton, South Dakota. "See also Planning Commission."

Comprehensive Plan (Comprehensive Land Use Plan): The adopted long-range plan intended to guide the growth and development of the City of Sisseton including a compilation of policy statements, objectives, standards, and maps for guiding the physical, social, and economic development, both public and private, of the municipality and its environs, as defined in current State law.

Conditional Use: A use that, owing to certain special characteristics attendant to its operation, may be permitted in a zoning district subject to requirements that are different from the requirements imposed for any use permitted by right in the zoning district. Conditional uses are subject to evaluation and approval by the Board of Adjustment.

Condominium: The ownership of single units in a multi-unit residential structure with common elements. (With the property subject to the condominium regime established pursuant to SDCL 43-15A.)

Commercial uses may occupy properties platted pursuant to SDCL 43-15A, however where referenced herein, the term "condominium" only authorizes the structure to be used for residential purposes. This Ordinance does not differentiate between the manner of ownership of non-residential uses.

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

Construction, actual: Construction materials are being permanently placed and the construction work is proceeding without undue delay.

Contractor Shops And Storage Yards: Those facilities to include structures and land areas where the outdoor storage of equipment and supplies used for various types of off-site 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.

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. Convenience stores may or may not sell fuel.

Court: An open unoccupied space bounded on two or more sides by the exterior walls of a building or buildings on the same lot.

Curb Level: The curb level is the level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the City Engineer shall establish such curb level or its equivalent for the purpose of this Ordinance.

Day Care: Any operation, which provides childcare services whether accessory to the caregiver's home or operated in a separate commercial structure.

Day Care Center: A commercial structure used for the purposes of providing childcare services. To be considered a Day Care Center under these regulations, must be licensed by the State of South Dakota.

Duplex House: A dwelling having apartments with separate entrances for two families. This includes two-story houses having a complete apartment on each floor and also side-by-side apartments that share a common wall.

Dwelling: Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings either permanently or transiently.

Dwelling, Farm: Any dwelling located on a farming operation, which is used or intended for use as a residence by the farm's owner, relative of the owner, or a person employed on the premises.

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

Dwelling, Single Family: A detached residential dwelling building, other than a manufactured home but to include modular homes, designed for and occupied by one family only.

Dwelling, Two Family: A residential building containing two household units, designed for occupancy by not more than two (2) families.

Dwelling Unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may in the same structure, and containing independent cooking and sleeping facilities.

Electronic Message Sign: A sign whose message may be changed at intervals by electronic process or remote control and whose only movement is the periodic changing of information having a constant light level.

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

Exception: An exemption to a specified regulation within this Ordinance which, unless otherwise specified, may be authorized by the administrative official.

Extended Home Occupation: A home occupation conducted outside of the residence and/or in an accessory building.

Family: One or more individuals living, sleeping, cooking, or eating on the premises as a single unit; but it shall not include a group of more than five (5) individuals not related by blood or marriage.

Farm: A bonafide business for the production of agricultural products and the incidental use of horses, dogs, or other animals and other similar operations; but specifically excluding greenhouses, horticultural nurseries, and kennels and other similar commercial operations.

Feedlot: A feedlot is a lot, yard, corral, building or other area where animals in excess of ten (10) animal units per acre or in excess of ten (10) animal units per parcel of land have been, are, or will be stabled or confined for a total of 45 days or more during any twelve-month period, and where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot or facility.

Filling (service) Station: (Also referred to "automobile service station") Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, but where the following activities are not carried out as a normal part of doing business:

1. Major mechanical work, involving removal of the head or crankcase;

2. Auto body work, including straightening of auto body parts.

3. Painting or welding of any automobile parts;

4. Storage of automobiles not in operating condition, and

5. Any other automobile work which involves noise, glare, fumes, smoke, or other characteristics not normally found at places which sell gasoline at retail.

Flammable Liquids: Any liquid which gives off flammable vapors, as determined by the flash point from an open-cup tester as used for test of burning oils, at or below a temperature of eighty (80) degrees Fahrenheit, is flammable.

Flashing Sign: Any illuminated sign that has artificial light or color which is not maintained at a constant intensity or color when such sign is in use. A sign providing public service information, such as time, weather, date, temperature, or similar information, shall not be considered a flashing sign.

Funeral Home: A building used for the preparation of the deceased for burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this Ordinance, includes a funeral chapel but does not include crematoriums.

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.

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, and boats, but not commercial vehicles.

Garage, Public: A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automobile body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

Garage, Storage: Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

Governmental Agency: An organized entity which, in addition to having governmental character, has sufficient discretion in the management of its own affairs to distinguish it as separate from the administrative structure of any other governmental unit.

Grade: The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

Greenhouse: A building whose roof and sides are made largely of glass regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Gross floor area: The total area of all floors of a building, including intermediately floored tiers, mezzanine, basements, etc., as measured from exterior surfaces of the outside walls of the building.

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.

Height of Structure: The vertical distance from the established average sidewalk grade of street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

High Voltage Transmission Line: A conductor of electric energy and associated facilities.

Home Occupation: See Chapter 17.46.

Household Unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Hotel or Motel: A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are four (4) or more guest rooms, and which is open to the public and transients.

Indoor recreation facility: An indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support.

Junk Yard: The use of more than fifty (50) square feet of any land, building, or structure, whether for private or commercial purposes, or both, where waste discarded or salvaged materials such as scrap metals, used building materials, used lumber, used glass, discarded vehicles, paper, rags, rubber, cordage, barrels, machinery, etc., or parts thereof with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

Kennel: Any place where more than three (3) dog(s) or cat(s) over four (4) months of age are owned, boarded, raised, bred, and offered for sale.

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.

Loading Space, Off street: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as of-street parking space in computation of required off-street parking space.

Lot: A parcel or tract of land having specific boundaries, and which has been recorded in the Register of Deeds office. Unless otherwise specified by this ordinance or allowed by the Board of Adjustment, a lot shall include only one (1) principal building together with its accessory buildings; open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.

Lot Coverage: For the purposes of this Ordinance, 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):

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

Symbol	Feature	Label	Included in Calculation?
	House	A	Yes
	Garage	B	Yes
	Driveway/ Other paved surface	C	No
	Lot line	D	Yes

Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Minimum frontage for lots located on cul-de-sacs shall be determined as the average of the widest and narrowest width of the lot.

Lot Measurements:

1. **Depth:** The average mean horizontal distance between the front and rear lot lines.

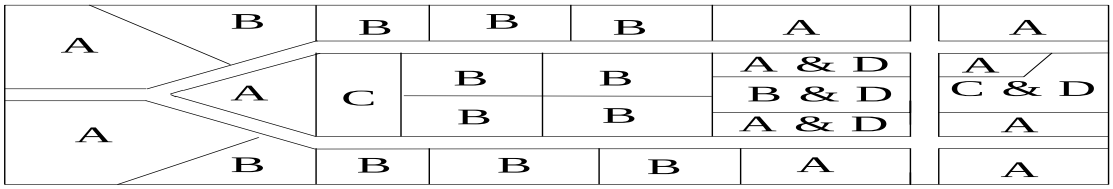
2. **Width:** The width of a lot at the front yard line.

3. **Area:** The lot area is the area of a horizontal plane in square feet or acres within the lot line.

Lot Merger Agreement: A contractual document with the purpose of joining two legal lots together in order to accommodate certain Planning and Zoning Regulations.

Lot of Record: A lot which is part of a subdivision recorded in the office of the Roberts County Register of Deeds, prior to the adoption of the zoning ordinance.

Lot Types: See figure below:



Corner lot: Defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (Lot A)

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

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)

Double Frontage Lot: Defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (Lot A & D in the diagram), an interior lot (Lot B & D in the diagram) or through lot (Lot C& D in the diagram).

Lot Width: The width of a lot is its own mean width measured at right angles to its mean depth.

Manufactured Home: See Chapter 4.11

Manufactured Home Park: See Chapter 4.11

Manufactured Housing Definitions

1. **Anchoring System** – An approved system of straps, cables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured or mobile home.

2. **ANSI/NFPA 501A Standards for Installation of (Manufactured) Mobile Homes** – Model national standards (including all authorized successor documents) for installation of manufactured and mobile homes, as adopted and copyrighted by the National Fire Protection Association and Manufactured Housing Institute.

3. **Expando Unit** – An expandable manufactured housing unit.

4. **Foundation Siding/Skirting** – A type of wainscoting constructed of fire and weather resistant material, such as aluminum, asbestos board, treated pressed wood or other approved materials, enclosing the entire undercarriage of the manufactured.

5. **Permanent Perimeter Enclosure** – A permanent structural system completely enclosing the space between the floor joists of the home and the ground.
6. **Permanent Foundation** – Any structural system for transporting loads from a structure to the earth at a depth below the established frost line without exceeding the same bearing capacity of the supporting soil.

7. **Section** – A unit of a manufactured home at least ten (10) body feet in width and thirty (30') feet in length.

8. **Support System –** A pad or combination of footings, piers, caps, plates, and shims, which, when properly installed, support the manufactured or mobile home.

Measurement: Unless otherwise specified, all distances shall be measured horizontally and shall be expressed to the nearest integral foot. If a fractional distance is one-half (1/2) foot or less, the preceding or lesser integral foot measurement shall control.

Mining: The excavation of earth materials for the purpose of sale.

Modular Home: See Chapter 4.11

Moved-In Building: A building that previously existed on a lot of different location relocated for use as a residence, out-building, commercial, industrial or any building used in relation to these uses shall be recognized as a moved-in building.

Motel/Hotel: A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are four (4) or more guest rooms, and which is open to the public and transients.

Non-conforming Use: Any building or structure, or land lawfully occupied by a use at the time of passage of this Ordinance or amendment which does not conform after the passage of this Ordinance or amendment with the use regulation of the district in which it is situated.

Non-standard 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.

Outdoor Advertising Business: Provisions of outdoor displays or display space on a lease or rental basis only.

Outdoor Display: An outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product, or service. This definition excludes new and used sale, lease, or rental of automobiles, trucks, motorcycles, recreational vehicles, boats, or watercraft.

Outside Storage: Outside storage is the keeping of commodities, goods, raw materials, equipment, vehicles, heavy vehicles, or merchandise not within an enclosed building, including incidental maintenance and repair of the material which is being stored. This definition excludes new and used sale, lease, or rental of automobiles, trucks, motorcycles, recreational vehicles, boats, or watercraft. Parking of company owned automobiles that are currently registered, licensed, and operable will be excluded. Materials and equipment that are transferred from an enclosed building for an outdoor sales display are not considered outside storage.

Parcel: A single tract of land, located within a single block, which at the time of filing for a Building/Use Permit, is designated by the owner or developer as a tract to be used, developed, or built upon as a unit, under single or unified ownership or control, and assigned to the particular use, building or structure, for which the Building/Use Permit are issued and including such area of land as may be required by the provisions of this Ordinance for such use, building or structure.

Parking Space, Off-street: An off-street parking space shall consist of a space for parking an automobile with room for opening doors on both sides, together with related access to a public street or alley, and maneuvering room. A space for parking of automobiles which has a minimum width of nine (9) feet and a minimum length of nineteen (19) feet.

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.

Person: In addition to an individual, includes the following terms: “firm”, “association”, “organization”, “partnership”, “trust” “company”, or “corporation”, joint venture, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other entity, public or private, however organized.

Personal Services: Establishments providing nonmedically related services, including beauty and barber shops; clothing rental; dry cleaning pick-up stores; laundromats (self-service laundries); psychic readers; shoe repair shops; tanning salons; tattoo parlors; body piercing studios; etc. These uses may also include accessory retail sales of products related to the services provided.

Planned Unit Development: See Chapter 2.12.

Planning Commission: The appointed members of the Planning Commission serving in an advisory capacity on planning and zoning matters. The "Planning and Zoning Commission" required in South Dakota Compiled Laws 11-6-2 shall be referred to throughout this document as the "Planning Commission."

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

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

Professional Services: Work done for others, predominately on the premises of the office, by someone trained and engaged in such work for a career, e.g., doctors, lawyers, accountants.

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 Institution: Any building used for non-profit purposes by an established religious organization holding either tax exempt status under Section 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to: church, temple, synagogue, and mosque.

Sanitary Landfills: Method of waste disposal involving the dumping and daily covering of waste material all in compliance with State regulations.

Sale or Auction Yard/barn: A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one day during sale or auction.

Screening: Earthforms, walls, fences, plant material or other structures or devices intended to partially obscure, conceal or protect from off-site view.

Service Station, Automobile: Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted.

Setback: The setback of a building is the minimum horizontal distance between the front line or street line and the nearest edge of any building or any projection thereof.

Sheet Siding: Any siding material customarily installed as a sheet and composed of galvanized, painted, or bonded metal, and customarily installed in a vertical manner but also capable of being installed horizontally.

Shopping Center: Retail buildings of greater than 100,000 square feet and designed for more than one tenant.

Sign: Means a name, identification, display, illustration, or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public, and which directs attention to a product, place, activity, purpose, institution or business.

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

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

2. Flags and insignia of any government except when displayed in connection with commercial promotion;

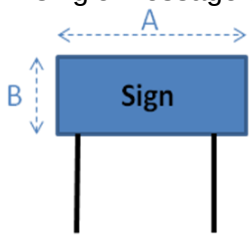
3. Legal notices, identification, information, or directional signs erected or required by governmental bodies;

4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights; and

5. Signs directing and guiding traffic and parking on private property but bearing no advertising matter.

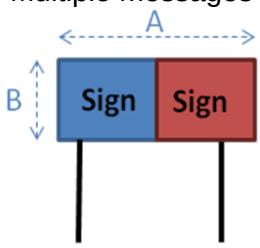
Sign Area: The total area or areas of all signs within the outer edges of the sign or advertising message. Sign area may be calculated in the following manners.

a. A single message on a single sign face.



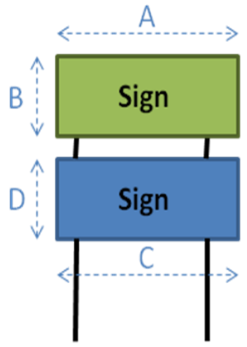
Area = A x B

b. Multiple messages on a single sign face.



Area = A x B

c. Multiple messages on stacked signs.



Area = (A x B) + (C x D)

Sign (Flashing): Means any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

Sign (Ground): A sign which is anchored to the ground and has no air space between grade and the bottom of the frame or sign facing.

Sign (Illuminated); Means any sign which has characters, letters, figures, designs, or outlines illuminated by electric or luminous tubes as a part of the design.

Sign (Nameplate): Means any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.

Sign (Parking): A sign which provides specific instruction to the public, including but not limited to. “Center,” “Exit,” “No Parking,” “Drive Through.” No parking sign shall be permitted to include any commercial message.

Sign (Pole): A freestanding sign wholly supported by one or more poles.

Sign (Portable): Any sign not permanently attached to the ground or other permanent structure designed to be transported from structure to structure or site to site at periodic intervals. Portable signs include signs attached to or painted on vehicles, unless said vehicle is used in the normal day-to-day operations of the business. Portable signs are temporary signs.

Sign (Projecting): Any sign that is affixed at an angle or perpendicular to a wall of any building in such a manner as to be read either perpendicular or at an angle to the wall on which it is mounted.

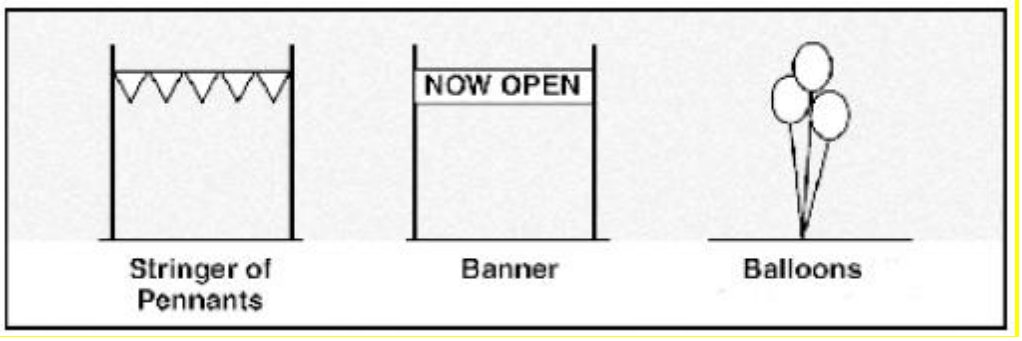
Sign (Real Estate): A sign placed upon property for the purpose of advertising the sale, lease, or availability for rent of property.

Sign (Roof): A sign erected upon and above a roof structure and wholly supported by the roof structure or a structure placed upon the roof. Roof signs shall constitute any message placed upon sloped building fascia intended to appear as or actually be roof elements of the building.

Sign (Rotating): Means a sign which revolves or rotates on its axis by mechanical means.

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

Sign (Temporary): Any sign used for varying periods of time which is not permanently attached to the ground or other permanent structure. See below examples of Temporary Signs (not all inclusive).



Sign (Wall): A sign placed flat against a structure, fence, or wall. Signs painted onto a wall, fence, or structure are wall signs.

Slaughterhouse: A facility for the slaughtering and processing of animals and refining of their byproducts for wholesale purposes.

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

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 opaquely covered.

Specified Sexual Activities means:

1. Human or animal genitals in the 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.

4. Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or “Adult Entertainment Facility”.

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.

Stand, roadside: A structure for the display and sale of products with no space for customers within the structure itself.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

Story, first: The lowest story in a building which qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade for more than 50 percent of the total perimeter, or more than eight (8) feet below grade at any point.

Street Line: A right-of-way line of a street.

Street: A public right-of-way-which affords the principal means of access to abutting property. Also, may be referred to as road or highway. The term street shall include and apply to any public way except alleys. Streets may be further classified in accordance with the following terms referenced in the Comprehensive Land Use Plan for the City of Sisseton:

1. Arterial Street: A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Sisseton.

2. Collector Street: A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Sisseton.

3. Local Street: Any street which is not an arterial street or collector street.

Structure: Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include, but are not limited to, buildings, manufactured homes, walls, fences, swimming pools, and signs.

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

Subdivision: The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

Substantially Completed: This term refers to the amount of work required to be completed in association with a Building/Use Permit issued by the City. In order to be substantially complete, seventy-five (75) percent of the project for which a Building/Use Permit has been issued is required to be finished.

Townhouses: See "Condominium."

Trailer: Means any of the following:

1. Travel Trailer: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. The trailer shall be permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.

2. Pick-up Coach: A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.

3. Motor-Home: A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.

4. Camper Trailer: A canvas, folding structure, mounted on wheels, and designed for travel, recreation, and vacation use.

Tree: A tree which is required by the Ordinance and meets or exceeds the definitions of deciduous shade trees and evergreen or coniferous trees.

Tree, deciduous shade: A woody plant that normally grows with one main trunk and has a canopy that screens and filters the sun in the summer months.

Tree, evergreen or coniferous: A tree species with foliage that persists and remains green year-round.

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

Use: The purpose for which land or premises or a building thereof is designated, arranged, or intended, or for which it is or may be occupied or maintained.

Usable Open Space: Land area and facilities specifically designated and developed for recreational or social activities of individuals or groups excluding required setback areas, in addition to those areas and facilities designated and developed for the private use of residents of individual dwelling units.

Utility: All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication, and telephone cable, and includes facilities for the generation of electricity.

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 nonconformities in the zoning district or uses in an adjoining zoning district.

Veterinary Clinic: A commercial activity catering to the medical needs of animals and having no outside runs or areas of outdoor animal confinement.

Waste: Any garbage, refuse, manure, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product materials as defined by the Atomic Energy act of 1954, as amended.

Watchman's Quarters: See Caretaker's Residence/Watchman's Quarters.

Wetlands: Any area where ground water is at or near the surface at least six (6) months 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.

Wholesale Merchandising/Trade: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard: An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line.

Yard, front. A yard extending between the side lot lines across the front of a lot adjoining a public right-of-way.

Depth of required front yards shall be measured at right angles to a straight line adjoining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

1. Primary Front Yard: Any front yard adjacent to the street which is used as principal access for the lot. Unless otherwise differentiated, for the purposes of measuring required setbacks the phrases "Front Yard," or "Required Front Yard" refer to the primary front yard.

2. Secondary Front Yard: On a lot with more than one frontage, any front yard adjacent to a street which is not used as principal access for the lot. Unless otherwise specified, for the purposes of measuring required setbacks, the minimum setback for all secondary front yards shall equal one-half the required setback for a primary front yard.

Yard, rear: A yard across the whole width of the lot, extending from the rear line of the building to the rear line of the lot. In the case of through lots and corner lots, where will be no rear yards, but only front and side yards.

Yard, required: That portion of a side, front, or rear yard nearest the designated lot line and having the width or depth required in the district in which located.

Yard, side: A yard between the building and the adjacent sideline of the lot, which separates it from another lot, extending from the front lot line to the rear yard. In the case of through lots and corner lots, side yards remaining after the full and half-depth front yards have been established shall be considered side yards.

Zero Lot Line: The location of a building on a lot in such a manner that the side of a building rests on a lot line.

Zoning district: A section of the city for which the regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.