

## DEFINITIONS

### Definitions

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

### Terms

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

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

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

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

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

Agriculture - The planting, cultivating, harvesting and storage of grains, hay or plants, fruits, or vineyards along with the raising and/or feeding of less than one thousand (1,000) animal units of livestock and/or poultry in animal feeding operation as defined by this ordinance.

An animal feeding operation, as defined by this ordinance, is not considered an agricultural use. The processing and/or storage of raw agricultural products, including facilities such as grain elevators and ethanol plants, shall not be considered an agricultural use if such use constitutes the main or principal use on a lot or parcel.

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

Agricultural Use Covenant Running with the Land - An agreement required by ordinance by which parties, hereafter known as grantors acknowledge that adjacent land may be subjected to conditions resulting from agricultural operations. Once executed, said agreement runs with the land and cannot be separated from the land nor transferred without it.

Amendment - A change in the wording or substance of this ordinance or a change in the boundaries or classifications upon the official zoning map.

Animal Feeding Operation - An animal feeding operation is a facility where more than one thousand (1,000) animal units are confined, stabled, fed, or maintained in either an open or housed lot for a total of 45 days or more in any 12-month period. The open lot does not sustain crops, vegetation, forage growth, or post-harvest residues in the normal growing season. Two or more facilities under common ownership are a single animal operation if they adjoin each other (within one mile), or if they use a common area or system for the disposal of manure.

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

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

Animal Unit Conversion Table - A conversion table designed to integrate the definition of an animal feeding operation with the animal unit definition.

<u>Animal Species</u>	<u>1000 Animal Units</u>
Cow, feeder or slaughter beef animal, excluding calves under 300 pounds	1,000
Horses	500
Mature dairy cattle, excluding calves under 300 pounds	700
Farrow to finish sows	270
Swine in a production unit	1,000
Nursery swine less than 55 Pounds	10,000
Finisher swine over 55 pounds	2,500
Sheep	10,000
Laying hens or broilers	30,000
Ducks and/or geese	5,000
Turkeys	55,000

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

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

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

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

Building - Any structure designed or intended for the shelter or enclosure of persons, animals or property of any kind.

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

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

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

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

Commercial Trucking Terminal - A building, structure or place where twelve (12) or more commercially licensed trucks or trailers are rented, leased, kept for hire, or stored or parked for compensation, or from which trucks or transports, stored or parked on the property, are dispatched for hire as common carriers, and which may include warehouse space.

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

Congregate Housing - A residential facility for elderly persons (age 60 or older) within which are provided living and sleeping facilities, meal preparation, laundry services and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments and counseling.

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

Day Care Center - Any type of group day care programs including nurseries for children of working parents, nursery schools for children under minimum age for education in public schools, parent

cooperative nursery schools, playgroups for pre-school children, programs covering after-school care for school children provided such establishment is licensed by the State and conducted in accordance with State requirements.

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

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

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

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

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

Family - Any number of individuals living together as a single housekeeping unit, in which not more than four (4) individuals are unrelated by blood, marriage or adoption.

Facility, Animal Feeding Operation - See Animal Feeding Operation

Farm, Ranch, Orchard - An area of forty (40) acres or more which is used for growing usual farm products, vegetables, fruits, trees, and grain, and for the raising thereon of the usual farm poultry and farm animals such as horses, cattle, hogs and sheep, and including the necessary accessory uses for raising, treating, and storing products raised on the premises; but excluding an Animal Feeding Operation.

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

Farm Building - All buildings and structures needed in agricultural operation, including dwellings for owners, operators, farm laborers employed on the farm, and other family members.

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

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

Fishery - As defined by South Dakota Administrative Rules, Sections 74:03:03:02 and 74:03:03:03 (August 8, 1994). Stanley County as described in Section 74:03:03:61. Lake Hayes and Lake Red Plum (Section 74:03:03:03(5)) are warm water semipermanent fish life propagation waters and Smith Pond (Ft. Pierre National Grassland) (Section 74:03:03:03(3)) is a cold water marginal fish life propagation waters. Missouri River (Section 74:03:04:04(1,2,7,8,11)) is a domestic water supply, cold water permanent fish life propagation waters, immersion recreation waters, limited contact recreation waters, and commerce and industry waters. Bad River (Section 74:03:04:05(6,8)) is a warm water marginal fish life propagation waters and limited contact recreation waters. Cheyenne River Section (74:03:04:07(4,7,8)) is a warm water permanent fish life propagation waters, immersion recreation waters, and limited contact recreation waters.

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

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

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

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

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

The raising and feeding of livestock and poultry shall be considered as part of a hobby farm if the area, in which the livestock or poultry is kept, is two (2) acres or more in area for every two (2) domesticated large animals, and if such livestock does not exceed ten (10) animals; or the raising of livestock and poultry is incidental or supplemental to the residential use and is not primarily for the growing of crops or raising of livestock.

Home Occupation - A business activity customarily carried on in the home by a member of the occupant's family without structural alterations in the building or any of its rooms, without the installation or outside storage of any machinery, equipment or material other than that customary to normal household

operations, without the employment of persons not residing in the home, which does not cause the generation of additional traffic in the street.

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

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

Kennel - Any place where four (4) or more dogs, cats, or other domesticated animals of breeding age are housed, groomed, bred, boarded, trained, harbored, kept or sold for commercial purposes.

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

Lot - A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

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

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

Lot, Through - A through lot is 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 lot.

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

Lot of Record - A lot which is part of a subdivision recorded in the office of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Line - The legally defined limits of any lot.

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

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

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

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

Lot Frontage - The portion of the lot nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under Yards in this article.

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

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

The following shall not be included in this definition:

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

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

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

Modular Home - A structure or building module that is manufactured at a location other than the site upon which it is installed and used as a residence; transportable in one or more sections on a temporary chassis or other conveyance device; and to be used as a permanent dwelling when installed and placed upon a permanent foundation system. This term includes the plumbing, heating, air conditioning, and electrical systems contained within the structure.

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

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

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

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

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

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

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

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

Property Line - The division between two parcels of land, or between a parcel of land and the street and/or road.

Ranch Building - See Farm Building.

Ranch Occupation - See Farm Occupation.

Ranch Unit - See Farm Unit.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

Variance - A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

As used in this ordinance, a variance is authorized only for area and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining district or because of conditions created by the landowner.

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

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

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

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

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

**ARTICLE 1**  
**JURISDICTION**

Section 101 General

This Ordinance shall be known and shall be cited and referred to as "The Zoning Ordinance of Stanley County, South Dakota", to the same effect as if the full title were stated.

Section 103 Jurisdiction

The provisions of this Ordinance shall apply within the unincorporated areas of Stanley County, South Dakota, excluding the incorporated community of Fort Pierre as established on the map entitled "*The Official Zoning Map of Stanley County, South Dakota*".

Section 105 Provisions of this Ordinance Declared to the Minimum Requirements

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

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## ARTICLE 2

### APPLICATION OF DISTRICT REGULATIONS

#### Section 201 General

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

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

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

#### Section 205 Performance Standards

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

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

#### Section 207 Yard and Lot Reduction Prohibited

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

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## **ARTICLE 3**

### **ESTABLISHMENT OF DISTRICTS**

#### Section 301    Districts Created

For the purpose of this Ordinance, there are hereby created seven (7) types of districts by which the jurisdictional area defined in Section 103 shall be divided.

- AG - Agricultural
- R1 - Low Density Rural Residential
- R2 - Medium Density Rural Residential
- R3 - High Density Rural Residential
- R4 - Platted Town Site Residential
- RC - Rural Commercial
- PUD - Planned Unit Development

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## ARTICLE 4

### OFFICIAL ZONING MAP AND BOUNDARY INTERPRETATION

#### Section 401 General

The County is hereby divided into zones, or districts, as shown on the Official Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Chairman of the County Commissioners, attested by the Auditor, and bearing the seal of the County, under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 401 of Ordinance No. 99-1 of "Stanley County, South Dakota," together with the date of the adoption of this Ordinance.

#### Section 403 Zoning Map Changes

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

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

Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 2003.

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

#### Section 405 Zoning Map Replacement

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

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

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted [date of adoption of map being replaced] as part of Ordinance No. 99-1 of "Stanley County, South Dakota."

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

Section 407 Rules for Interpretation of District Boundaries

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

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

## ARTICLE 5

### AGRICULTURAL DISTRICTS (AG)

#### Section 501 Intent

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

#### Section 503 Permitted Principal Uses and Structures

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

1. Agriculture;
2. Farm;
3. Ranch;
4. Orchard;
5. Farm occupations;
6. Farm buildings;
7. Farm drainage and irrigation systems, flood control and watershed structures and erosion control devices meeting all county, state, and soil conservation district regulations;
8. Manufactured homes, pursuant to Section 1209;
9. Historic sites;
10. Veterinary services;
11. Off-site and on-site signs;
12. Cemeteries;
13. Single-family dwellings;
14. Additional farm dwellings;
15. Shelterbelts;
16. Stock dams;
17. Extraction of sand, gravel, or minerals provided such uses meet requirements for conducting surface mining activities of SDCL 45-6B; and
18. Rodeo arenas.

Section 505 Permitted Accessory Uses and Structures

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

1. Roadside stands for sales of farm products, fish bait, and other approved products;
2. Home occupations;
3. Professional offices; and
4. Accessory uses, not specifically regulated by ordinance and structures customarily incidental to permitted uses and structures when established within the space limits of this district.

Section 507 Conditional Uses

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

1. Utility facilities;
2. Airports;
3. Automobile and equipment sales;
4. Fairgrounds and amusement areas;
5. Motor vehicle tracks or play areas;
6. Golf courses and driving ranges;
7. Amphitheaters, stadiums and athletic fields;
8. Riding stables, bowling alleys, swimming pools,
9. Agricultural product processing facilities;
10. Grain elevators;
11. Public or commercial sewage disposal/treatment sites and lagoons;
12. Commercial trucking terminals;
13. Sales and auction yards and barns;
14. Private outdoor recreation areas;
15. Sanitary landfills or restricted use sites;
16. Wildlife and game production areas;
17. Fireworks stands;
18. Animal feeding operations;
19. Salvage/junk yards;
20. Bed and breakfast operations;
21. Game farms;
22. Aquaculture;

23. Shooting ranges;
24. Public recreational and park facilities;
25. Cemeteries;
26. Private shooting preserves;
27. Game lodges;
28. Schools, public and private;
29. Day care centers;
30. Kennels;
31. Campgrounds;
32. Churches;
33. Remote fuel depots or keytrolls;
34. Manufactured home parks;
35. Bait and tackle shops; and
36. Spreading, injection, or other application of manure or animal waste generated by an Animal Feeding Operation pursuant to Section 519(10)(11).

Section 509 Classification of Unlisted Uses

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

Section 511 Prohibited Uses and Structures

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

Section 513 Minimum Lot Requirements

The minimum lot area shall be forty (40) acres.

The minimum lot width shall be three hundred (300) feet.

Additional dwelling units may be allowed if they are to be occupied by other members of the family farm unit, the Board of Adjustment may reduce the required area following the procedures of a variance.

Section 515 Minimum Yard Requirements for Dwellings

There shall be a front yard of not less than a depth of seventy-five (75) feet. There shall be a rear yard of not less than a depth of twenty-five (25) feet. There shall be two (2) side yards, each of which shall not be less than twenty-five (25) feet. This shall apply to all buildings and structures including decks, patios, and carports.

Section 517 Prohibition of View - Obstruction

There shall be no obstructions, such as buildings, grain bins, trees, farm equipment, machinery, baled or stacked agricultural products, wind breaks, or other objects within one hundred fifty (150) feet from the centerline of the road on the North and West sides and seventy five (75) feet from the centerline of the road on the South and East sides between the dates of October 15<sup>th</sup> and May 1<sup>st</sup>.

The intent of this section is to keep the right-of-ways free and clear of snow build-up and to promote traffic safety along road right-of-ways and intersections.

Section 519 Animal Feeding Operation Performance Standards

1. Animal Feeding Operations shall submit animal waste management system plans and specifications for review and approval prior to construction, and a Notice of Completion for a Certificate of Compliance, after construction, to the South Dakota Department of Environment and Natural Resources.
2. Prior to construction, such facilities shall obtain a Storm Water Permit for Construction Activities from the South Dakota Department of Environment and Natural Resources. The Storm Water Pollution Prevention Plan required by the permit must be developed and implemented upon the start of construction.
3. Animal confinement and waste facilities shall comply with the following facility setback requirements:
 

A. Water Wells Less than 500 Feet Deep	2,640 feet
B. Lakes, Rivers, Streams Classified as a Drinking Water Supply	5,280 feet
C. Lakes, Rivers, Streams Classified as Fisheries	5,280 feet
D. Federal and State Road Rights of Way	2,640 feet
E. County and Township Road Rights of Way	300 feet
F. 100 Year Flood Plain	Prohibited
4. Applicants must present a nutrient management plan to the Department of Environment and Natural Resources for approval an/or certification. Examples of such management shall include at least:

- A. Proposed maintenance of holding ponds;
  - B. Land application process and/or methods; and
  - C. Legal description and map, including documented proof of area to be utilized for nutrient application.
5. Animal waste facilities shall be located no closer than three (3) miles from any incorporated municipality or rural residential district.
6. Animal waste facilities shall be located no closer than two (2) miles from any church, school, commercially zoned area, or residential dwelling, one dwelling unit is allowed on the facility site. The owner of a residential dwelling may request the Board of Adjustment to review the facility and the Board may, by variance, decrease the required separation distance. An Agricultural Use Covenant must then be recorded with the County Register of Deeds in order that any future owners can be informed.
7. Animal waste shall be transported no further than five (5) miles from the point of origination for land application.
8. Animal Waste Facilities shall be constructed according to specifications set forth by the Planning and/or County Commission, including the use of a scientifically proven odor reduction cover.
9. Animal Feeding Operations shall prepare a facility management plan. The plan shall be designed to dispose of dead animals, manure and wastewater in such a manner as to control odors or flies. The County Board of Adjustment will review the need for control measures on a site-specific basis, taking into consideration prevailing wind direction and topography. The following procedures to control flies and odors should be considered in a management control plan:
- A. Operational plans for manure collection, storage treatment and use must be kept updated and implemented;
  - B. Methods to be utilized to dispose of dead animals should be included in the management plan;
  - C. Plant trees and shrubs to reduce wind movement of odors away from buildings, manure storage ponds, and/or lagoons;
  - D. Provide adequate slope and drainage to remove surface water from pens and keep pen area dry so odor production is minimized;
  - E. Store solid manure in containment areas having good drainage to minimize odor production;
  - F. Remove manure from open pens as frequently as possible to minimize odor production;

- G. Shall use scientifically proven odor reduction covers on open storage systems for liquid manure systems to reduce odor production;
- H. Avoid spreading manure on weekends, holidays and evenings during warm season when neighbors may be involved in outdoor recreation activities; and
- I. Avoid spreading during calm and humid days, since these conditions restrict the dispersion and dilution of odors.

10. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is incorporated or injected:

- |                                                                 |            |
|-----------------------------------------------------------------|------------|
| A. Water Wells Less Than 500 Feet Deep                          | 1,000 feet |
| B. Lakes, Rivers, Streams Classified as a Drinking Water Supply | 1,000 feet |
| C. Lakes, Rivers and Streams Classified as Fisheries            | 150 feet   |
| D. All Public Road Right of Ways                                | 10 feet    |
| E. Incorporated Communities or Residential Districts            | 300 feet   |
| F. A Residence other than the Operators                         | 300 feet   |

11. Manure generated from Animal Feeding Operations shall comply with the following manure application setback requirements if it is irrigated or surface applied:

- |                                                                              |            |
|------------------------------------------------------------------------------|------------|
| A. Water Wells Less Than 500 Feet Deep                                       | 2,640 feet |
| B. Lakes, Rivers, Streams Classified as a Drinking Water Supply              | 2,640 feet |
| C. Lakes, Rivers and Streams Classified as Fisheries                         | 2,640 feet |
| D. All Public Road Right of Ways (Surface Applied)                           | 2,640 feet |
| E. All Public Road Right of Ways (Irrigated Application)                     | 5,280 feet |
| F. Incorporated Communities or Residential Districts (Surface Applied)       | 2,640 feet |
| G. Incorporated Communities or Residential Districts (Irrigated Application) | 5,280 feet |



- H. A Residence other than the Operators (Surface Applied) 2,640 feet
- I. A Residence other than the Operators (Irrigated Application) 5,280 feet

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## ARTICLE 6

### LOW DENSITY RURAL RESIDENTIAL (R1)

#### Section 601 Intent

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

#### Section 603 Permitted Principal Uses and Structures

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

1. Single-family dwellings;
2. Modular homes;
3. Horticulture; and
4. Governmental services.

#### Section 605 Permitted Accessory Uses and Structures

1. Home occupations and professional offices; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

#### Section 607 Conditional Uses

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

1. Churches;
2. Schools, public and private;
3. Day care centers;
4. Public recreational and park facilities;
5. Cemeteries;
6. Utility facilities;
7. Golf courses and driving ranges; and
8. Hobby farms.

Section 609 Classification of Unlisted Uses

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

Section 611 Prohibited Uses and Structures

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

Section 613 Minimum Lot Requirements

The minimum lot area shall be fifteen (15) acres.

The minimum lot width shall be five hundred (500) feet.

Section 615 Minimum Yard Requirements

There shall be a front yard of not less than a depth of one hundred (100) feet. There shall be a rear yard of not less than a depth of one hundred (100) feet. Each side yard shall not be less than fifty (50) feet. This shall apply to all buildings and structures, including decks, patios, and carports.

## ARTICLE 7

### MEDIUM DENSITY RURAL RESIDENTIAL (R2)

#### Section 701 Intent

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

#### Section 703 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Medium Density Rural Residential Districts (R2):

1. Single-family dwellings;
2. Modular homes;
3. Manufactured homes, pursuant to Section 1207;
4. Horticulture; and
5. Governmental services.

#### Section 705 Permitted Accessory Uses and Structures

1. Home occupations and professional offices; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

#### Section 707 Conditional Uses

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

1. Convenience stores;
2. Utility facilities;
3. Golf courses and driving ranges;
4. Hobby farms;
5. Churches;
6. Schools, public and private;
7. Public recreational and park facilities;

8. Cemeteries; and
9. Day care centers.

Section 709 Classification of Unlisted Uses

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

Section 711 Prohibited Uses and Structures

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

Section 713 Minimum Lot Requirements

The minimum lot area shall be six (6) acres.

The minimum lot width shall be two hundred (200) feet.

Section 715 Minimum Yard Requirements

There shall be a front yard of not less than a depth of one hundred (100) feet. There shall be a rear yard of not less than a depth of one hundred (100) feet. Each side yard shall not be less than fifty (50) feet. This shall apply to all buildings and structures, including decks, patios, and carports.

## ARTICLE 8

### HIGH DENSITY RURAL RESIDENTIAL (R3)

#### Section 801 Intent

The intent of High Density Rural Residential Districts (R3) is to provide for residential uses of small lots and other compatible uses in a pleasant and stable environment.

#### Section 803 Permitted Principal Uses and Structures

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

1. Single-family dwellings;
2. Modular homes;
3. Manufactured homes, pursuant to section 1207;
4. Horticulture; and
5. Governmental services.

#### Section 805 Permitted Accessory Uses and Structures

1. Home occupations and professional offices; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

#### Section 807 Conditional Uses

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

1. Convenience stores;
2. Golf courses and country clubs;
3. Hobby farms;
4. Multi-family dwellings;
5. Manufactured homes pursuant to section 1209;
6. Churches;
7. Schools, public and private;
8. Public recreational and park facilities;
9. Day care centers;
10. Utility facilities; and

11. Nursing, congregate care, and residential care facilities.

Section 809 Classification of Unlisted Uses

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

Section 811 Prohibited Uses and Structures

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

Section 813 Minimum Lot Requirements

The minimum lot area shall be two and one-half (2.5) acres.

The minimum lot area for multi-family dwellings in areas of two (2) units shall be two and one-half (2.5) acres and an additional ten thousand (10,000) square feet for each unit in excess of the first two (2).

The minimum lot width shall be one hundred (100) feet.

Section 815 Minimum Yard Requirements

There shall be a front yard of not less than a depth of seventy-five (75) feet. There shall be a rear yard of not less than a depth of fifty (50) feet. Each side yard shall not be less than twenty-five (25) feet. This shall apply to all buildings and structures, including decks, patio, and carports.



## ARTICLE 9

### PLATTED TOWN SITE RESIDENTIAL (R4)

#### Section 901 Intent

The intent of Platted Town Site Districts (R4) is to provide for residential uses of currently platted town sites, such as Hayes and Wendte, and other compatible uses in a pleasant and stable environment.

#### Section 903 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Platted Town Site Districts (R4):

1. Single-family dwellings;
2. Multi-family dwellings;
3. Manufactured homes pursuant to Section 1207;
4. Modular homes;
5. Horticulture;
6. Churches;
7. Schools, public and private;
8. Public recreational and park facilities;
9. Cemeteries;
10. Utility facilities;
11. Nursing, congregate care, and residential care facilities;
12. Medical and other health facilities;
13. Governmental services;
14. Game lodges; and
15. Day care centers.

#### Section 905 Permitted Accessory Uses and Structures

1. Home occupations and professional offices; and
2. Accessory uses and structures normally appurtenant to the permitted uses and structures when established within space limits of this district.

Section 907 Conditional Uses

After the provisions of this Ordinance, relating to conditional uses have been fulfilled, the Board of Adjustment may permit as conditional uses in Platted Town Site Districts (R4):

1. Convenience stores;
2. Manufactured homes pursuant to Section 1209;
3. Golf courses and driving ranges;
4. Fair and rodeo grounds;
5. Campgrounds;
6. Hobby farms;
7. Retail sales; and
8. Automobile-machinery service stations.

Section 909 Classification of Unlisted Uses

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

Section 911 Prohibited Uses and Structures

All uses and structures which are not specifically permitted as principal, accessory, or conditional uses or approved as such within the provisions of Section 909 shall be prohibited.

Section 913 Minimum Lot Requirements

The minimum lot area shall be seven thousand five hundred (7,500) square feet.

The minimum lot width shall be fifty (50) feet.

The minimum lot depth shall be one hundred (100) feet.

Section 915 Minimum Yard Requirements

There shall be a front yard of not less than a depth of twenty-five (25) feet. There shall be a rear yard of not less than a depth of twenty-five (25) feet. Each side yard shall not be less than eight (8) feet. This shall apply to all buildings and structures, including decks, patio, and carports.

## ARTICLE 10

### RURAL COMMERCIAL DISTRICT (RC)

#### Section 1001 Intent

The intent of the Rural Commercial District (RC) is to provide commercial areas for those establishments which can function most satisfactorily in an area directly related to a major vehicular circulation route due to the nature of the merchandise handled and the display space required, particularly items requiring expansive display area such as motor vehicles, trailers, and farm implements; the method of transport required of the purchaser for the merchandise handled, particularly goods customarily traded in bulk such as lumber or feed requiring access for the customer to the sales area; primary dependence upon vehicular, as opposed to pedestrian, access such as drive-in facilities and all types of automotive and farm implement services; or the clientele toward which the establishments are primarily oriented.

#### Section 1003 Permitted Principal Uses and Structures

The following principal uses and structures shall be permitted in Rural Commercial Districts (RC):

1. Retail sales;
2. Wholesale sales;
3. Funeral services and supplies;
4. Farm product warehousing;
5. Refrigerated warehousing;
6. Household goods warehousing;
7. General warehousing;
8. Automobile-machinery sales and repair;
9. Veterinary services;
10. Construction services;
11. Equipment garaging and maintenance;
12. Motor freight terminals;
13. Libraries, museums, historic sites, and auditoriums;
14. Miniature golf, arcades, gymnasiums, fitness centers, and skating rinks;
15. Parks;
16. Motor vehicle tracks or play areas;

17. Theaters, stadiums, fairgrounds, amusement parks, golf courses, riding stables, athletic fields, and swimming pools;
18. Utility facilities;
19. Automobile service stations;
20. Motels;
21. Off-site and on-site signs; and
22. Day care centers.

Section 1005 Permitted Accessory Uses and Structures

The following accessory uses and structures shall be permitted in Rural Commercial District (RC):

Accessory uses normally appurtenant to the permitted principal uses and structures when established in conformance within the space limits of this district.

Section 1007 Conditional Uses

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

1. Other trade and service uses which are similar to the permitted principal uses and which are in harmony with the intent of this district;
2. Campgrounds;
3. Any facility engaged in the manufacture, wholesale distribution, retail sale or storage of flammable or combustible liquids, or hazardous material; and
4. Grain elevators.

Section 1009 Classification of Unlisted Uses

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

Section 1011 Prohibited Uses and Structures

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

Section 1013 Minimum Lot Requirements

The minimum lot area shall be one (1) acre.

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

Section 1015 Minimum Yard Requirements

There shall be a front yard of not less than a depth of seventy-five (75) feet. There shall be a rear yard of not less than a depth of fifty (50) feet. Each side yard shall be not less than twenty-five (25) feet.

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## ARTICLE 11

### PLANNED UNIT DEVELOPMENT (PUD)

#### Section 1101 Intent

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

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

#### Section 1103 Application Procedure

1. An applicant for consideration under the terms of this district, who must be owner, lessee, or the holder of a written purchase option of the tract of land under consideration, shall submit to the County Planning Commission a site plan for the proposed planned unit development. The plan shall indicate:
  - A. The location and extent of the proposed planned unit development, including its relationship to surrounding properties;
  - B. The exact nature and extent of improvements to be developed or erected upon the tract, including contoured site plans, building plans and elevations, and plans for landscaping and paved areas, transportation patterns, and water and sewer services; and
  - C. Such other information as may be required by the County Planning Commission to determine if the proposed planned unit development is consistent with the intent of the district.
2. The County Planning Commission shall, within sixty (60) days of receiving the plan for the proposed planned unit development, consider such plan at a minimum of one regular County Planning Commission meeting. Upon consideration, the County Planning Commission shall inform the applicant in writing of its approval or denial

of the plan. In the event of denial, the Commission shall inform the applicant of the reason(s) for denial, including any recommended modifications in the plan, which would cause the Commission to reconsider.

3. Upon approval of the plan by the County Planning Commission, it shall forward its written recommendations to the Board of County Commissioners along with a copy of the approved plan, that the tract be designated a Planned Unit Development (PUD) by amendment of the Official Zoning Map.
4. Upon receiving the County Planning Commissioner's written recommendation, the Board of County Commissioners shall consider the amendment of the Official Zoning Map as provided elsewhere in this Title.
5. Following the amendment of the Official Zoning Map by the Board of County Commissioners, the County Zoning Administrator may, upon proper application, issue a building permit for construction of the planned unit development in accordance with the approved plan.

#### Section 1105 Subsequent Performance

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



## ARTICLE 12

### SUPPLEMENTARY DISTRICT REGULATIONS

#### Section 1201 Accessory Buildings

No accessory building shall be erected in any required yard area and no separate accessory building shall be erected within five (5) feet of any other building.

#### Section 1203 Erection of More than One Principal Structure on a Lot

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

#### Section 1205 Manufactured Homes

No manufactured homes shall be parked and occupied in any district for more than forty-eight (48) hours, except upon a special permit issued by the Zoning Administrator. Such permit shall be issued for a period not to exceed thirty (30) days and shall not be renewable within the same calendar year. Provided, however, a permit may be issued for parking and occupying a manufactured home on land owned by the occupant or occupants, during the construction of a house thereon or for a period not exceeding one hundred eighty (180) days and which shall be renewable for an additional period not exceeding one hundred eighty (180) days. However, if material progress with house construction is not made within forty-five (45) days from the issuance of a permit, or if construction work ceases for a consecutive period of forty-five (45) days, said permit shall become void. This section shall not be applicable when a manufactured home is used for agricultural-related (non-human habitation) purposes.

#### Section 1207 Manufactured Home Performance Standards I

Manufactured homes placed, as Permitted Principal Uses in the Medium and High Density Residential Districts or Platted Town Site Districts shall comply with the following requirements:

1. The roof shall be shingled with conventional roofing products;
2. The pitch of the main roof shall be not less than one (1) foot of rise for each three (3) feet of horizontal run;
3. The exterior walls shall be encased with conventional house siding; flat or corrugated sheet metal is prohibited;
4. A wood or masonry foundation shall form a complete enclosure under the exterior walls;
5. The minimum width of the main body of the manufactured home as assembled on the site shall not be less than twenty (20) feet, as measured across the narrowest portion;

6. The running gear and hitch shall be removed;
7. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design;
8. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards; and
9. Prior to placement of home on the foundation, the County Zoning Administrator must approve the foundation.

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

#### Section 1209 Manufactured Home Performance Standards II

Manufactured homes placed as Conditional Uses in the High Density Residential Districts and Platted Town Site Districts or as Permitted Principal Uses in the Agriculture District shall comply with the following requirements:

1. The roof shall be shingled with conventional roofing products;
2. The pitch of the main roof shall be not less than one (1) foot of rise for each three (3) feet of horizontal run;
3. The exterior walls shall be encased with conventional house siding; flat or corrugated sheet metal is prohibited;
4. The minimum width of the main body of the manufactured home as assembled on the site shall not be less than fourteen (14) feet, as measured across the narrowest portion;
5. The manufactured home shall be skirted with a material which is not highly combustible and installed around the perimeter of the home from the bottom of the home to the ground;
6. Anchored to the ground to resist tipping and lateral movement in the manner contemplated by the manufactured design; and
7. The manufactured home shall meet or exceed the federal HUD Manufactured Home Construction and Safety Standards.

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

#### Section 1211 Manufactured Home Parks

A manufactured home park may be established in specified districts according to the procedures for granting an Conditional Use, provided, that the proposed manufactured home park meets all the following requirements:

1. No manufactured home park lot or office or service building shall be closer to a street right-of-way or other property line than seventy-five (75) feet;
2. The margins along the side and rear property lines shall be densely planted to coniferous or cedar trees for a depth of not less than twenty-five (25) feet and shall be properly landscaped;
3. Individual manufactured home lots shall have an area of not less than eight thousand (8,000) square feet and the total number of lots per gross acre shall not exceed five (5);
4. A minimum of twenty-five (25) feet measured from any entrance, lean to or other extension from said manufactured home shall be maintained between manufactured homes;
5. A request for an Conditional Use shall set forth the location and legal description of the proposed manufactured home park property, and a sketch of the proposed manufactured home park, showing dimensions, driveways, proposed locations of manufactured homes, the location of sanitary conveniences, and other buildings and improvements; and
6. Certification of compliance with all resolutions, ordinances, and regulations, regarding manufactured park licensing, and zoning, health, plumbing, electrical, building, fire prevention, and all other applicable ordinances and regulations shall be a prior requirement for granting said Conditional Use.

Section 1213 Shelterbelts

Shelterbelts must comply with the following regulations:

1. No row of trees shall be within sixteen (16) feet of the road right of way; and
2. A minimum of five (5) rows of trees and a minimum of sixteen (16) feet between each row.

Section 1215 Off-Site Signs

Off-site signs may be established in Rural Commercial Districts as conditional uses according to the provisions set forth in this Section, SDCL 31-29 and ARSD 70:04:03:

1. Sign(s) or sign structure(s) shall not exceed thirty (30) feet in height and sixty (60) feet in width;
2. The sign face(s) shall not exceed six hundred (600) square feet per site and direction of viewing;
3. A sign structure shall not be sited within a one thousand (1,000) foot radius of any other off-site sign intended to be read from the same road rights-of- way;
4. A sign shall not be within a three hundred (300) foot radius of any other off-site sign intended to be read from a different road right-of-way;
5. No sign shall utilize blinking, revolving or flashing lights;
6. No part of the sign structure or face shall be located in or intrude into a required yard or public road right-of-way; and
7. The light from illuminated signs shall be shielded or directed to avoid adverse affect on surrounding premises or the vision of motor vehicle operators traveling public roads.

Section 1217 Off-site Sign Exemptions

The following off-site signs shall be exempt from this Section:

1. Personal or nonprofit directional or address signs less than thirty-two (32) square feet;
2. On site signs or signs placed on property owned by and adjacent to the advertised business; and
3. Political campaign signs provided the signs are removed within five (5) days after the election.

Section 1219 Prohibited Signs

The following signs shall be prohibited:

1. Vehicle or trailer signs which display advertising to the public right-of-way; and
2. Signs that imitate an official traffic sign or are of a size, location, movement content, coloring or manner of illumination that may be confused as a traffic control device or which may conceal any traffic control device or directional sign.

Section 1221 Maintenance and Removal

All off-site signs shall be maintained in good structural and aesthetic condition at all times. Any abandoned, unsafe or unsightly sign shall be renovated or removed within sixty (60) days of written notice. If the owner of said sign fails to comply with the written order the County may remove such sign at the owner's expense.

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## ARTICLE 13

### ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

#### Section 1301 Stanley County Zoning Administrator

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

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

#### Section 1303 Right of Entry

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

When the Zoning Administrator or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Zoning Administrator or an authorized representative for the purpose of inspection and examination pursuant to this ordinance.

#### Section 1305 Stanley County Planning Commission

The Stanley County Commission shall appoint a Planning Commission, as provided in SDCL 11-2-2. The County Planning Commission shall consist of three (3) rural at large members, one (1) city at large member and one (1) county commissioner. The term of each of the appointed members of the County Planning Commission shall be for three (3) years; provided, that when the Planning Commission is first appointed, the lengths of the terms shall be varied so that no more than two (2) of the terms shall expire in the same year. Any appointed member of the County Planning Commission may be removed for cause, after hearing prior to the expiration of their term by a majority vote of the elected members of the

Board of County Commissioners. Administrative officials of the county may be appointed as ex officio members of the commission. All meetings shall be open to the public, except as provided by SDCL 1-25-5.

Upon notification of a request for an appeal variance or conditional use or any part thereof the Planning Commission shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to section 1503 (3-5). Any person may appear and request or protest the proposed change. The Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommend action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

The Planning Commission shall adopt rules necessary for the conduct of its affairs and keeping with the provisions of this Ordinance including the selection of a Chairperson and Vice-Chairperson. The term of the Chairman and Vice-Chairman shall be for one (1) year. At the end of the one (1) year, the Vice-Chairman previously selected shall become the Chairman. The Planning Commission shall keep a record of all proceedings. Meetings shall be regularly scheduled and held at the call of the Chairman, at such other times as the Planning Commission may determine, but in no event, shall the Commission meet less than once (1) every three (3) months. The Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Planning Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed with the Secretary of the Planning Commission. The Planning Commission shall adopt from time to time, additional regulations, as it may deem necessary to carry appropriate provisions of this Ordinance into effect.

#### Section 1307 Stanley County Board of Adjustment

The Stanley County Commission shall serve as the Board of Adjustment. The Board of Adjustment is hereby designated to hear all requests for variances, conditional uses and zoning appeals. The Board of Adjustment may, in specific cases to avoid unwarranted hardship which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, make upon an affirmative vote of two-thirds (2/3) of the full membership of the Board of Adjustment, conditional uses or grant variances to the terms of this ordinance.

Upon notification of a request for an appeal variance or conditional use or any part thereof the Board of Adjustment shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to section 1503 (3-5). Any person may appear and request or protest the proposed change. The Board shall discuss the application and formulate a decision. The decision should be in the form of a motion clearly stating the Board's decision and the reasons supporting said decision. All requests shall be in accordance with Article 15. Appeals of a Board decision shall be done pursuant to section 1603.

The Zoning Administrator shall act, as secretary to the Board of Adjustment when acting in zoning cases, but shall take no part in the deliberations. Meetings of the Board of Adjustment acting in zoning cases shall be held at the call of the Chairperson and at such other times, as the Board shall determine. Such Chairperson, or in their absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.



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

Section 1309 Stanley County Commission

The County Commission may amend, supplement, change, modify, or repeal any regulation, restriction, boundary, or enforcement provision established in the zoning ordinance or adjuncts thereto. The County Commission shall forward a copy of the proposed changes to the Planning Commission for public review. Upon receipt of the comments from the Planning Commission the County Commission shall provide a notice of public hearing pursuant to section 1503 (3-5). The County Commission shall thereafter either adopt or reject such amendment, supplement, change, modification, or repeal. If adopted the County Commission shall direct the Planning Commission to prepare a summary of the action. Upon completion of the summary the states attorney shall review the same and direct the County Auditor to have said summary published once in a legal newspaper of the municipality and take effect on the twentieth day after its publication.

Section 1311 Building Permits Required

No building or other structure shall be erected, moved, added to, or use changed without a permit issued by the Zoning Administrator. No building permit shall be issued by the Zoning Administrator except in conformity with the provisions of this Ordinance unless they received a written order from the Board of Adjustment in the form of an administrative review, conditional use, or variance as provided by this Ordinance.

Section 1313 Application for Building Permit

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

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

1. Location and topography of the proposed structure(s), including adjacent property owners and proximity to federal, state highways, and to county, township or city roads;
2. A north arrow;
3. The actual dimensions and shape of the lot to be built upon;
4. The exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration;

5. Property lines and square footage of the proposed structure(s);
6. Location and dimensions of all easements and right-of-ways;
7. General street and pedestrian walkway plan;
8. General utility, water, and sewer plan with proximity and proposed connection to municipal utilities; and
9. Site drainage plan and development impact on culverts, etc.

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

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

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

#### Section 1315 Expiration of Building Permits, Conditional Uses and Variances

If the work described in any building permit, conditional use or variance has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Zoning Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the canceled permit, shall not proceed unless and until a renewed permit has been obtained at no additional cost unless substantial changes have been made to the initial permit application.

#### Section 1317 Construction and Use to be as Provided in Application, Plans, Permits, and Application for Zoning Compliance

Building permits issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance, and punishable as provided by Section 2003 of this ordinance.

#### Section 1319 Schedule of Fees, Charges, and Expenses

The Stanley County Commission shall establish a schedule of fees, charges, and expenses and a collection procedure for variances, conditional uses, amendments, appeals and other matters pertaining to

this Ordinance. The schedule of fees shall be posted in the office of the Zoning Administrator and may be altered or amended only by the Stanley County Commission. Until all application fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 1321 Building Permit in a Conspicuous Place

All building permits issued by the Zoning Administrator must be placed in a conspicuous location on the building site for the duration of the construction of work described.

Section 1323 Agricultural Use Covenant Required

All building permits for structures on less than forty acres of land or requests for rezoning of agricultural land shall be accompanied by an Agricultural Use Covenant as defined herein. Said covenant must be approved by the County Zoning Administrator and recorded in accordance with SDCL prior to issuance of the building permit or commencement of the rezoning process.

Section 1323 Bad Actor Legislation

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

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## ARTICLE 14

### PLANNING COMMISSION

#### Section 1401 Powers and Duties

The Planning Commission shall have the power to hear requests for conditional uses, variances, amendments, change in zones and appeals of a decision rendered by the Zoning Administrator or other official.

#### Section 1403 Appeals

Any decision rendered by the Zoning Administrator may be appealed to the Planning Commission. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Planning Commission, that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the County Commission or by a court of record on application or notice to the officer for whom the appeal is taken and on due cause shown. The County, appellant and Planning Commission shall act upon appeals pursuant to Section 1503.

#### Section 1405 Conditional Uses

The Planning Commission shall have the power to hear and make recommendations, in accordance with the provisions of this Ordinance, to decide such questions as are involved in determining whether conditional uses should be recommended for approval; and to recommend for approval conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to recommend denial on conditional uses when not in harmony with the purpose and intent of this Ordinance. The Commission shall not review a conditional use request unless and until all documents required for said use have been satisfactorily completed and all required fees have been paid in full.

The Planning Commission shall review all conditional use applications at an official public hearing of the Commission. Notice of the time and place of the hearing shall be given pursuant to Section 1503 (3-5). The Commission shall discuss each application in accordance with Section 1505 (6) and recommend an action. The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

#### Section 1407 Variances

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

The Planning Commission shall review all variance applications at an official public hearing of the Commission. Notice of the time and place of the hearing shall be given pursuant to Section 1503 (3-5). The Commission shall discuss each application in accordance with Section 1507 and recommend an action. The recommendation should be in the form of a motion clearly stating the Commission's recommended action. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

In recommending approval of any variance, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 2003 of this Ordinance.

Under no circumstances shall the Planning Commission recommend approval of 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.

#### Section 1409 Amendments and Rezoning

The Planning Commission shall have the power to hear and make recommendations, in accordance with provisions of this Ordinance, on requests for change in zoning. Upon notification of a proposed revision, modification, change or amendment to the zoning ordinance or any part thereof the Planning Commission shall schedule a public hearing. Notice of the time and place of the hearing shall be given pursuant to Section 1503 (3-5). Any person may appear and request or protest the proposed change. The Commission shall not review an amendment for rezone unless and until all documents required for application for said request have been satisfactorily completed and all required fees have been paid in full.

The Planning Commission shall review all applications for amendments or rezones at an official public hearing of the Commission. The Commission shall discuss the application and formulate a recommended action. The recommendation should be in the form of a motion clearly stating the Commission's recommendation. The Commission shall forward its recommendation to the Board of Adjustment at least ten (10) days in advance of the Board of Adjustment meeting at which the application is being considered.

In recommending approval of any petition for change in zone or amendment, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the change in zone is granted, shall be deemed a violation of this Ordinance and punishable under Section 2003 of this Ordinance.

## ARTICLE 15

### BOARD OF ADJUSTMENT

#### Section 1501 Powers and Duties

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

#### Section 1503 Appeals

The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Planning Commission based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map. Prior to hearing an appeal the following requirements shall be completed.

1. The Planning Commission shall have reviewed the application pursuant to Section 1403 of this Ordinance;
2. The applicant or any other person aggrieved by the decision of the Zoning Administrator or Planning Commission shall file a written appeal with the Zoning Administrator within five working days of the decision;
3. The Zoning Administrator or Planning Commission secretary from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed was taken;
4. Notice of the hearing date shall be given at least ten (10) days in advance by publication in a legal newspaper of the county;
5. Written notice shall be sent to the appellant, applicant and all owners of real property lying within one hundred and fifty (150) feet of the property on which the appeal is pending, if a particular piece of property is in question. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date;
6. A notification sign shall be posted on the property upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along all along the property's street frontage so as to be visible from the street. If a property does not have a street frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said signs shall be not less than one hundred and eighty seven (187) square inches in size. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearings;

7. The Zoning Administrator or Planning Commission Chairperson shall present their decision to the Board of Adjustment for review; and
8. The Board of Adjustment shall uphold, overrule or amend the decision pending before the Board.

Section 1505 Conditional Uses

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

1. The applicant shall specifically cite, within the application the section of this ordinance under which the conditional use is sought and stating the grounds on which it is requested;
2. The Planning Commission has reviewed the application pursuant to Section 1405 of this Ordinance;
3. Notice of public hearing shall be given, as in Section 1503 (3-5) above;
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 conditional use, grant with conditions, or deny the conditional use, and that the granting of the conditional use will not adversely affect the public interest; and
6. Before any conditional use is issued, the Board of Adjustment shall make written findings certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
  - A. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
  - B. Off-street parking and loading areas where required; with particular attention to the items in (A) above and the economic, noise, glare or odor effects of the conditional use on adjoining properties and properties generally in the district;



- C. Refuse and service areas, with particular reference to the items in (A) and (B) above;
- D. Utilities, with reference to locations, availability, and compatibility;
- E. Screening and buffering with reference to type, dimensions, and character;
- F. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- G. Required yards and other open spaces; and
- H. General compatibility with adjacent properties and other property in the district.

Section 1507 Variances

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

1. No such variance shall be authorized by the Board of Adjustment unless it finds that the strict application of the ordinance would produce undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the grant of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, and caprice.
2. No variance shall be authorized unless the Board of Adjustment finds that the condition or situation of the property concerning or the intended use of the property concerned, or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment of this ordinance.
3. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until a written application for a variance is submitted demonstrating that special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings, in the same district; 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; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the same district.

4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.
5. The Planning Commission has reviewed the application pursuant to Section 1407 of this Ordinance.
6. Notice of public hearing shall be given, as in Section 1503 (3-5) above.
7. The public hearing shall be held. Any party may appear in person for by agent or by attorney.
8. The Board of Adjustment shall make findings that the requirements of this Section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; the Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
9. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 2003 of this ordinance.
10. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

**ARTICLE 16**  
**COUNTY COMMISSION**

Section 1601 Powers and Duties

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

Section 1603 Appeals

The County Commission shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator, Planning Commission, or Board of Adjustment based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map. The County Commission until will not hear an appeal:

1. The applicant or any other person aggrieved by the decision of the Zoning Administrator, Planning Commission, or Board of Adjustment shall have followed the applicable appeal procedures pursuant to Articles 14-15.
2. The applicant shall file a written appeal of the Board of Adjustments decision with the Zoning Administrator within five working days of the decision.
3. The Zoning Administrator or Board Chairperson from whom the appeal is taken shall forthwith transmit to the County Commission all the papers constituting the record upon which the action appealed was taken.
4. Notice of public hearing shall be given, as in Section 1503 (3-5) above.
5. The administrative official or Board chairperson shall present their decision to the County Commission for review.
6. The County Commission shall either uphold, overrule or amend the decision of the Zoning Administrator or Board of Adjustment.

Section 1605 Change in Zone

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

1. The individual petitioner provides a completed change in zone request. Said request must clearly state that special conditions and circumstances exist which require the land to be rezoned; that the special conditions and circumstances do not result from the actions of the applicant; and that granting the change in zoning will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structure, or buildings in the area.

2. The Planning Commission has reviewed the application pursuant to Section 1409 of this Ordinance.
3. Notice of public hearing shall be given, as in Section 1503 (3-5) above.
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 findings that the requirements of this Section have been met by the applicant for a change in zone; the Board shall further make a finding that the reasons set forth in the application justify the granting of the change in zone, and the change in zone will make possible the reasonable use of the land, building, or structure; the Board of Adjustment shall further make a finding that the granting of the change in zone will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
6. No petition for change in zone shall be authorized unless the Board of Adjustment finds that the condition, situation or the intended use of the property concerned is not of so general or recurring a nature as to make reasonably practicable the change in zone.
7. Nonconforming use of neighboring lands, structures, or buildings in the same district, and permitted or nonconforming use of lands, structures or buildings in other districts shall be considered as reasons for the issuance of a change in zone.
8. In granting any petition for change in zone, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the change in zone is granted, shall be deemed a violation of this ordinance and punishable under Section 2003 of this ordinance.

## **ARTICLE 17**

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

Section 1701 Duties of Zoning Administrator, Planning Commission, Board of Adjustment, County Commission and Courts on Matters of Appeal

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, then the Board of Adjustment and that such questions shall be presented to the County Commission only on appeal from the decision of the Board of Adjustment, and that recourse from the decisions of the County Commission shall be to the Court of Record.

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## ARTICLE 18

### AMENDMENTS

#### Section 1801   Regulations

The regulations, restrictions, and boundaries set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed, provided that such modification or repeal in each instance be proposed in an ordinance presented to the governing body for adoption in the same manner and upon the same notice as required for the adoption of the original ordinance.

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

1. Notice of the hearing date shall be given at least ten (10) days in advance by publication in a legal newspaper of the county;
2. Written notice shall be sent to the appellant, applicant and all owners of real property lying within one hundred and fifty (150) feet of the property on which the appeal is pending, if a particular piece of property is in question. The notice shall be given to each owner of record by depositing such notice in the United States Post Office not less than ten (10) days prior to the hearing date;
3. A notification sign shall be posted on the property upon which action is pending at least seven (7) days prior to the hearing date. Such signs shall be placed along all along the property's street frontage so as to be visible from the street. If a property does not have a street frontage, then such signs shall be placed upon the closest available right-of-way and upon the property. Said signs shall be not less than one hundred and eighty seven (187) square inches in size. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearings;
4. The Planning Commission shall hold the Public Hearing, review the proposed amendment(s) and make recommendations to the County Commission;
5. Notice of the time and place of the County Commission hearing shall be given pursuant to Section 1801 (1-3);
6. The County Commission shall hold the Public Hearing, review the proposed amendment(s) and by resolution or ordinance deny or pass the recommendations;
7. If the changes are adopted the Planning Commission shall prepare a summary of the changes;

8. Once the summary is prepared the States Attorney shall review the changes and forward the changes to the County Auditor for publishing; and
9. The summary of changes must be published once in the in the County's legal newspaper(s). The changes will take effect 20 days after publication.



## ARTICLE 19

### NONCONFORMANCE

#### Section 1901 General

Within the districts established by this Ordinance or amendments that may later be adopted, there exists (a) lots, (b) structures, (c) uses of land and structures, and (d) characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment; it is the intent to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of structure and land in combination shall not be extended or enlarged after passage of this revised Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally 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 and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

#### Section 1903 Nonconforming Lots of Record

In any district in which dwellings are permitted, a dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. 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 lots fail to meet requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located.

Variance of other yard requirements shall be obtained only through action of the Planning Commission.

#### Section 1905 Nonconforming Uses of Land (or Land with Minor Structures Only)

Where at the time of passage of this revised Ordinance lawful use of land exists, which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding one thousand (1,000) dollars, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;
3. If any such nonconforming use of land ceases, for any reason, for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and
4. No additional structure, not conforming to the requirement of this Ordinance, shall be erected in connection with such nonconforming use of land.

Section 1907 Nonconforming Structures

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

1. No such nonconforming structure may be enlarged or altered in any way, which increases its nonconformity, but any structure, or portion thereof, may be altered to decrease its nonconformity;
2. Should such nonconforming structure, or nonconforming portion of structure, be destroyed by any means, to an extent of more than seventy-five (75) percent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance; and
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

Section 1909 Nonconforming Uses of Structures or of Structures and Premises in Combination

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

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

Section 1911 Uses Under Conditional Use Provisions are Conforming Uses

Any use which is permitted as a conditional use in a district, under the terms of this Ordinance, shall be deemed a conforming use in such district without further action. A nonconforming use can never be allowed in a defined district without a change in the district definition or boundaries.

Permitted Principal Uses	Conditional Uses	Nonconforming
Allowed within defined district.	Allowed within defined district AFTER Board grants permission.	Never allowed within defined district without change in district definitions or boundaries.

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## ARTICLE 20

### VIOLATIONS, COMPLAINTS, PENALTIES, AND REMEDIES

#### Section 2001 Complaints Regarding Violations

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

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, they shall notify, in writing by certified mail with return receipt, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The party responsible for the violation shall respond within seven (7) working days from receipt of the letter; otherwise, they will be considered in violation and punishable under Section 2003.

#### Section 2003 Penalties for Violations

The owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist, or lessee or tenant of an entire building or entire premises in or upon which such violation shall exist, shall be guilty of a Class II misdemeanor and shall be punished by a fine not to exceed two hundred dollars (\$200) or imprisonment for not more than thirty (30) days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be a separate offense.

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

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Ordinance, appropriate authorities of the county may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

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## **ARTICLE 21**

### **LEGAL STATUS PROVISIONS**

#### Section 2101 Separability

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

#### Section 2103 Purpose of Sub-Titles

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

#### Section 2105 Repeal of Conflicting Ordinances

All ordinances or parts of resolutions in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

#### Section 2107 Effective Date

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

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