

2009 Revised Zoning Ordinance
for
Lincoln County

ORDINANCE NO. 0904-05

EFFECTIVE DATE: MAY 20, 2009

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Article 1.00
Title and Purpose

1.01 Title. These regulations may be referred to as the 2009 Revised Zoning Ordinance for Lincoln County.

1.02 Purpose. These regulations have been based upon the Lincoln County Comprehensive Development Plan adopted on December 6, 2005 by the Board of County Commissioners, and are in conformance with Chapter 11-2 of the South Dakota Compiled Laws. These regulations are designed to carry out the goals and objectives of the plan, but especially to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration or scattering of population; and to encourage a distribution of population or mode of land utilization that will facilitate the economical and adequate provision of transportation, water, drainage, sewerage, schools, parks, or other public requirements. These regulations have been made with reasonable consideration to the character and intensity of the various land uses and the need for public facilities and services that would develop from those uses. These regulations are necessary for the best physical development of the county. The regulations are intended to preserve and protect existing property uses and values against adverse or unharmonious adjacent uses by zoning all unincorporated land except those areas where joint zoning jurisdiction has been granted to a municipality.

Article 2.00
Districts and Boundaries

2.01 Application of Regulations and Boundaries. The regulations and zoning district boundaries set forth in this ordinance shall apply to all unincorporated land within Lincoln County except those areas which have been approved for municipal joint zoning jurisdiction.

2.02 Districts Designated. In order to regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of a lot that may be occupied; the size of the yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes; the county is hereby divided into the following districts:

A-1 Agricultural	I-1 Industrial
RR Rural Residential	I-2 Industrial
R-1 Residential	RC Recreation/Conservation
C Commercial	PD Planned Development

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

APO Aquifer Protection

2.03 Incorporated by Reference. The following are hereby adopted and incorporated by reference:

- A. The official zoning map(s) of the 2009 Revised Zoning Ordinance, together with all the explanatory matter thereon and attached thereto, is hereby adopted by reference and is declared to be a part of these regulations. The maps shall be filed with the Register of Deeds.
- B. The Flood Insurance Rate Map and Flood Insurance Study is hereby adopted by reference and declared to be a part of these regulations. Areas shown as Zone A or AE on the FIRM but which are zoned A-1 Agricultural on the zoning map shall be governed by the provisions of the RC Recreation/Conservation District.
- C. The approved plans submitted in conjunction with any Planned Development are hereby adopted by reference and declared to be a part of these regulations.

2.04 Boundaries of Districts; Maps. The boundaries of the districts are shown upon the maps which have been made a part hereof by reference. The various districts and their boundaries which have been designated on these maps shall have the same force and effect as if they were all fully set forth herein.

2.05 Rules Where Uncertainty as to Boundaries Arises. Where uncertainty exists with respect to the boundaries of the various districts shown on the maps accompanying and made a part of these regulations by reference, the following rules apply:

- A. The district boundaries are roads unless otherwise shown, and where the districts are bounded approximately by roads, the road shall be construed to be the boundary of the district.
- B. Where the property has been or may hereafter be divided into blocks and platted lots, the district boundary shall be construed to coincide with the nearest platted lot lines; and where the districts are bounded approximately by platted lot lines, the platted lot lines shall be construed to be the boundary of the district, unless the boundaries are otherwise indicated on the maps.
- C. In unplatted property, the district boundary lines shall be determined by use of the scale appearing on the map or the legal description as indicated.

2.06 Vacation of Streets and Roads. Whenever any street, road or other public way is vacated, the zoning district adjoining each side of such street, road, or other public way is extended to the center of such vacation; and all area included in the vacation shall then and henceforth be subject to the appropriate regulations of the extended districts.

Article 3.00
A-1 Agricultural District

3.01 Intent. It shall be the intent of this district to provide for a vigorous agricultural industry by preserving for agricultural production those agricultural lands beyond areas of planned urban development. It is recognized that because of the nature of both agricultural activities and residential subdivisions, that these two uses are generally poor neighbors and therefore a concentration of housing in the A-1 Agricultural District shall be discouraged.

3.02 Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the A-1 Agricultural District:

- A. Agriculture.
- B. A single-family dwelling if the following provisions for building eligibility are met:
 - 1. Each quarter-quarter section shall have one building eligibility when all the following conditions are met:
 - a. There are no other dwellings on the quarter-quarter section.
 - b. The building site shall be a minimum of one acre.
 - c. Approval has been granted by the appropriate governing entity for access onto a public road.
 - d. The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use.
 - e. Prior to any building permit being issued for any new single family residence located in the A-1 Agriculture District, a Right to Farm Covenant shall be filed with the Lincoln County Register of Deeds on the parcel of land upon which the new structure will be located. Only the following shall constitute a Right to Farm Covenant: **“RIGHT TO FARM NOTICE COVENANT**
You are hereby notified that the property on which you are constructing a structure is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations. Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. If you live near an agricultural

area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs, successors or assigns and because it is required pursuant to the issuance of a building permit, may not be removed from the record title without consent of the Lincoln County Planning Commission.”

- C. Elementary or high school.
- D. Historical sites.
- E. Church.
- F. Neighborhood utility facility.
- G. Antenna support structure.
- H. Minor home occupation in conformance with Section 12.0301.

3.03 Permitted Special Uses. A building or premises may be used for the following purposes in the A-1 Agricultural District in conformance with the requirements prescribed herein. A building or premises intended to be used for the following purposes, where the prescribed requirements will not be met, shall obtain a conditional use in conformance with the requirements of Article 19.00:

- A. A building eligibility may be used within a farmstead provided:
 - 1. The building eligibility exists on property contiguous to and under the same ownership as the farmstead.
 - 2. There will be no more than two dwellings within the farmstead.
 - 3. The residential structure may be a single-family dwelling, manufactured home, or mobile home.
- B. Wind energy conversion system in conformance with Article 12.02.
- C. Off-premise signs in conformance with Article 17.00.
- D. Greenhouses and nurseries provided there is no retail sale of products conducted on the premises.
- E. A single-family dwelling located on a lot of record in accordance with the following:

1. A lot of record consisting of less than 80 acres and containing no other dwellings shall have one building eligibility.
 2. A lot of record consisting of 80 acres or more shall qualify for building eligibility as follows:
 - a. The acreage of the lot of record shall be divided by 40 acres. The resulting whole number minus the number of existing dwellings shall represent building eligibility.
 - b. If there is more than one building eligibility, each additional building site shall be required to obtain a conditional use.
 3. Approval has been granted by the appropriate governing entity for access onto a public road.
 4. Any parcel conveyed from a lot of record must be a minimum of one acre. The remaining portion of the lot shall be retained as agricultural land or in its present use.
- F. Concentrated Animal Feeding Operation (Class D) provided:
1. The operation shall meet the requirements of Section 12.09 (D)(5) and Section 12.09 (F).
 2. The operation shall not be in the Aquifer Protection Overlay District, over a mapped shallow aquifer or a flood plain.
- G. Concentrated animal feeding operation (existing) shall be allowed to expand by up to 300 animal units provided:
1. The operation is located in a farmstead or property contiguous to.
 2. The operation shall not be located in the Aquifer Protection Overlay District, over a mapped shallow aquifer or a flood plain.
 3. The operation shall not exceed 500 animal units.
 4. There is conformance with South Dakota Department of Environment and Natural Resources design standards for any newly constructed waste containment facility. A registered professional engineer shall certify the plan specifications and the construction of the facility.
 5. Approval by the Planning Director of a nutrient management plan which has been prepared in conformance with the South Dakota Department of Environment and Natural Resources standards.

6. The operation shall meet the requirements of Table 1 in Section 12.09 (D)(5) and Section 12.09 (F).

3.04 Conditional Uses. A building or premises may be used for the following purposes in the A-1 Agricultural District if a conditional use has been obtained in conformance with the requirements of Article 19.00:

- A. Rock, sand, or gravel extraction in conformance with Article 12.07.
- B. Mineral exploration in conformance with Article 12.04.
- C. Airport/heliport.
- D. Group day care.
- E. Private campground.
- F. Garden center.
- G. Kennel.
- H. Stable.
- I. Roadside stand.
- J. Fireworks sales provided the length of sales does not exceed nine (9) days.
- K. Golf course, golf driving range.
- L. Private outdoor recreation facility.
- M. Trap shoot, rifle range, pistol range.
- N. Public facility owned and operated by a governmental entity.
- O. Telecommunication and broadcast tower in conformance with Article 12.11.
- P. Bed and breakfast establishment.
- Q. Sanitary landfill, solid waste transfer station, rubble dump, commercial compost site.
- R. Sewage disposal pond.
- S. Cemetery.
- T. Pet cemetery.

- U. Livestock sales barn.
- V. Concentrated Animal Feeding Operation - New (Class A, B, or C).
- W. Electrical substation.
- X. Public utility facility.
- Y. Agriculturally related operations involving the handling, storage, transporting and shipping of farm products.
- Z. The transfer of a building eligibility from one parcel to another parcel when all the following conditions are met:
 1. The transfer of building eligibility shall occur only between contiguous parcels under the same ownership. For purposes of this section, same ownership means: Two or more parcels of land owned or controlled by an individual or combination of individuals, corporations, partnerships, or other legal entities; with said owners described uniformly on the deed or other legally binding conveyance of each parcel.
 2. Suitability as a building site based on the following factors:
 - a. Agricultural productivity of the soil.
 - b. Soil limitations.
 - c. Orientation of the building site(s) with respect to road circulation and access to public rights-of-way.
 3. The minimum lot size shall be one acre but a larger area may be required when soil conditions warrant.
 4. The parcel from which the eligibility is transferred shall continue as agricultural land or remain in its present use.
 5. Approval has been granted by the appropriate governing entity for access onto a public road.
- AA. Manufactured home in conformance with Article 12.05(C) if there is building eligibility on the parcel.
- BB. Major home occupation in conformance with Sections 12.0302 and 12.0303.
- CC. Facilities for the storage and distribution of anhydrous ammonia.

DD. Operations related to the recycling, handling, grinding, processing, storage and shipment of wood and wood products.

EE. Hunting lodge.

3.05 Accessory Uses. Accessory uses and buildings permitted in the A-1 Agricultural District are buildings and uses customarily incident to any permitted use in the district.

3.06 Parking Regulations. All parking within the A-1 Agricultural District shall be regulated in conformance with the provisions of Article 15.00.

3.07 Sign Regulations. Signs within the A-1 Agricultural District shall be regulated in conformance with the provisions of Article 16.00.

3.08 Density, Area, Yard and Height Regulations. The maximum height and minimum lot requirements within the A-1 Agricultural District shall be as follows:

A. General Requirements:

- Lot area.....1 acre *
- Lot width125'
- Front yard30' **
- Side yard7'
- Rear yard30'
- Maximum height35' ***

- * Unless a larger lot size is required by the granting of a conditional use permit.
- ** The front yard on a major arterial street or section line road shall be 50 feet.
- *** There shall be no height limit for farm structures or wind energy conversion systems.

- B. There shall be a required front yard on each street of a double frontage lot.
- C. If a lot of record has less area or width than herein required and its boundary lines along the entire length abutted lands under other ownership on August 3, 1995, and have not since been changed, such parcel of land may be used for any use permitted in this district.
- D. Buildings with side yard setbacks less than required herein may have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building.
- E. Buildings may be located within the required front yard but no closer to the public right-of-way than a legal nonconforming building provided the building is no greater than 150 feet from the nonconforming building.

Article 4.00
RR Rural Residential District

4.01 Intent. This district is intended to protect a vigorous agricultural industry by limiting the areas in which the RR Rural Residential District can be used. The RR Rural Residential District, where permitted, shall generally be located where provisions can be made to adequately handle sewage disposal, where the value of the land for agricultural use is marginal, and where the water supply, roads and emergency services are easily and economically available.

4.02 Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the RR Rural Residential District:

- A. Single family dwelling.
- B. Public park, playground or swimming pool.
- C. Neighborhood utility facility.

4.03. Permitted Special Uses. A building or premises may be used for the following purposes in the RR Rural Residential District in conformance with the conditions prescribed therein or by obtaining a Conditional Use for such use in conformance with the requirements of Article 19.00:

- A. Church subject to:
 - 1. Said building being adjacent to an arterial street or section line road.
- B. Elementary and high school subject to:
 - 1. One of the principle frontages of the premises shall abut upon an arterial or collector street.
 - 2. The main building shall be set back 25 feet from the side lot line.
- C. Minor home occupation in conformance with Section 12.0301.

4.04 Conditional Uses. A building or premises may be used for the following purposes in the RR Rural Residential District if a Conditional Use for such use has been obtained in conformance with the requirements of Article 19.00:

- A. Mobile home/manufactured home park in conformance with Article 12.05.
- B. Mobile home/manufactured home subdivision in conformance with Article 12.05.
- C. Day care center.
- D. Group day care.

- E. Group home.
- F. Bed and breakfast establishment.
- G. Nursing home.
- H. Cemetery.
- I. Stabling of horses, provided they are owned by the resident of the property and not used as a commercial operation on the property.
- J. Golf course, except miniature course and driving range.
- K. Wind Energy Conversion System in conformance with the requirements of Article 12.02.
- L. Electrical substation.
- M. Public utility facility.
- N. Public facility owned and operated by a governmental entity.
- O. Major home occupation in conformance with Sections 12.0302 and 12.0303.

4.05 Accessory Uses. Accessory uses and buildings permitted in the RR Rural Residential District are buildings and uses customarily incident to any of the permitted uses in the district.

4.06 Parking Regulations. All parking within the RR Rural Residential District shall be regulated in conformance with the provisions of Article 15.00.

4.07 Sign Regulations. Signs within the RR Rural Residential District shall be regulated in conformance with the provisions of Article 16.00.

4.08 Density, Area, Yard and Height Regulations. The maximum height and minimum lot requirements within the RR Rural Residential District shall be as follows:

- A. General requirements:

All Uses

Density	1 acre *
Lot area	1 acre *
Lot width	125'
Front yard	30' **
Side yard	15'
Rear yard	30'
Maximum height	35'

* Where a central sanitary sewer is available, the required lot area may be reduced to 20,000 square feet.

** The front yard on all major arterial streets or section line roads shall be 50 feet.

- B. There shall be a required front yard on each street of a double frontage lot.
- C. Buildings with side yard setbacks less than required herein, may have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building.

Article 5.00
R-1 Residential District

5.01 Intent. This district is intended to provide for areas of residential use with a gross density of generally five dwelling units per acre or less. The district permits single family dwellings and such supportive community facilities as parks, playgrounds, schools, libraries and churches. It is intended that this district provide protection for those areas existing as, or planned for, single family neighborhoods. A central sanitary sewer system shall be available to serve these developments.

5.02 Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the R-1 Residential District:

- A. Single family dwelling.
- B. Public park, playground or swimming pool.
- C. Neighborhood utility facility.

5.03. Permitted Special Uses. A building or premises may be used for the following purposes in the R-1 Residential District in conformance with the conditions prescribed herein or by obtaining a Conditional Use for such use in conformance with the requirements of Article 19.00:

- A. Churches:
 - 1. One of the principle frontages of the premises shall abut upon an arterial or collector street.
 - 2. The main building shall be set back twenty-five feet from the side lot line.
- B. Elementary and high schools:
 - 1. One of the principle frontages of the premises shall abut upon an arterial or collector street.
 - 2. The main building shall be set back twenty-five feet from the side lot line.

5.04 Conditional Uses. A building or premises may be used for the following purposes in the R-1 Residential District if a conditional use for such use has been obtained in conformance with the requirements of Article 19.00:

- A. Multiple dwellings.
- B. Group day care.
- C. Day care center.

- D. Bed and breakfast establishment.
- E. Private lake.
- F. Group home.
- G. Nursing home.
- H. Convent and monastery.
- I. Electrical substation.
- J. Public utility facility.

5.05 Accessory Uses. Accessory uses and buildings permitted in the R-1 Residential District are buildings and uses customarily incident to any of the permitted uses in the district.

5.06 Parking Regulations. Parking within the R-1 Residential District shall be regulated in conformance with the provisions of Article 15.00.

5.07 Sign Regulations. Signs within the R-1 Residential District shall be regulated in conformance with the provisions of Article 16.00.

5.08 Density, Area, Yard and Height Regulations. The maximum height and minimum lot requirements within the R-1 Residential District shall be as follows:

A. General requirements:

	All Uses	Corner Lots
Density	7,500 sq. ft.	8,500 sq. ft.
Lot area	7,500 sq. ft.	8,500 sq. ft.
Lot width	60'	85'
Front Yard	30'	30'*
Side yard	7'***	7'***
Rear yard	30'	15'
Maximum height	35'	35'

* The front yard along the side street side of a corner lot may be reduced to 25 feet.

*** The side yard will be required to be increased to 10 feet when the building is three stories in height or more.

- B. The requirements for multiple dwellings shall be determined by the conditional use.
- C. There shall be a required front yard on each street of a double frontage lot.
- D. Buildings with side yard setbacks less than required herein, may have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building.

Article 6.00
C Commercial District

6.01 Intent. This district is intended to provide for a wide variety of commercial uses generally located at major intersections and along major roads. This district will include general commercial uses requiring large land areas, extensive retail operations, and outdoor display.

6.02 Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the C Commercial District:

- A. Office.
- B. Bank or financial institution.
- C. Group day care, day care center, group home.
- D. Mortuary.
- E. Indoor recreational facility.
- F. Nursery or greenhouse.
- G. Church.
- H. Antenna support structure.

6.03 Permitted Special Uses. A building or premises may be used for the following purposes in the C Commercial District in conformance with the conditions prescribed herein or by obtaining a Conditional Use for such uses in conformance with the requirements of Article 19.00:

- A. Retail sales and trade, personal services, communication facilities, and warehousing provided:
 - 1. There is no outside storage.
 - 2. There is no storage of a regulated substance.
 - 3. The building contains 10,000 square feet of area or less.
- B. Veterinarian clinic, animal hospital, animal shelter provided there is no outside kenneling of dogs.
- C. Frozen food locker provided there is no slaughtering of animals on the premises.
- D. Off-premise signs in conformance with Article 17.00.

6.04 Conditional Uses. A building or premises may be used for the following purposes in the C Commercial District if a conditional use for such use has been obtained in conformance with the requirements in Article 19.00:

- A. Wholesale trade.
- B. Bar or lounge.
- C. Equipment sales, display and repair.
- D. Motor vehicle sales, display, service and rental.
- E. Auto body shop.
- F. Transportation, including gasoline service station, truck stop, and terminal.
- G. Recycling facility.
- H. Fireworks sales provided sales are conducted from a permanent building when business operations exceed nine (9) days.
- I. Uses which store or handle a regulated substance.
- J. Lumberyard.
- K. Contractor's shop and storage yard.
- L. Car wash.
- M. Airport/heliport.
- N. Hotel or motel.
- O. Hospital.
- P. Motor vehicle repair shop.
- Q. Public utility facility.
- R. Campground.
- S. Commercial recreation facility.
- T. Wind energy conversion system.
- U. Telecommunication and broadcast tower in conformance with Article 12.11.

V. Electrical substation.

W. Adult oriented business.

6.05 Accessory Uses. Accessory uses permitted in the C Commercial District are accessory buildings and uses customarily incident to any permitted uses in this district.

6.06 Parking Regulations. Parking within the C Commercial District shall be regulated in conformance with the provisions of Article 15.00.

6.07 Sign Regulations. Signs within the C Commercial District shall be regulated in conformance with the provisions of Article 16.00.

6.08 Density, Area, Yard and Height Regulations. A maximum height and minimum lot requirements within the C Commercial District shall be as follows:

A. General Requirements:

	All Uses
Density	—
Lot Area	—
Lot Width	—
Front Yard	30'
Side Yard	10'
Rear Yard	20'
Maximum Height	35'

B. There shall be a required front yard on each street side of double frontage lots.

C. There shall be a required front yard on each street side of a corner lot.

D. Any accessory uses shall be required to comply with the height, front, rear, and side yard requirements of the main building.

E. The front yard on a major arterial street or section line road shall be 50 feet.

Article 7.00
I-1 Light Industrial District

7.01 Intent. This district is intended to provide for a number of light manufacturing, wholesale, warehousing, and service uses in an attractive industrial park like setting. These uses do not depend on frequent personal visits from customers or clients and do not include residences, apartments, or commercial uses which are primarily retail in nature. It is the intention of this district to provide high amenity industrial development along the major roads and adjacent to residential areas, while allowing for slightly heavier development in the interior of the industrial areas.

7.02 Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the I-1 Light Industrial District:

- A. Public utility facility, electrical substation.
- B. Antenna support structure.
- C. Office.
- D. Bank or financial institution.
- E. Indoor recreation facility.
- F. Mortuary.
- G. Nursery or greenhouse.

7.03 Permitted Special Uses. A building or premises may be used for the following purposes in the I-1 Light Industrial District in conformance with the conditions prescribed herein or by obtaining a Conditional Use for such use in conformance with the requirements of Article 19.00:

- A. Communication facilities, warehousing and repair services provided:
 - 1. There is no outside storage on the premises.
 - 2. There is no storage of a regulated substance on the premises.
 - 3. The building contains 20,000 square feet of area or less.
- B. Veterinarian clinic, animal hospital, animal shelter provided there is no outside kenneling of animals.
- C. Frozen food locker provided there is no slaughtering of animals on the premises.
- D. Off-premise signs in conformance with Article 17.00.

E. Telecommunication and broadcast tower in conformance with Article 12.11.

7.04 Conditional Uses. A building or premises may be used for the following purposes in the I-1 Light Industrial District if a Conditional Use for such use has been obtained in conformance with the requirements of Article 19.00:

- A. Light manufacturing.
- B. Extraction of rock, sand and gravel in conformance with Article 12.07.
- C. Airport/heliport.
- D. Group day care, day care center, group home.
- E. Any conditional use listed in the C Commercial District.

7.05 Accessory Uses. Accessory uses and buildings permitted in the I-1 Light Industrial District are accessory buildings and uses customarily incident to any permitted uses in this district.

7.06 Parking Regulations. Parking within the I-1 Light Industrial District shall be regulated in conformance with the provisions of Article 15.00.

7.07 Sign Regulations. Signs within the I-1 Light Industrial District shall be regulated in conformance with the provisions of Article 16.00.

7.08 Density, Area, Yard and Height Regulations. The maximum height and minimum lot requirements within the I-1 Light Industrial District shall be as follows:

A. General requirements:

	All Uses
Density	—
Lot Area	—
Lot Width	—
Front Yard.....	30'
Side Yard	10'
Rear Yard	20'
Maximum Height.....	45'

- B. There shall be a required front yard on each street side of a double frontage lot.
- C. There shall be a required front yard on each street side of a corner lot.
- D. The front yard on a major arterial street or section line road shall be 50 feet.

Article 8.00
I-2 General Industrial District

8.01 Intent. This district is intended to provide for heavy industrial uses which may create some nuisance and which are not properly associated with, nor compatible with residential, office, institutional or planned or neighborhood commercial establishments. All uses in this district shall comply with any state regulations regarding noise, emissions, dust, odor, glare, vibration or heat when applicable.

8.02 Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the I-2 General Industrial District:

- A. Public utility facility, electrical substation.
- B. Antenna support structure.

8.03 Permitted Special Uses. A building or premises may be used for the following purposes in the I-2 General Industrial District in conformance with the conditions prescribed herein, or by obtaining a Conditional Use for such use in conformance with the requirements of Article 19.00:

- A. Communication facilities, warehousing and wholesale trade provided:
 - 1. There is no outside storage on the premises.
 - 2. There is no storage of a regulated substance on the premises.
 - 3. The building contains 25,000 square feet of area or less.
- B. Off-premise signs in conformance with Article 17.00.
- C. Telecommunication and broadcast tower in conformance with Article 12.12.
- D. Wind energy conversion system in conformance with Article 12.02.

8.04 Conditional Uses. A building or premises may be used for the following purposes in the I-2 General Industrial District if a Conditional Use for such use has been obtained in conformance with the requirements of Article 19.00:

- A. General manufacturing.
- B. Stockyards/slaughtering of animals.
- C. Rendering.
- D. Distillation of products.

- E. Refining.
- F. Sanitary landfill, solid waste receiving station.
- G. Paper manufacturing.
- H. Tank farm; petroleum products terminal.
- I. Salvage or junkyard.
- J. Airport/heliport.
- K. Extraction of rock, sand and gravel in conformance with Article 12.07.
- L. Mineral exploration and development in accordance with Article 12.04.
- M. Operations related to the recycling, handling, grinding, processing, storage and shipment of wood and wood products.
- N. Any similar use not heretofore specified.

8.05 Accessory Uses. Accessory uses and buildings permitted in the I-2 General Industrial District are accessory buildings and uses customarily incident to any permitted uses in this district.

8.06 Parking Regulations. Parking within the I-2 General Industrial District shall be regulated in conformance with the provisions of Article 15.00.

8.07 Sign Regulations. Signs within the I-2 General Industrial District shall be regulated in conformance with the provisions of Article 16.00.

8.08 Density, Area, Yard and Height Regulations. The maximum height and minimum lot requirements within the I-2 General Industrial District shall be as follows:

- A. General requirements:

	All Uses
Density	—
Lot Area	—
Lot Width	—
Front Yard	30'
Side Yard	10'
Rear Yard	20'
Maximum Height	55'

- B. The front yard on a major arterial street or section line road shall be 50 feet.

Article 9.00
RC Recreation/Conservation District

9.01 Intent. This district is intended to protect natural drainage courses in their capacity to carry run-off water, to limit permanent structures and uses of land in areas subject to flooding, to prevent the pollution of underground water supplies (aquifers), to provide open space and natural areas for recreation, and add to the aesthetic quality of the area.

9.02 Permissive Uses. A building or premises shall be permitted to be used for the following purposes in the RC Recreation/Conservation District:

- A. Agriculture.
- B. Public park; forest preserve.
- C. Public golf course.
- D. Historic sites.
- E. A single-family dwelling if the following provisions for building eligibility are met:
 - 1. Each quarter-quarter section shall have one building eligibility when all the following conditions are met:
 - a. There are no other dwellings on the quarter-quarter section.
 - b. The building site is not in the 100-year flood plain as identified on the Flood Insurance Rate Map.
 - c. The building site shall be a minimum of one acre.
 - d. Approval has been granted by the appropriate governing entity for access onto a public road.
 - e. The remaining portion of the quarter-quarter section is retained as agricultural land or in its present use.
 - f. Prior to any building permit being issued for any new single family residence located in the RC Recreation/Conservation District, a Right to Farm Covenant shall be filed with the Lincoln County Register of Deeds on the parcel of land upon which the new structure will be located. Only the following shall constitute a Right to Farm Covenant: **“RIGHT TO FARM NOTICE COVENANT**
You are hereby notified that the property on which you are constructing a structure is in or near agricultural land, agricultural operations or agricultural processing facilities or operations. You may be subject to inconvenience or discomfort from lawful agricultural or agricultural processing facility operations.

Agricultural operations may include, but are not limited to, the following: the cultivation, harvesting, and storage of crops; livestock production; ground rig or aerial application of pesticides or herbicides; the application of fertilizer, including animal waste; the operation of machinery; the application of irrigation water; and other accepted and customary agricultural activities conducted in accordance with Federal, State, and County laws. Discomforts and inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. If you live near an agricultural area, you should be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. You are also notified that there is the potential for agricultural or agricultural processing operations to expand. This notification shall extend to all landowners, their heirs, successors or assigns and because it is required pursuant to the issuance of a building permit, may not be removed from the record title without consent of the Lincoln County Planning Commission.”

9.03 Permitted Special Uses. A building or premises may be used for the following purposes in the RC Recreation/Conservation District in conformance with the conditions prescribed herein, or by obtaining a Conditional Use for such use in conformance with the requirements of Article 19.00:

- A. A single-family dwelling located on a lot of record in accordance with the following:
 - 1. A lot of record consisting of less than 80 acres and containing no other dwellings shall have one eligible building site.
 - 2. The building site is not in the 100-year flood plain as identified on the Flood Insurance Rate Map.
 - 3. A lot of record consisting of 80 acres or more shall qualify for building eligibility as follows:
 - a. The acreage of the lot of record shall be divided by 40 acres. The resulting whole number minus the number of existing dwellings shall represent building eligibility.
 - b. If there is more than one building eligibility, each additional building site shall be required to obtain a conditional use.
 - c. Each building site shall consist of a minimum of one acre.
 - 4. Approval has been granted by the appropriate governing entity for access onto the public road.

5. Any parcel conveyed from a lot of record must be a minimum of one acre. The remaining portion of the lot shall be retained as agricultural land or in its present use.
- B. A building eligibility may be used within a farmstead provided:
1. The building eligibility exists on property contiguous to and under the same ownership as the farmstead.
 2. There will be no more than two dwellings within the farmstead.
 3. The residential structure may be a single-family dwelling, manufactured home or mobile home.
 4. The residential structure shall not be located in the 100-year flood plain as identified on the Flood Insurance Rate Map.
- C. Plant nursery provided there are no buildings located in the 100-year flood plain as identified on the Flood Insurance Rate Map.
- D. Off-premise signs in conformance with Article 17.00.
- E. Telecommunication and broadcast tower in conformance with Article 12.11.
- F. Wind energy conversion system in conformance with Article 12.02.

9.04 Conditional Uses. A building or premises may be used for the following purposes in the RC Recreation/Conservation District if a Conditional Use for such use has been obtained in conformance with the requirements of Article 19.00:

- A. Manufactured home in conformance with Article 12.05(C) if there is building eligibility on the parcel.
- B. Group day care.
- C. Private outdoor recreation facility.
- D. Day or summer camp.
- E. Rifle and pistol range; trap shoot.
- F. Stable.
- G. Kennel.
- H. Roadside stand.

- I. Fireworks sales provided the length of sales does not exceed nine (9) days.
- J. Cemetery.
- K. Fairgrounds.
- L. Rock, sand and gravel extraction in conformance with Article 12.07.
- M. Electrical substation.
- N. Public utility facility.
- O. Major home occupation in conformance with Sections 12.0302 and 12.0303.
- P. The transfer of a building eligibility from one parcel to another parcel when all the following conditions are met:
 - 1. The transfer of building eligibility shall occur only between contiguous parcels under the same ownership. For purposes of this section, same ownership means: Two or more parcels of land owned or controlled by an individual or combination of individuals, corporations, partnerships, or other legal entities; with said owners described uniformly on the deed or other legally binding conveyance of each parcel.
 - 2. Suitability as a building site based on the following factors:
 - a. Agricultural productivity of the soil.
 - b. Soil limitations.
 - c. Orientation of the building site(s) with respect to road circulation and access to public rights-of-way.
 - 3. The minimum lot size shall be one acre but a larger area may be required when soil conditions warrant.
 - 4. The building site is not in the 100-year flood plain as identified on the Flood Insurance Rate Map.
 - 5. The parcel from which the eligibility is transferred shall continue as agricultural land or remain in its present use.
 - 6. Approval has been granted by the appropriate governing entity for access onto a public road.
- Q. Bed and breakfast establishment.

R. Hunting lodge.

9.05 Accessory Uses. Accessory uses permitted in the RC Recreation/Conservation District are accessory buildings and uses customarily incident to any permitted uses in this district.

9.06 Parking Regulations. Parking within the RC Recreation/Conservation District shall be regulated in conformance with the provisions of Article 15.00.

9.07 Sign Regulations. Signs within the RC Recreation/Conservation District shall be regulated in conformance with the provisions of Article 16.00.

9.08 Density, Area, Yard and Height Regulations. The maximum height and minimum lot requirements within the RC Recreation/Conservation District shall be as follows:

A. General requirements:

Lot Area1 acre*
Lot Width125'
Front Yard.....30'**
Side Yard7'
Rear Yard30'
Maximum Height35'***

* Unless a larger lot size is required by the granting of a conditional use permit.

** The front yard on a major arterial street or section line road shall be 50 feet.

*** There shall be no height limit for accessory farm structures or wind energy conversion systems.

Article 10.00
PD Planned Development District

10.01 Intent. It is the intent of this district to provide flexibility from conventional zoning regulations with increased public review for PD Planned Development District projects in order to:

- A. Encourage well planned, efficient development.
- B. Allow a planned and coordinated mix of land uses which are compatible and are harmonious, but previously discouraged by conventional zoning procedures.
- C. Encourage the redevelopment of contiguous large lot parcels into an integrated and orderly subdivision pattern, with particular attention to developing an efficient and coordinated network of internal streets.
- D. Promote the clustering of residential structures and other uses without increasing overall density of the development area in order to preserve unique and natural features such as woodlands, wetlands, natural drainage systems and scenic areas.
- E. Protect sensitive areas and areas with restrictive soil conditions within development areas through clustering of uses on land more suited for building.
- F. Reserve adequate public right-of-way within development areas for the eventual extension of arterial and collector streets, including proper width and spacing of such streets.
- G. Improve communication and cooperation among the County, townships, land developers, and interested residents in the development of agricultural land and redevelopment of existing areas.

It is not the intent of the PD Planned Development District to accommodate or encourage the development of isolated small tracts where adjoining parcels are not considered within an overall development scheme.

10.02 Procedure.

- A. **Initial Development Plan.** When a petitioner wants to request a rezoning to the Planned Development District, he shall submit his request to the Office of Planning and Zoning, showing the information specified in 10.03 below, a minimum of 30 days prior to the Planning Commission meeting at which consideration is desired. After the planned development request has been reviewed, the Planning Commission shall make a recommendation to the County Commission on the requested rezoning. The County Commission shall then act to approve or deny said request.

This request for rezoning is subject to the requirements for amendment of the zoning regulations specified in Article 20.00. No permit shall be issued within the development until the Final Development Plan is approved and the plat is filed.

- B. Final Development Plan. Prior to construction on any lots in the planned development, the petitioner shall present a Final Development Plan showing the information specified in 10.04 below, to the Planning Commission, who shall have the sole authority to approve, deny, or amend said plan.

The Final Development Plan may be submitted in conjunction with the Initial Development Plan for concurrent approval on any subareas the developer is ready to commit to a final plan. All the information required for both an Initial and Final Development Plan must be shown for the area submitted for concurrent approval, except that the developer may reference the requirements of one of the traditional zoning districts as the development standard for a particular subarea.

- C. Amendments.

1. Major Amendments. Major amendments to the Initial and/or Final Development Plan shall be required to be approved as an amendment to the zoning regulations, requiring Planning Commission review, and County Commission approval.
2. Minor Amendments. Minor amendments to the Initial and/or Final Development Plan shall be required to be approved by the Planning Commission at a hearing. Notice of such hearing shall be given by the posting of a sign on the property. Minor amendments to the Initial Development Plan may also be made by the submission and approval of a Final Development Plan which is changed from the approved Initial Development Plan. Any such amendments shall be shown as a change from the Initial Development Plan on the Final Development Plan.
3. Minimal Amendments. Minimal amendments to the Final Development Plan shall be submitted to the Planning Director on a reproducible development plan showing the requested changes. The Planning Director may then approve such change in writing, if he/she deems it appropriate.

10.03 Initial Development Plan. Upon application for rezoning to the Planned Development District, the petitioner shall present an Initial Development Plan to the Planning Commission for review, and to County Commission for their approval showing the following information:

- A. Project name and legal description.
- B. A preliminary subdivision plan.
- C. The proposed development scheme showing the following information:

1. The proposed land uses, including the number and type of proposed residential buildings, the proposed number of dwelling units per building, the number and type of any proposed nonresidential buildings and their square footage.
2. The proposed maximum density of the development, which shall not exceed the density allowed in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such densities undesirable.
3. The proposed minimum setbacks which shall be no less than those required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such setbacks undesirable.
4. The proposed maximum height which shall be no greater than that required in the traditional zoning districts for similar uses, except where unique physical, environmental or design characteristics make such heights undesirable.
5. Proposed design features illustrating compatibility to the surrounding environment and neighborhood.
6. Anticipated subarea development sequence.

10.04 Final Development Plan. Prior to construction on any lots in the Planned Development Zoning District, the petitioner shall present a Final Development Plan to the Planning Commission for their approval. The Final Development Plan shall show the following information:

- A. The subdivision name, the legal description, and the individual project name (if any).
- B. Boundaries of the subarea or subareas submitted for approval superimposed on the map of the Initial Development Plan.
- C. A subdivision plat of the subarea or subareas submitted for approval.
- D. A scale drawing showing the following information will be required for everything except single-family detached dwelling subareas:
 1. Size and location of proposed structures including height and number of units.
 2. Calculated floor area for each structure and a generic listing of the uses within said structure.
 3. Off-street parking lot arrangement designating all parking spaces, off-street loading spaces, and any outdoor trash container spaces.
 4. Any sidewalks, bikeways or other paths.

5. Landscaping plans showing the type and location of any walls or fences, the placement, size and species of any trees or shrubs, and berms in areas that will be sod or seeded.
6. All existing and proposed utilities, drainageways, water courses, and location of above ground existing utilities on adjacent property.
7. Proposed final ground contours.
8. Existing and proposed uses adjacent to the area.
9. Documentation of the ownership and maintenance responsibility of any common open spaces, structures, or facilities including private streets.
10. Any subareas proposed for multiple residential development will be required to provide an open area for recreation. Said open spaces shall not be included in any required yard, but shall be located in the same subarea it is intended to serve.
11. Proposed parking and loading spaces which shall be in conformance with Article 15.00, except where unique physical, environmental or design characteristics make such requirements undesirable.
12. Unless otherwise specified on the Final Development Plan, all development standards shall be the same as those set forth in the traditional zoning districts, which shall be referenced for each subarea as a part of the Final Development Plan. For example: townhouses on Block X shall be developed in conformance with the requirements of the RD Residential District.

10.05 Amendments.

- A. The following changes in an Initial and/or Final Development Plan are considered major amendments:
 1. Any change in the proposed land uses.
 2. Any major change in the street pattern.
 3. An increase in density above that provided for in (B)(5) below.
- B. Minor Amendments: The following changes in an Initial and/or Final Development Plan are considered minor amendments:
 1. Any adjustment in the size or shape of the building envelope (increasing the height or reducing the building setback).
 2. Major decrease in density.

3. Any decrease in the size of required open areas.
 4. A minor change in the street pattern.
 5. Any increase in density of a subarea:
 - a. Less than 25% for a subarea with less than eight units.
 - b. Less than 15% for a subarea with between nine and twenty units.
 - c. Less than 8% for a subarea with twenty-one units or more.
- C. Minimal Amendments: The following changes in an Initial and/or Final Development Plan are considered minimal amendments:
1. Any adjustment of a building within a previously established building envelope.
 2. A minor reduction in density.

10.06 Planned Development Districts. Planned development districts shall be as enumerated below:

11.0601 Tallgrass Planned Development District. The regulations set forth herein or elsewhere in these regulations are the district regulations in the Tallgrass Planned Development District:

- A. Uses Permitted. A building or premises shall be permitted to be used for the following purposes:
1. A Single-family dwelling.
 2. A maximum of two dwelling units, each of which is to be used for a supervised, residential chemical dependency recovery program.
- B. Accessory Uses. Accessory uses and buildings permitted are those accessory buildings and uses customarily incident to any permitted use in this district and restricted as follows:
1. A maximum of three accessory buildings limited to a total maximum floor area of 1,500 square feet, with any building not to exceed 800 square feet. The accessory buildings shall specifically include a maximum of one horse barn or stable, a maximum of two equipment and machinery sheds, and other accessory buildings as permitted by this Ordinance.
 2. Horses not to exceed six (6).
 3. All accessory uses listed in Section 12.06(A) of this Ordinance shall be permitted.

4. A parking lot with a maximum of 45 parking spaces.
- C. Parking Regulations. Parking regulations shall be regulated in conformance with the provisions of Article 15 of this Ordinance, except that off-street parking for specific uses shall be required as follows:
1. Single-family dwelling: one space for each dwelling unit.
 2. A maximum of two dwellings units, each of which is to be used for a supervised, residential chemical dependency recovery program: one parking space for every two beds.
- D. Sign Regulations. Sign regulations shall be regulated in conformance with the provisions of Article 16 of this Ordinance, except that signs for specific uses shall be limited as follows:
1. Single-family dwelling: the same regulations shall apply as in the “R” Rural Residential District.
 2. A maximum of two dwelling units, each of which is to be used for a supervised, residential chemical dependency recovery program: the same regulations shall apply as permitted in Section 16.05(D) of this Ordinance.
- E. Density, Area, Yard and Height Regulations. The same requirements shall apply as in the “RR” Rural Residential District.
- F. Other Regulations. Other regulations shall be:
1. All dwellings permitted in this district shall be served by an on-site wastewater system, installed and operated in accordance with DENR and Lincoln County regulations.
 2. The landscaping, shrubbery and trees on the property shall be maintained in similar or improved condition from the date of approval of this Ordinance. Such requirement shall not prevent the occupant(s) from removing or relocating any landscaping, shrubbery or trees on the property in order to construct any improvements permitted in this district or in furtherance of the maintenance of the landscaping, shrubbery and trees in a similar or improved condition.
 3. Prior to occupancy by participants in the recovery program, the dwelling(s) will be inspected by the appropriate entity for compliance with any applicable fire, building, plumbing, mechanical, and/or electrical codes and regulations. If any deficiencies are noted, the same shall be corrected before participants in the recovery program are allowed to move in.

11.0602 Commerce Park Planned Development District. The regulations set forth herein or elsewhere in the Lincoln County Revised Zoning Ordinance are the district regulations for the 18/29 Commerce Park Planned Development District:

- A. Uses Permitted. A building, space, lot or premises shall be permitted to be used for the following purposes and not otherwise in the following identified district or subarea:
1. Subarea A: Livestock Sales Barn, and all usual improvements for the conduct of a livestock auction business, including livestock pens, loading/unloading chutes, vehicle and trailer parking areas, and lagoons or ponds associated with the detention of storm waters, animal wastes, and human wastes, designed, maintained and operated in accord with the general or site specific permit of the Department of Environment & Natural Resources, or other applicable law or regulation otherwise applicable to a concentrated animal feeding operation, such uses to observe all applicable setback or separation distances provided for in subsection (F) of Section 12.09 of the Revised Zoning Ordinance, as amended.
 2. Subarea B: (1): Office, Bank or financial institution; or Nursery or greenhouse; Retail Sales and trade, personal services, communication facilities and warehousing; Wholesale trade; Equipment sales, display, service, rental or repair; Transportation services; Lumberyard, building construction center; Contractor's shop and storage yard; Car wash; Permitted Special Uses: Warehousing and repair services, and communication facilities, and, provided: (1) No outside storage is conducted on the premises (2) No storage of a regulated substance is undertaken (3) The building contains 20,000 square feet of area or less; Veterinarian clinic, provided no outside kenneling of animals; Frozen food locker, containing 20,000 square feet of area or less; On site Signs, in conformity with Article Seventeen of this Ordinance; Uses, as would otherwise be appropriate in the "C" District, as listed in Section 6.02 and Section 6.03 of this Ordinance.; Light Manufacturing; and Uses, similar to those listed, but not otherwise specified. (2) When a conditional use permit shall have been granted under the provisions of Article 19, et seq., Animal Slaughter, Meat Packing or Processing; or Uses which store or handle a regulated substance. (3) Vehicle or equipment parking areas, and lagoons or ponds associated with the detention of storm waters and human wastes, to be designed, maintained and operated in accord with permits and requirements of the Department of Environment and Natural Resources, or other applicable law or regulation otherwise applicable to such uses.
- B. Accessory Uses. Accessory uses and buildings permitted are those customarily incident to any permitted use in the following referenced district or subarea thereof, and further restricted as follows:
1. Subarea A: Livestock Sales Barn may additionally provide Auction services on site for farm machinery or goods or other personal property, and may also provide, by lease to tenant or otherwise, on premises Food and beverage services, including café, to serve the needs of patrons, visitors or general public.
 2. Subarea B: Uses normally ancillary or subordinate to the permitted uses, as specified in Section (1), above.

- C. **Parking Regulations.** The parking regulations for the 18/29 Commerce Park Planned Development District are as follows:
1. **Subarea A:** Parking regulations for this subarea shall be those specified in Section 15.01(B); off-street parking may be provided within 300 feet of the Livestock Sales Barn, the number of spaces to be consistent with Section 15.02(K), based on the number of seats in the sales pavilion area, without increase on account of café or other accessory uses therein.
 2. **Subarea B:** Parking regulations for this subarea shall be as follows:
 - a. One parking space shall be provided for each 400 square feet of floor area.
 - b. Parking lots and driveways shall be hard-surfaced, or finished by durable recycled materials, as selected by Developer.
 - c. Parking may be provided within 300 feet of the Principal Use.
- D. **Sign Regulations.** Sign regulations for the 18/29 Commerce Park Planned Development District, both Subareas A and B, shall be as follows:
1. **On-Site Signs.** The provisions of Section 16.02(C), shall apply to this District, and the provisions of Section 16.04(B), shall apply to this District.
 2. **Regulations for On-Site Signs.** Wall signs, projecting signs, roof signs, and freestanding signs in the District shall be governed by the provisions of Section 16.03.
 3. **Off-site Signs.** Off site signs are not allowed in the District, except the Livestock Sale Barn in Subarea A may maintain a free-standing sign within Subarea B, of size and height otherwise consistent with this Section (D). The Developer or Manager of the property in the District may also maintain a pylon or other sign arrangements at or near the public entrance to the District for purposes of maintaining signs as if a “shopping center” within the meaning of Section 16.04(A), provided the application of Section 16.04(A) shall not prevent the use of other on-site freestanding signs within the District as meet the requirements of Section 16.03(D).
- E. **Density, Area, Yard and Height Regulations.**
1. **Subarea A: Density:** A maximum of one Livestock Sales Barn may be located in Subarea A, and minimum lot size for such use shall be 5 acres. **Other Regulations:** Front, Side and Rear Yards as pertain in the “I-2” District. Maximum height, 48 feet, except for on-site signs where greater height may be allowed under Sign Regulations, and communications devices and support structures, which shall be governed by the maximum height restrictions of Section 8.08.

2. Subarea B: Density: On principal use per lot, 1-acre minimum lot size. Other Regulations: 30' front yard, 20' side yard, 20' rear yard. Maximum Height: 35 feet, except for on-site or off-site signs where greater height may be allowed under Sign Regulations.

F. Other Regulations. Additional regulations for the District include the following:

1. Subarea A:

- a. All liquid animal wastes shall be contained in lagoons constructed and maintained in accordance with plans approved by DENR, and the Livestock Sales Barn shall be covered either by a general or site-specific permit.
- b. All waste disposal and management, including dry manure and mixed waste materials, shall be conducted and pursued under a waste management plan, prepared by a licensed engineer, consistently with subparagraph (D) of Section 12.09, Revised Zoning Ordinance, and reviewed by DENR, reviewable also at the option of the Planning Commission. The waste management plan shall meet all minimum requirements of Section 12.09, including the disposal separation distances specified in (D)(5) of Section 12.09.
- c. The animal waste facilities used by the Livestock Sales Barn shall meet, at minimum, the setback chart provided for a Class C CAFO in subparagraphs (F) of Section 12.09 (unless such separation distance is waived by an authorized person, business or governmental entity, by written instrument duly recorded and running with the land to be burdened), notwithstanding any intensity of use under which the animal units on hand for purposes of sale by their owners may be greater than the animal units meeting the definition of a Class C CAFO.
- d. The Livestock Sales Barn shall not keep or maintain an animal on the premises, meeting the definition of livestock and intended by the owners to be sold at a publicly advertised or announced sale, for more than 60 consecutive hours.
- e. All structures shall be designed so that human wastes from uses in the subarea shall be connected to and collected in a sewage lagoon designed and maintained in accord with the regulations of DENR.
- f. Trash bins or other receptacles outside of structures or buildings shall be screened or fenced, and periodically emptied and removed (not less than once per week) by commercial refuse haulers. No trash, garbage or other refuse shall be stockpiled, burned or buried upon any premises within the subarea, provided, manure may be accumulated pending disposal in accord with the waste management plan.

2. Subarea B:

- a. All structures shall be designed so that human wastes from uses in the subarea shall be connected to and collected in a sewage lagoon designed and maintained in accord with regulations of DENR.
- b. Trash bins or other receptacles outside of structures or buildings shall be screened or fenced, and periodically emptied and removed (not less than once per week) by commercial refuse haulers. No trash, garbage or refuse shall be burned or buried on any premises within the subarea.

11.0603 Tom Sawyer Planned Development District. The regulations set forth herein or elsewhere in the Lincoln County Revised Zoning Ordinance are the district regulations for the Tom Sawyer Planned Development District:

- A. Uses Permitted. A building, space, lot or premises shall be permitted to be used for the following purposes and not otherwise in the following identified district or subarea:
 - 1. Subarea A:
 - a. Permissive Uses: Office; Bank or financial institution; Group day care, day care center, group home; Mortuary; Indoor Recreational Facility; Nursery or greenhouse; Church; Neighborhood Utility Facility.
 - b. Permitted Special Uses: Retail sales and trade, personal services, communication facilities, and warehousing, provided: (1) No outside storage is conducted on the premises (2) No storage of a regulated substance is undertaken (3) The building contains 10,000 square feet of area or less; Veterinarian clinic, provided no outside kenneling of dogs; Frozen food locker, containing 10,000 square feet of area or less; On-site Signs, in conformity with Article 16 of this Ordinance.
 - c. Conditional Uses: Contractor’s shop and storage yard; Garage, public storage.
 - 2. Subarea B: The buildings, lots or premises in this subarea will be permitted to be used for “single family dwelling,” served by an on-site wastewater system, installed and operated in accordance with DENR and Lincoln County regulations.
- B. Accessory Uses. Accessory uses and buildings permitted are those customarily incident to any permitted use in the following referenced district or subarea thereof, and further restricted as follows:
 - 1. Subarea A: Consistent with Section 6.05.
 - 2. Subarea B: Consistent with Section 4.05.
- C. Parking Regulations. The parking (together with off-street loading requirements) regulations for the Planned Development District shall be in accord with the following:

1. Subarea A: Parking regulations and off-street loading requirements for Subarea A shall be those specified in Sections 11.04 and 11.05 of Harrisburg Zoning Regulations, as such are in force and in effect on the date of this Ordinance, incorporated herein by this reference.
 2. Subarea B: Parking regulations for Subarea B shall be those specified in Section 11.04 of Harrisburg Zoning Regulations, such as are in force and in effect on the date of this Ordinance, incorporated herein by this reference.
- D. Sign Regulations. Sign regulations for the Planned Development District, Subarea A, shall be as follows:
1. On-Site Signs. The provisions of Section 11.06, “On-Premise Signs,” Harrisburg Zoning Regulations, for Zoning District “GB” shall apply to this District, Subarea A, as such are in force and in effect on the date of this Ordinance, having been incorporated herein by this reference.
 2. Regulations for On-Site Signs. Wall signs, projecting signs, roof signs, and freestanding signs in this District, Subarea A, shall be governed by the provisions of Section 11.06, Harrisburg Zoning Ordinance, as such are in force and in effect on the date of this Ordinance, and establishing regulations for “On-Premise” signs in the “GB” Zoning District, such regulations being incorporated herein by this reference.
 3. Off-site Signs. Off site signs shall be allowed in the District, Subarea A, consistently with the provisions applicable to “Off-Premise” signs in the “GB” Zoning District, Section 11.07, Harrisburg Zoning Ordinance, as such are in force and in effect on the date of this Ordinance, and incorporated herein by this reference.
- E. Density, Area, Yard and Height Regulations.
1. Subarea A: All uses in this District shall, if also named as a Permitted Use in Section 8.01 of Harrisburg Zoning Ordinance, shall comply with the density, area, yard and height regulations established in Section 8.02 of Harrisburg Zoning Ordinance, such as are in force and in effect on the date of this Ordinance, incorporated herein by this reference. All uses in the District not shown as a Permitted Use in Section 8.01 of Harrisburg Zoning Ordinance (as in force on the date of this Ordinance), but shown as a Permitted Use in Section 9.01 of Harrisburg Zoning Ordinance, shall comply with the regulations established in 9.02 of Harrisburg Zoning Ordinance, as are in force and in effect on the date of this Ordinance, incorporated herein by this reference.
 2. Subarea B: Uses in this District shall comply with the minimum area, width, front yard, side yard, rear yard and maximum height requirements of Section 4.02 of Harrisburg Zoning Ordinance, as well as Section 5.08.
- F. Other Regulations. Additional regulations for the District include the following:

1. Subarea A: All uses within the District shall observe and comply with “Architectural Standards, General Landscaping and Buffer Requirements,” all as set forth in Section 11.11 of Harrisburg Zoning Ordinance as is in force and effect on the date of this Ordinance, incorporated herein by this reference; in particular, uses shall comply with Subsection C.5 of Section 11.11, to the extent such use is a non-residential building abutting Minnesota Avenue (abutting Subarea A to the east). In the event of conflict between the requirements of Lincoln County Zoning Ordinance and Harrisburg Zoning Ordinance as to minimum requirements, all uses shall comply with the most restrictive minimum requirements, while as to maximum requirements, all uses shall observe and comply with both Ordinances.

2. Subarea B: All uses within the District shall observe and comply with “Architectural Standards, General Landscaping and Buffer Requirements,” all as set forth in Section 11.11 of Harrisburg Zoning Ordinance, as well as Sections 11.02, 11.03, 11.08, and 11.10 of Harrisburg Zoning Ordinance, all as in force and effect on the date of this Ordinance, incorporated herein by this reference.

Article 11.00
APO Aquifer Protection Overlay District

11.01 Intent. The district is intended to preserve the quality and quantity of the area's water resources so as to ensure a safe and adequate supply of drinking water for present and future generations. Restrictions shall apply to land use activities which have the potential to contaminate water resources, including aquifers in use and those having the potential for future use as a public water supply. The purpose of the district is to prohibit certain uses which pose the greatest threat to groundwater contamination and to impose reasonable and adequate safeguards on other uses which exhibit a potential to contaminate the groundwater. The Aquifer Protection Overlay District is an overlay whose boundaries are superimposed on all districts established by this ordinance. It is not intended that this district interfere with, abrogate, or annul any other rules or regulations of this ordinance, except that if the Aquifer Protection Overlay District imposes a greater restriction than the underlying zoning district regulations, the greater restriction shall apply.

11.02 Establishment/Delineation/Regulation of an Aquifer Protection Overlay District. The boundaries of the Aquifer Protection Overlay District are shown upon the map which has been made a part hereof by reference. The map shall be signed by the Chairman of the Board of County Commissioners and filed with the County Register of Deeds. The map shall have the same force and effect as if it were all fully set forth herein. The shallow/surficial aquifer boundary was mapped using data from the South Dakota Geological Survey and the United States Geological Survey. The map only serves as a general guide to the locations and depths of the mapped aquifer units. Boundaries shown are general in nature and may be modified in the future as site/area specific information is obtained. Additional information shall be used whenever available to more precisely determine aquifer locations and depths. Actual site-specific aquifer boundaries and depths may differ from those shown on the map. The mapped boundaries are drawn at the discretion of geologists and hydrologists based on best available information. Site-specific hydro-geologic information may be necessary to verify the location of a proposed use in relation to an underlying shallow aquifer. Any applicant that is identified as being within the aquifer protection overlay zone, as denoted on the map, can provide drilling logs from soil borings on and/or near the site of the proposed use to conclusively prove that it is not located above a shallow/surficial aquifer area. The standards utilized by the South Dakota Department of Environment and Natural Resources for soil borings will be followed.

Zone A – Aquifer Critical Impact Zones

Zone A, the wellhead protection area, is the mapped zone of contribution around all public water supply wells or wellfields in shallow/surficial aquifers and includes land upgradient from the well or wellfield to the ten year time of travel boundary plus any delineated adjacent lands not underlain by the aquifer with sufficient slope that contaminated surface water could flow directly onto Zone A.

Permitted Uses

All uses as outlined in the underlying zoning districts may be allowed provided they can meet the

performance standards as outlined for the Aquifer Protection Overlay District.

Conditional Uses

All uses as outlined in the underlying zoning districts may be allowed provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Prohibited Uses

- A. Concentrated Animal Feeding Operation (CAFO) installed after adoption of this ordinance.
- B. Manure storage areas except above ground tanks.
- C. Disposal of solid waste except spreading of manure.
- D. Outside unenclosed storage of road salt.
- E. Disposal of snow containing de-icing chemicals.
- F. Disposal of radioactive waste.
- G. Graveyards or animal burial sites.
- H. Detonation sites.
- I. Open burning except ditches, fields and non-hazardous yard and household wastes such as paper, wood and leaves.
- J. Public sewer systems and waste water lagoons.
- K. Land spreading of petroleum contaminated soil.
- L. Land spreading or dumping of waste oil.
- M. Class V injection wells.
- N. All other facilities involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste having a potentially harmful impact on ground water quality.

Zone B – Aquifer Secondary Impact Zones

Zone B is the remainder of the mapped shallow/surficial aquifer in the county not included in Zone A. Zone B is being protected because (1) the aquifer is a valuable natural resource for future development, (2) the aquifer provides drinking water supply for individual domestic users, (3) contamination is not justified just because this area is not currently used for public water

supply and (4) contaminants from this area could eventually enter Zone A.

Permitted Uses

All uses as outlined in the underlying zoning districts may be allowed provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Conditional Uses

All uses as outlined in the underlying zoning districts provided they can meet the performance standards as outlined for the Aquifer Protection Overlay District.

Prohibited Uses

- A. Land spreading of petroleum contaminated soil.
- B. Land spreading or dumping of waste oil.
- C. Class V injection wells.

Performance Standards

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

1. New or replacement septic tanks and associated drain fields for containment and disposal of human or animal wastes must conform with regulations established by the South Dakota Department of Environment and Natural Resources.
2. Manure storage areas may be permitted in Zone B but must be constructed in conformance with good engineering practices as recommended by the Natural Resource Conservation Service and/or the South Dakota Department of Environment and Natural Resources for Waste Storage Ponds.
3. Storage of petroleum products in quantities exceeding one hundred (100) gallons at one locality in one tank or series of tanks must be in elevated tanks; such tanks larger than eleven hundred (1,100) gallons must have a secondary containment system where it is deemed necessary by the Office of Planning and Zoning.
4. Any commercial or industrial facility, not addressed by (2) or (3) above, involving the collection, handling, manufacture, use, storage, transfer or disposal of any solid or liquid material or waste, except for spreading of manure, in excess of 1,000 pounds and/or 100 gallons which has the potential to contaminate groundwater must have a secondary containment system which is easily inspected and whose purpose is to intercept any leak or discharge from the primary containment vessel or structure. Underground tanks or buried pipes carrying such materials must have double walls and accessible sumps.

5. When pastured animals are concentrated for winter feeding, engineered measures shall be employed to prevent runoff of manure.
6. Discharge of industrial process water on site is prohibited without Office of Planning and Zoning approval.
7. Auto service, repair or painting facilities and junk or salvage yards shall meet all State and Federal standards for storage, handling and disposal of petroleum products and shall properly dispose of all other potentially hazardous waste materials.
8. Any facility involving collection, handling, manufacture, use, storage, transfer or disposal of hazardous materials must prepare and have on file in the Office of Planning and Zoning an acceptable engineered contingency plan for preventing hazardous materials from contaminating the shallow/surficial aquifer should floods, fire, other natural catastrophes or equipment failure occur:
 - a. For flood control, all underground facilities shall include a monitoring system and a secondary standpipe above the 100 year frequency flood level. For above ground facilities, an impervious dike, above the 100 year flood level and capable of containing 120 percent of the largest storage volume, will be provided with an overflow recovery catchment area (sump).
 - b. For equipment failures, plans shall include but not be limited to:

Below ground level, provision for removal and replacement of leaking parts, a leak detection system with monitoring and an overfill protection system.

Above ground level, provision for monitoring, replacement, repair and cleanup of primary containment systems.
 - c. For other natural or man-caused disasters, the owner and/or operator shall report all incidents involving liquid or chemical material which may endanger health and/or safety of disaster personnel and/or general public.
 - d. Agricultural operations are exempted from performance standard (8) unless chemicals stored which are on the Superfund Amendments and Re-authorization Act of 1986 (SARA Title III) extremely hazardous substance list in quantities exceeding the threshold planning quantity at any one time.
9. All abandoned wells should be plugged in conformance with South Dakota Well Construction Standards, Chapter 74:02:67-70, to prevent contamination of groundwater by surface water.
10. Office of Planning and Zoning and the Department of Environment and Natural Resources shall be informed within 24 hours of all leaks and spills of materials that might potentially contaminate groundwater.

Article 12.00
Additional Use Regulations

12.01 Fences. Regulations regarding fences shall be as follows:

- A. Fences up to four feet in height may be located on any part of the lot except that such a fence may not be more than 30 percent solid if located within 30 feet of a street intersection, measuring along the property line.
- B. Fences up to six feet in height may be erected on those parts of a lot that are as far back or farther back from the street than the main building.

EXCEPTIONS:

- 1. Fences up to six feet in height may be placed in the side-street-side front yard where:
 - a. The side-street-side front yard abuts an arterial street shown on the major street plan.
 - b. The side-street-side front yard is not adjacent to a side yard.
 - c. The fence is located no closer to the front yard than the rear wall of the main building.
- 2. In the C, I-1, and I-2 zoning districts, fences not more than 8 feet in height may be located on any part of a lot other than the required front yard except when such lot is adjacent to a residential district.

12.02 Wind Energy Conversion Systems. The regulations regarding Wind Energy Conversion Systems (hereafter referred to as WECS) shall be as follows:

- A. Intent. The intent of regulations for Wind Energy Conversion Systems is to encourage the development of alternative sources of energy while protecting the health, safety and welfare of the public.
- B. Accessory WECS. The applicant shall provide to the Planning Director documentation that the tower structure for the system has received a professional structural engineer's certification.
 - 1. Height.
 - a. The lowest portion of the blade shall be at least thirty (30) feet above the ground.
 - b. WECS are exempt from the maximum height requirements of this Ordinance.
 - 2. Setbacks.

- a. The WECS shall be located in the rear yard only and shall be set back 1.25 times the total WECS height from the property lines.
 - b. Contiguous property owners and planned developments may construct a WECS for their use in common. If property held by more than one single owner is used to meet the setback requirements, a site plan establishing easements or reserved areas must be submitted to the Planning Commissions for their approval.
3. Illumination and Security.
 - a. Illumination and markings shall be limited to the requirements of the FAA. There shall be no lights on the tower other than what is required by the FAA. FAA approved red lights shall be used from dusk till dawn. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.
 - b. Access to the WECS shall be restricted by one or more of the following means:
 - i. Tower-climbing apparatus located no closer than twelve (12) feet the ground; or
 - ii. A locking anti-climb device installed on the tower; or
 - iii. Enclosure of the tower by a fence at least six (6) feet high with locking portals.
4. Noise. The noise level of the WECS shall not exceed 50 dB(A) as measured at any property line or the WECS shall not create noise beyond the lot containing the WECS which exceeds 60 dB(A) as measured at the nearest habitable dwelling.
5. Signs. One sign, not to exceed four (4) square feet, shall be posted at the base of the tower and display suitable warning of danger to unauthorized persons, the system's manufacturer, and emergency shut-down procedures. No other signage shall be allowed.
6. Electromagnetic interference. If a WECS is installed in any location along or within the major access of an existing microwave communications link, the person desiring to install the WECS shall be required to provide a letter from the business whose link they are within or adjacent to stating that the business whose link is affected would have no objection to the installation of the WECS.
7. Air space. A WECS shall be located or installed in compliance with the guidelines of the Federal Aviation Administration Regulations with regard to Airport Approach Zones and clearance around VOR stations.

8. Interconnect. The WECS, if interconnected to an electric utility distribution system, shall meet the interconnect requirements of the electric utility company.

C. Commercial WECS. Commercial WECS shall be permitted only on lands zoned A-1 Agricultural, C Commercial, I-1 or 1-2 Industrial, or RC Recreation/Conservation.

1. Equipment Design.

Tower

The tower(s) shall be of singular tubular steel construction.

Color

The color of the turbines and equipment buildings shall be unobtrusive and non-reflective with a galvanized or matte finish. Black blades are acceptable for mitigation of icing.

Height

- a. The lowest portion of the blade shall be at least thirty (30) feet above the ground and thirty (30) feet above the highest existing structure within a radius of two hundred fifty (250) feet.
- b. WECS are exempt from the maximum height requirements of this Ordinance.

Distribution Lines/Power Poles

All on-site electrical wires associated with the WECS shall be installed underground and maintained in conformance with the National Electric Safety Code or other applicable codes.

2. Setbacks

- a. WECS shall be set back 2 times the total WECS height from any exterior property line.
- b. WECS shall be set back 1.25 times the total WECS height from the right-of-way line of any public road or highway.
- c. WECS shall be set back 3 times the total WECS height from any habitable structure.

3. Illumination and Security

- a. Illumination and markings shall be limited to the requirements of the FAA. There shall be no lights on the tower other than what is required by the FAA. FAA approved red lights shall be used from dusk till dawn. This restriction shall not apply to infrared heating devices used to protect the monitoring equipment.
 - b. Each turbine shall be equipped with a braking system and blade pitch control.
 - c. All guy wires shall be distinctly marked.
 - d. Signs warning of the electrical and other hazards associated with the WECS shall be posted at the base of each tower.
 - e. Anti-climbing devices shall be installed on each tower.
4. Noise. The noise level of the WECS shall not exceed 65 dB(A) as measured at any property line.
 5. Signs.
 - a. No advertising signs or logos shall be permitted on the WECS.
 - b. One (1) project identification sign, not to exceed twenty (25) square feet, shall be allowed.
 6. Inoperable or Unsafe WECS/Site Reclamation
 - a. Unsafe commercial WECS, inoperable commercial WECS, and commercial WECS for which the permit has expired shall be removed by the owner. All safety hazards created by the installment and operation of the WECS shall be eliminated and the site shall be restored to its natural condition to the extent feasible. A bond or other appropriate form of security may be required to cover the cost of removal and site restoration.
 - b. A Commercial WECS shall be deemed inoperable if it has not generated power for 12 consecutive months.
 7. Roads
 - a. Public Roads. Prior to commencement of construction, the permittees shall identify all state, county or township "haul roads" that will be used for the WECS project and shall notify the governing body having jurisdiction over the roads to determine if the haul roads identified are acceptable. The governmental body shall be given adequate time to inspect the haul roads prior to use of these haul roads. Where practical, existing roadways shall be used for all activities associated with the WECS. Where practical all-weather roads shall be used to

deliver concrete, turbines, towers, assemble nacelles and all other heavy components to and from the turbine sites.

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

- b. Turbine Access Roads. Construction of turbine access roads shall be minimized. Access roads shall be low profile roads so that farming equipment can cross them and shall be covered with Class 5 gravel or similar material. When access roads are constructed across streams and drainage ways, the access roads shall be designed in a manner so runoff from the upper portions of the watershed can readily flow to the lower portion of the watershed.
 - c. Private Roads. The permittee shall promptly repair private roads, easements or lanes damaged when moving equipment or when obtaining access to the site, unless otherwise negotiated with the affected landowner.
 - d. Dust Control. The permittees shall utilize all reasonable measures and practices of construction to control dust.
8. Soil Erosion and Sediment Control Plan. The permittees shall develop a Soil Erosion and Sediment Control Plan prior to construction and submit the plan to the Lincoln County Planning Department. The Soil Erosion and Sediment Control Plan shall address the erosion control measures for each project phase, and shall at a minimum identify plans for grading, construction and drainage of roads and turbine pads; necessary soil information; detailed design features to maintain downstream water quality; a comprehensive revegetation plan to maintain and ensure adequate erosion control and slope stability and to restore the site after temporary project activities; and measures to minimize the area of surface disturbance. Other practices shall include containing excavated material, protecting exposed soil, stabilizing restored material and removal of silt fences or barriers when the area is stabilized. The plan shall identify methods for disposal or storage of excavated material.
9. Decommissioning/Restoration/Abandonment.
- a. Decommission Plan. Within 120 days of completion of construction, the permittees shall submit to the Lincoln County Planning Department a decommissioning plan describing the manner in which the permittees anticipate decommissioning the project in accordance with the requirements of paragraph (b) below. The plan shall include a description of the manner in which the permittees will ensure that it has the financial capability to carry out these restoration requirements when they go into effect. The permittees shall ensure that it carries

out its obligation to provide the resources necessary to fulfill these requirements. The Lincoln County Planning Department may at any time request the permittees to file a report with the Lincoln County Planning Department describing how the permittees are fulfilling this obligation.

- b. Site Restoration. Upon expiration of this permit, or upon earlier termination of operation of the WECS, the permittees shall have the obligation to dismantle and remove from the site all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings and ancillary equipment to a depth of four feet. To the extent possible, the permittees shall restore and reclaim the site to its pre-project topography and topsoil quality. All access roads shall be removed unless written approval is given by the affected landowner requesting that one or more roads, or portions thereof, be retained. Any agreement for removal to a lesser depth or for no removal shall be recorded with the Lincoln County Planning Department and shall show the locations of all such foundations. All such agreements between permittees and the affected landowner shall be submitted to the Lincoln County Planning Department prior to completion of restoration activities. The site shall be restored in accordance with the requirements of this condition within eighteen (18) months after expiration.
 - c. Abandoned Turbines. The permittee shall advise the Lincoln County Planning Department of any turbines that are abandoned prior to termination of operation of the WECS. The Lincoln County Planning Department may require the permittees to decommission any abandoned turbine.
 - d. Providing Surety. The Planning Director shall decide if it is prudent to include provisions that ensure financial resources will be available for decommissioning. This may include establishing an escrow account into which the project developer/owner will deposit funds on a regular basis over the life of the project. The unit of government shall then have access to the escrow account for the explicit purpose of decommission. Financial provisions shall not be so onerous as to make WECS projects unfeasible.
10. Application Contents. Every application for a commercial WECS permit shall include the following information:
- a. Name and address of the applicant.
 - b. Evidence that the applicant is the owner of the property involved or has written permission of the owner to make such application.
 - c. A plot and development plan drawn in sufficient detail to clearly describe the following:
 - i. Physical dimensions and locations of the property, existing structures, and proposed structures.

- ii. Location of electrical lines and facilities.
- iii. Existing topography.
- iv. Proposed grading and removal of natural vegetation.
- v. Wind characteristics and dominant wind direction is the direction from which 50 percent or more of the energy contained in the wind flows.
- vi. Setbacks.
- vii. Ingress and egress identifying the following factors:
 - 1. Location and distance to the nearest publicly maintained road;
 - 2. A description of the access route from the nearest publicly maintained road to include:
 - a. Road surface material stating the type and amount of surface cover;
 - b. Width and length of access route;
 - c. Dust control procedures;
 - d. A road maintenance schedule or program;
 - e. Utilization of the property under the requested permit.
- d. Utility interconnection data and a copy of written notification to the utility of the proposed interconnection.
- e. Specific information on the type, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each WECS model, tower and electrical transmission equipment.
- f. A location map to scale of all dwellings within ½ mile of the boundary of the property upon which the WECS are to be located.
- g. If the Planning Director determines it is necessary, the application shall be accompanied by a photograph or detailed drawing of each model of WECS including the tower and foundation; and one or more detailed computer or photographic simulation drawing showing the site fully developed with all proposed WECS and accessory structures.

- h. An application including any WECS which is located within a 100-year flood plain area, as such flood hazard areas are shown on the maps designated by FEMA, shall be accompanied by a Flood Plain Development Permit.
- i. An application including any WECS which is located within two miles of any microwave communications link shall be accompanied by a copy of written notification to the operator of the link.
- j. The types and quantities of wastes, fluids, or pollutants that are proposed to be handled, processed, treated, stored, disposed of, emitted, or discharged at each vessel containing fluid and for the entire project.
- k. Project schedule.
- l. Such additional information as shall be required by the Planning Director.

D. Application Review.

- 1. Administrative Review. An Accessory WECS shall require an administrative review. The Planning Director will make a decision to approve or deny within fifteen (15) days of submittal or the application is deemed approved. If a third-party technical study is required, a decision to approve or deny an application may be postponed until the study is complete. Any decision to deny a request to place, construct or modify facilities must be in writing and include specific reasons for the action. The Planning Director's decision can be appealed by the applicant within five (5) working days to the Planning Commission.
- 2. Conditional Use Permit. A conditional use permit is required for a Commercial WECS.
- 3. Technical Issues and Expert Review. Wind Energy Conversion Systems may involve complex technical issues that require review and input that is beyond the expertise of County staff. The Planning Director may require the applicant to pay reasonable costs of a third-party technical study of a proposed facility. Selection of expert(s) to review the proposal will be in the sole discretion of the County.
- 4. Building Permit. Administrative and Conditional Use Permit approval of Wind Energy Conversion Systems is separate from the building permit process. Building permits for the construction of facilities can not be issued until the facility is approved through the administrative or conditional use permit process.

12.03 Home Occupations. It is deemed appropriate to allow limited nonresidential activities to operate in conjunction with a residence in those zoning districts where residential dwellings are permitted, provided the regulations protect the character and integrity of the unincorporated area.

The objective of these regulations is to allow limited commercial type activities associated with a residence only to the extent that the activity is clearly subordinate to the residential or agricultural use of the property. Due to the diverse pattern of development in the rural area, the regulations provide for both minor and major home occupations.

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

1. The occupation shall be conducted entirely within a dwelling and clearly incidental to the use of the structure for residential purposes.
2. There shall be no change in the outside appearance of the dwelling or any visible evidence of the conduct of the occupation.
3. Only residents of the dwelling shall be employed by or participate in the occupation.
4. The storage of equipment, vehicles, or supplies associated with the occupation shall not occur outside the dwelling. Accessory buildings or structures shall not be used for storage.
5. There shall be no display of products visible in any manner when viewed from outside the dwelling.
6. No advertising or display signs shall be permitted other than a nameplate attached to the dwelling. The nameplate shall not be illuminated and shall not be more than two square feet in area. No off premise signs shall be used.
7. The occupation shall not require internal alterations or involve construction features not customary in a dwelling. External alterations intended to create a separate entrance or other feature exclusively for the occupation is prohibited.
8. There shall be only limited and incidental sale of products conducted on the premise.
9. The occupation shall not generate more than four (4) visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. The occupation shall not result in additional off-street parking spaces for clients or customers.
11. Toxic, explosive, flammable, combustible, corrosive, radioactive or other restricted materials are prohibited.

12. No equipment or process shall be used in the occupation which creates noise, vibration, glare, fumes, or odor detectable to the normal senses off the property.
13. No equipment or process shall be used in the occupation which creates visual or audible electrical interference in any radio or television receiver or causes fluctuations in line voltage off the property.
14. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

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

A. Class 1:

1. The occupation shall be conducted entirely within a dwelling and/or accessory building and clearly incidental to the use of the structure for residential purposes.
2. The occupation shall be operated by a member of the family residing in the dwelling.
3. Employees of the occupation shall be limited to residents of the dwelling and up to two (2) non-resident employees, not to exceed four (4) employees on site.
4. In addition to the dwelling, up to 2000 square feet of accessory building space may be used for the occupation.
5. The occupation shall not create noise which, when measured off the property, exceeds 60 decibels between the hours of 8:00 a.m. and 6:00 p.m. The occupation shall not create noise which is detectable to the normal sensory perception off the property between the hours of 6:00 p.m. and 8:00 a.m. These off the property noise standards shall not apply to public and railroad rights-of-way.
6. The occupation shall not create vibration, glare, fumes, odor, or electrical interference detectable to the normal senses off the property.
7. No outside storage, display of goods or merchandise, or external evidence of the occupation shall occur except as outlined in this section.
8. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or accessory building. Additionally, one nonilluminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.

9. The occupation shall not generate more than 10 visits per day from clients or customers averaged over a period of seven (7) consecutive days.
10. There shall be only limited and incidental sale of products conducted on the premise.
11. The number of deliveries generated by the occupation shall not significantly affect the character of the area. Delivery vehicles shall be limited to auto, pick up, or typical delivery service truck.

B. Class 2:

1. The occupation shall be conducted in a dwelling or agricultural building accessory to the dwelling which comprise the headquarters for the agricultural use, and such agricultural use is conducted on one or more parcels of land with a total area of at least one-half of a quarter section or equivalent area which must be contiguous to or in close proximity to the headquarters.
2. The occupation shall be clearly secondary to the principal use of the land for agricultural purposes.
3. The owner or occupant of the dwelling shall be engaged in the occupation.
4. The occupation shall have no more than five (5) employees, including residents of the property.
5. The occupation shall be conducted within a completely enclosed building typical of farm buildings. Such building shall be located behind the dwelling, or shall be located at least 200 feet from the nearest road right-of-way.
6. All materials, supplies and products associated with the occupation shall be stored within a building or if open storage of materials or equipment is required it shall be concealed with appropriate screening or landscaping.
7. A non-illuminated nameplate not exceeding two square feet in area may be placed on the dwelling or agricultural building. Additionally, one nonilluminated sign not exceeding four square feet in area may be located along the driveway for the occupation. No off premise signs shall be used.
8. The use shall cease operating when the property is no longer in conformance with Section 12.03.02 (B) (1).

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

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

- A. Exploration for minerals may be approved by Conditional Use only as long as the following minimum requirements are met:
 1. The applicant shall provide:
 - a. A description of the mineral or minerals which are the subject of the exploration.
 - b. Maps showing the general area within which the exploration operation will be conducted.
 - c. A detailed description of the regional environmental conditions, to include surface land use and vegetation, as well as a detailed description of the area's geologic formations and hydrology from the best available scientific sources.
 - d. Maps indicating the location of the drill sites to the nearest section of land, a technical description of the exploration process, the types of equipment to be used, and the estimated time table for each phase of work and for final completion of the program.
 - e. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the proposed exploration.
 - f. A description of the proposed plan to address the identified environmental impacts to include all measures to be taken to prevent soil erosion, water contamination, air contamination, disruption of the areas ecological balance and any other related hazard to public health and safety.
 - g. A plan for reclamation of the land to its original condition after exploration is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources and the proposed future use of the lands explored and adjacent lands. The reclamation plans include:
 - reclamation schedule
 - methods of plugging drill holes
 - methods of severing and returning topsoil and subsoil.
 - methods of grading, backfilling and contouring of exploration sites and access roads
 - methods of waste management and disposal, including liquid and solid wastes
 - methods of revegetation
 - h. A surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of the affected ground and surface

waters. The amount shall be set by the County Commission based on an estimate, provided by the applicant, of the cost of reclamation and decontamination. The bond shall be released five years after exploration has ceased unless the Commissioners find for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the surety bond may be reduced by the Commissioners, if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.

2. The applicant shall identify specific phases when monitoring and inspection of the exploration activities shall be conducted by county, state, federal or independent personnel to assure compliance with all applicable rules and regulations. If a conditional use permit is granted, the permit shall identify such inspection agency and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the County Commission.
 3. A Conditional Use shall be issued only after all of the conditions specified herein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of exploration activities.
- B. Mineral extraction and/or mining may be approved by Conditional Use only as long as the following minimum requirements are met:
1. The Applicant shall provide:
 - a. A description of the mineral or minerals to be mined or milled.
 - b. Maps showing the area within which the mining or milling operations will be conducted.
 - c. A description of the surface land use and vegetation, as well as a description of the nature and depth of the top soil and subsoil.
 - d. An environmental assessment which establishes base line conditions for radioactive intoxicant materials and air, ground and surface waters, soils, vegetation and animals.
 - e. A description of the overburden, mineral seams, and other geologic formations, their conductivities and hydraulic gradients, known to exist above the deepest projected depth of the mining operation.
 - f. A description of the hydrology to the deepest projected depth of the mining operation, including mapping of the depth, water table level, extent, and flow

characteristics of ground water and aquifers for the hydrologic regime of the ground water and drainage basins affected by the mining or milling operation.

- g. A technical description of the mining or milling, types of equipment to be used, detailed site plan of all anticipated construction, an estimated timetable for each phase of work and for final completion of the program, a statement of source, quality, and quantity of water to be used in the mining or milling operations, as well as the chemical and radioactive characteristics of all mined or milled products, waste products, and emissions to the environment.
- h. A description of the major environmental impacts upon air quality, water quality and quantity, and land use modification presented by the mining or milling operations.
- i. A description of the proposed plan to address the identified environmental impacts to include:
 - methods of separating the topsoil, subsoil, and soil piles, protecting them from erosion before reclamation begins, and keeping the topsoil free from acid or toxic materials
 - plan for insuring that acid forming or toxic materials constituting a hazard uncovered or created during mining or milling are promptly treated in a manner to prevent water and air contamination
 - measures to maintain the quantity and quality of ground and surface water, hydrologic balance, productivity of farmland, and soil and water recharge capacity
 - procedures to prevent water and air contamination through radioactive or toxic seepage of runoff from tailings, ponds, mine wastes, mine dewatering discharge, or other mining and milling related operations
- j. A plan for the reclamation of the land after mining is completed. Measures to be taken for surface reclamation shall take into account the impact on adjacent land uses and natural resources, and the proposed future use of the lands mined and adjacent lands, and shall include:
 - a reclamation schedule
 - methods of grading, backfilling and contouring of disturbed areas and access roads
 - methods of waste management and disposal, including liquid and solid wastes
 - methods of revegetation
- k. A surety performance bond in an amount to be determined by the County Commission to assure that sufficient funds will be available to carry out required reclamation and, if necessary, decontamination of affected ground and surface waters. The amount shall be set by the County Commission based on an estimate, provided by the applicant, of the cost of reclamation and decontamination. The

bond shall be released five years after mining and milling has ceased unless the Commissioners find, for good cause shown, that the water quality of the affected area has not been restored or the reclamation plan has not been completed. The amount of the bond may be reduced by the Commissioners if a bond is held by the State of South Dakota for the same purpose, by the same amount of the latter bond.

2. The applicant shall identify specific phases when monitoring and inspection of the mining and milling process shall be conducted by county, state, federal or independent personnel to assure compliance with all applicable rules and regulations. If the Conditional Use is granted, the permit shall identify the inspection agency and it shall be the responsibility of the applicant to notify said agency when monitoring or inspection is required. The applicant shall bear the burden of the cost of the monitoring and inspection program as determined by the Commissioners.
 3. A Conditional Use shall be issued only after all conditions specified therein have been met. Evidence of violation of the regulations, including but not limited to air and water contamination, shall be cause for an immediate cessation of the mining and milling.
- C. Solution mining and/or in situ mining of an ore body with the circulation of chemicals through injection and recovery wells for minerals is prohibited.

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

- A. A park intended for the placement of mobile homes and manufactured homes on rented lots and where the roads are not publicly dedicated shall meet the following minimum standards:
 1. A plan shall be prepared showing the layout of the park, including lot lines, the road system and spacing diagram for all structures. Upon approval of the conditional use for the park, the plan shall be filed in the Office of Planning and Zoning and govern all future development.
 2. Each lot shall have a minimum size required for the zoning district in which the park is located. However, a smaller lot size may be approved as part of the conditional use.
 3. No dwelling or any structure, addition, or appurtenance thereto shall be located less than the minimum setback required by the district in which the park is located. The setback requirements may be changed as part of the approval of the conditional use.
 4. Each lot shall abut or face a clear unoccupied space, roadway, or street having a width of at least 34 feet where parking is permitted on both sides, 27 feet in width where parking is restricted to one side only and 24 feet wide where parking is prohibited, or be connected to such street or roadway by a private driveway not less than 12 feet in width, serving no more than four lots. A hard surfaced material shall be used on all roadways.

5. The park shall be a minimum of 10 acres in size.
- B. A subdivision for mobile homes and manufactured homes shall be required to meet the subdivision regulations and the density, area and yard requirements for the district in which it is located. The subdivision shall be a minimum of 10 acres in size.
 - C. A manufactured home may be considered for a conditional use as specified in the district regulations only if the following requirements are met:
 1. The structure shall have been constructed on or after July 15, 1976.
 2. The exterior dimensions of the structure, measured by excluding overhangs, shall not be less than 22 feet.
 3. The structure shall be supported by a foundation system consisting of walls along the perimeter and piers on the interior. All foundation walls and piers shall extend a minimum of 42 inches below final grade.
 4. The roofing and siding material shall be consistent with the material used in site-built dwellings.
 5. The roof pitch shall not be less than a 3 in 12 slope.
 - D. Mobile homes which are nonconforming uses may be replaced with another such structure by making application for a conditional use. The compatibility of the replacement dwelling with neighboring dwellings shall be considered in reviewing the conditional use request.
 - E. A mobile home or manufactured dwelling may be located temporarily on land owned by the occupant during the construction of a dwelling. Placement shall not occur until construction has actually commenced. The unit shall be removed after one year or upon completion of the dwelling, whichever occurs first.
 - F. All mobile homes and manufactured homes as defined in Article 26.00 must be located in conformance with these requirements.

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

- A. Limited Use. Accessory buildings and uses are buildings and uses customarily incident to any of the permitted uses in the district in which it is located. In the A-1, RR and R-1 districts, accessory buildings and uses are limited to:
 1. A noncommercial greenhouse that does not exceed in floor area 25 percent of the ground floor area on the main building.

2. A private residential garage used only for the storage of noncommercial vehicles and other related material.
 3. Tennis court, swimming pool, garden house, pergola, ornamental gate, barbeque oven, fireplace, and similar uses customarily accessory to residential uses.
 4. Home occupation in conformance with Section 12.03.
 5. Temporary storage and distribution of seed and similar type products provided the use is located within a farmstead, the product is stored within a completely enclosed building typical of farm buildings and the use is limited to the seasonal sale of products from the premises.
- B. Time of Construction. No accessory buildings shall be constructed upon a lot until the construction of a main building has been actually commenced, and no accessory buildings shall be used unless the main building on the lot is also being used. Accessory buildings may not be used for dwelling purposes.
- C. Setback Requirements.
1. Accessory buildings which are attached to or located within 10 feet of the main building shall be considered a part of the main building and shall comply with the same yard requirements as the main building.
 2. Accessory buildings not a part of the main building, when located in the required rear yard, shall be no closer than three feet to the side and rear property lines.
- D. Accessory buildings shall not occupy more than thirty (30) percent of the rear yard, subject further to the following limitations:
1. In the A-1 and RC Districts, the total area of accessory buildings shall not exceed 1500 square feet when such buildings are located in a subdivision of more than four (4) lots unless a conditional use has been approved.
 2. In all Residential Districts, the total area of accessory buildings shall not exceed 1500 square feet unless a conditional use has been approved.
 3. In a Planned Development District, the total area of accessory buildings shall not exceed 1200 square feet unless a minor amendment has been approved.

12.07 Rock, Sand and Gravel Extraction.

- A. Intent. This section addresses the application, review and regulation of extraction and on-site processing of rock, sand and gravel. An applicant must meet certain requirements as specified in Subsection C when filing for a conditional use in addition to the general requirements contained in other sections of the zoning regulations.

The developmental and operational criteria contained in Subsection F are intended to assist in the formulation of conditions to be imposed on individual extraction operations. The criteria have been designed to eliminate potential health risks and minimize the adverse impact on other land uses due to extraction operations.

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

- B. Submission of Application. The application for rock, sand or gravel extraction shall be filed with the Planning Office on the prescribed conditional use form at least 30 days in advance of a regularly scheduled Planning Commission meeting.
- C. Application. The conditional use application shall be accompanied by the following:
 - 1. Maps showing the area within which the extraction operations will be conducted, including areas to be disturbed, setbacks from property lines, and the location of all structures, equipment and access and haul roads.
 - 2. A description of the surface land use and vegetation, including all pertinent physical characteristics.
 - 3. A hydrologic study which shall include all available information from the State Geological Survey and other information pertinent to the application. If the applicant believes a study is not warranted, documentation shall accompany the application in support of this position.
 - 4. A reclamation plan which takes into consideration the criteria listed in Subsection F - reclamation.
 - 5. The applicant shall meet with the township supervisors of the affected township to discuss repair and maintenance responsibilities on township roads to be used as haul routes. A summary of the meeting(s) shall be presented with the application.
- D. Fee. If a conditional use is granted, the operator shall pay to the County an annual fee of \$10 per acre of land which is being disturbed by the extraction activities and has not been reclaimed. The fee shall be used to defray the direct and indirect costs associated with general administration and enforcement of this section. The fee shall be payable by January 20th of each year and deposited in the general fund of the County. The disturbed land area existing on January 1 of each year shall be used in calculating the fee.
- E. Notification Requirements. In addition to the notification requirements of Article 19, the Planning Director shall notify by U.S. mail all property owners of record within one mile of the proposed conditional use area or the owners of the thirty properties nearest to the affected property, whichever affects the least number of owners, of the time, date, place and

purpose of the public hearing. The notice shall be mailed not less than 15 days prior to the public hearing.

- F. Developmental and Operational Criteria. The following criteria shall be considered in developing conditions for applications involving rock, sand and gravel extractions. More stringent requirements may be imposed by the County or the applicant may present arguments to relax the requirements based on specific characteristics of the site.

Buffer Area.

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

Visual Considerations.

1. Earth berms and vegetation should be employed to minimize visual impacts and reduce the effects of noise.
2. The need for and placement of berms should be determined by the orientation and position of the excavation site with respect to residences and roadways. Berms should be located in such a way as to restrict the public's view of the property. Consideration should be given to placing the berms as close to the public point of view as practical. Generally, berms should be six feet in height and seeded immediately after construction to avoid soil erosion. Berms should be maintained and kept reasonably free of weeds.
3. The operator should work with the County Conservation District and Planning Director to develop a planting program. The planting program should be reduced to writing and kept on file in the Planning Office.
4. At a minimum, berms should be constructed prior to blasting or the extraction of rock, sand or gravel.

Air Quality.

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

4. Dust control agents should be applied to township gravel roads designated as haul routes and all driving surfaces within the extraction area.

Hydrology, Dewatering and Drainage.

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

Haul Roads.

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

Operator Surety.

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

Reclamation.

1. The type and extent of reclamation should be based on the type of material extracted on the intended post-mining land use, but in all cases the reclamation procedures should result in the rehabilitation of affected land through contouring and soil stabilization, revegetation and other appropriate means so as to create the least amount of unsightliness and most appropriate future use of the reclaimed area. Bodies of water may be incorporated into an acceptable reclamation plan.
2. Provide maps, including cross sections, showing the existing natural topography and anticipated topographic conditions upon completion of reclamation.
3. Grading should achieve a contour that is most beneficial to the proposed future land use. All berms should be removed where sand and gravel operations were conducted.

In most cases involving quarry operations, the berms should remain in place unless their removal would serve a more useful purpose.

4. Topsoil should remain on site and be used during reclamation.
5. A seeding and revegetation plan should be developed for the affected area in consultation with the County Conservation District.
6. All required reclamation activities should be completed and a compliance inspection performed by the Planning Director prior to the release of the surety.

Additional Considerations.

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

12.08 Reserved.

12.09 Concentrated Animal Feeding Operations.

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

violation of County, Federal or State regulations, when a change in operation occurs as defined within these regulations, or when an existing CAFO is to be restocked after being idle for five (5) or more years.

C. Animal Unit Ratio for Concentrated Animal Feeding Operations:

TYPE OF ANIMAL:	Class A # of Animals	Class B # of Animals	Class C # of Animals	Class D # of Animals
Beef cow, steer, feeder, dairy heifer or fat beef animal	2,000 or more	1,000 to 1,999	500 to 999	200 to 499
Mature Dairy Cattle (milked or dry)	1,429 or more	714 to 1,428	357 to 713	143 to 356
Swine over 55 pounds	5,000 or more	2,500 to 4,999	1,250 to 2,499	500 to 1,249
Nursery Swine under 55 pounds	20,000	10,000 to 19,999	5,000 to 9,999	2,000 to 4,999
Farrow-to-Finish (sows)	540 or more	270 to 539	135 to 269	54 to 134
Horse	1,000 or more	500 to 999	250 to 499	100 to 249
Sheep	20,000 or more	10,000 to 19,999	5,000 to 9,999	2,000 to 4,999
Turkeys	111,111 or more	55,556 to 111,110	27,778 to 55,555	11,111 to 27,777
Hens, cockerels, capons, broilers	60,606 or more	30,303 to 60,605	15,151 to 30,302	6,060 to 15,150
Ducks or Geese	10,000 or more	5,000 to 9,999	2,500 to 4,999	1,000 to 2,499

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

Class A and B concentrated animal feeding operations, as defined by these regulations, shall be required to have the WMP reviewed and approved by the South Dakota Department of Environment and Natural Resources. Waste management plans for Class A, B, C and D

concentrated animal feeding operations may be reviewed periodically by the Planning Commission if deemed necessary. The following minimum requirements (unless varied from or waived by the CUP) shall apply:

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

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

- E. **Waste Application:** In order to regulate waste application practices, landowners receiving and utilizing manure generated from a concentrated animal feeding operation not permitted by Lincoln County shall be required to obtain a conditional use permit for land application of said manure within the Agricultural – Public Use District. The waste management plan shall be the same as for a permitted site.
- F. **Minimum Separation Distances:** The facility shall be sited not closer than 70 feet from the lot line and any public right of way, and not closer than those distances indicated in the “Setback Chart”. These distances are minimums, and may be increased under the terms of any CUP based on considerations and characteristics of the neighborhood, including but not limited to adjoining or nearby uses within the same or different districts and prevailing wind direction. Setbacks shall be measured from the waste storage facility to the structure/use as identified on the “Setback Chart”.

Exemption from setbacks from public right of way is an existing, working farmstead where siting of the facility is within the clear perimeter of other existing agricultural structures and owner’s dwelling, and the owner has contracts on adequate numbers of acres for waste management.

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

SETBACK CHART	<u>CLASS A</u>	<u>CLASS B</u>	<u>CLASS C</u>	<u>CLASS D</u>
Dwellings other than owner of the facility	.75 mile	.5 mile	.25 mile	.25 mile
Municipalities	2 miles	1.25 miles	1 mile	1 mile
Swine only – dwellings other than owner of facility	2 miles	1.25 miles	.75 mile	.5 mile
Existing Swine Feeding Operation over 200 AU - only related to new swine feeding operations	2 miles	1.25 miles	.75 mile	.5 mile
Churches, Schools, Businesses and Designated County or State Parks	1.5 miles	1 mile	1 mile	.5 mile
Public Water Supplies	1.5 mile	1 mile	1 mile	.5 mile
Private Shallow Wells	.25 mile	.25 mile	.25 mile	.25 mile

SETBACK CHART	<u>CLASS A</u>	<u>CLASS B</u>	<u>CLASS C</u>	<u>CLASS D</u>
Lake, Rivers and Streams classified as Fisheries	1 mile	1 mile	.5 mile	.5 mile
Federal, State, County and Township ROW	70 feet	70 feet	70 feet	70 feet
Designated 100 Year Flood District	Prohibited	Prohibited	Prohibited	Prohibited
Designated Aquifer Protection Dist.	Prohibited, unless the applicant can show by appropriate soil borings that the site is appropriate.	Prohibited, unless the applicant can show by appropriate soil borings that the site is appropriate.	Prohibited, unless the applicant can show by appropriate soil borings that the site is appropriate.	Prohibited, unless the applicant can show by appropriate soil borings that the site is appropriate.

G. Information Required for the Consideration of Class A, B and C Concentrated Animal Feeding Operation Conditional Use Permits (CUP):

Any applicant for a Lincoln County conditional use permit for concentrated animal feeding operations shall provide the following information to the Planning Director prior to consideration by the Planning Commission:

1. The owners', managers', management company's or similar entities' name, address and telephone number.
2. Legal description of the site.
3. The number and type of animals to be housed by the proposed concentrated animal feeding operation.
4. A fly and odor control plan.
5. Methods to be utilized for the disposal of dead animals.
6. Information on ability to meet designated setback requirements, including maps showing measured distances.
7. Plans and specifications of the proposed site and a nutrient management plan.
8. Information on the types of soils at the site, and whether there are any shallow aquifers, designated wellhead protection areas, and/or 100-year floodplain designations at or within one half mile of the proposed site.
9. A map illustrating all land to be utilized for manure application.

10. Site plan of all existing and proposed buildings and structures.
 11. Provide farm service agency wetland map.
 12. Test boring location and test boring results. The standards utilized by the South Dakota Department of Environment and Natural Resources for soil borings shall be followed. This item may be a condition of the conditional use permit.
 13. The Lincoln County Planning Commission or the Planning Director may request information reasonably related to a concentrated animal feeding operation not contained in these regulations.
- H. Special Exception for Livestock Sales Barn. A livestock sales barn, as a conditional use in the A-1 Agricultural District, Section 3.04 (U), or other district where such use may be permitted, otherwise meeting the definition of a concentrated animal feeding operation in this ordinance, covered or proposing to be covered by a general water pollution control permit for concentrated animal feeding operations to be issued by the South Dakota Department of Environment and Natural Resources (Pierre, SD), and where animals intending to be sold by their owners through an agency on advertised or publicized sale dates, have been, are or will be stabled or confined for periods of not more than 60 consecutive hours, including the date of sale, shall observe as a minimum separation distance the provisions of the setback chart for a Class C concentrated animal feeding operation, as established in subparagraph (F), above, without regard to whether the number of animals on hand at one or more points in time for purposes of sale are, in terms of animal unit ratios, greater, equal to or lesser than the definition of a Class C concentrated animal feeding operation as provided in subparagraphs (B) and (C) of this Section 12.09. Nothing in this subparagraph (H) shall change, modify or eliminate the otherwise applicable requirements of the waste management plan under subparagraph (D) of this Section 12.09, including separation distances for waste disposal set forth therein.

12.10 Temporary Uses.

- A. Intent. The requirements of this section are intended to provide for the regulation and permitting of uses and associated improvements on private property which are not so recurring in nature as to constitute a permanent use. These requirements are not intended to regulate temporary uses on public property, including public rights-of-way.
- B. Permit Required. No person shall operate a temporary use without first obtaining a permit therefor from the Planning Department as prescribed in this section. If an objection is filed pursuant to Section 12.10(E) or if the Planning Department determines that a hearing should be held due to the scope of the proposed use, the Planning Department shall refer the temporary use application to the Planning Commission for action.
- C. Applications.

1. Submission deadline. All applications for a temporary use permit shall be made at least 30 days prior to the proposed commencement date of the use, provided that the Planning Department may approve a lesser time consistent with the requirements of this section.
 2. Temporary use plan. All temporary uses shall be subject to approval of a temporary use plan. The plan shall describe the nature and location of all temporary improvements and activities, the location of any permanent buildings intended to be used, the time period for which the temporary use permit is requested, and such other information in sufficient detail as the Planning Department determines is reasonably necessary to adequately review the application and to ensure the use will be conducted in a manner consistent with the requirements of this section.
- D. Standards for review. The following standards shall be used in determining the suitability and compatibility of a temporary use:
1. The temporary use will have no adverse effect on nearby properties or jeopardize public health, safety, and general welfare.
 2. The temporary use will not create hazardous traffic conditions or result in traffic in excess of the capacity of the roads serving the use.
 3. The site is adequate to accommodate the proposed use, including the provision for on and off site parking.
 4. Adequate sanitation facilities will be available on the site.
 5. The time period and hours of operation for the temporary use are clearly specified.
 6. Provision is made for the removal, clean-up, and restoration of the site.
 7. The temporary use will not adversely impact the natural environment.
 8. The site is suitable for the proposed temporary use, considering flood hazard, drainage, soils, and other conditions which may constitute a danger to life, health or property.
 9. All temporary improvements and any permanent structures proposed to be used will comply with all applicable provisions of the county's building code.
- E. Notice. The Planning Department shall send written notice of the temporary use permit application to the owners of all property located within at least 600 feet of the property involved. Such notice shall be sent at least 14 days before the Planning Department makes its determination on the temporary use permit. If any of the owners so notified file a written objection prior to the time the Planning Department makes its determination regarding the application, the application shall be referred to the Planning Commission for action.

- F. Conditions of approval. Reasonable conditions may be required in connection with the approval of any temporary use permit which are deemed necessary to protect the public health, safety and welfare and the social and economic well being of those who will use the temporary use, residents and landowners immediately adjacent to the proposed use, and the community as a whole. Any condition imposed must be clearly specified in writing on the temporary use permit.
- G. Appeal of decision. Any person aggrieved by an action of the Planning Department in granting, denying, revoking, or suspending a temporary use permit may appeal such action to the Board of Adjustment. Such appeal shall be in writing and filed with the Planning Department within five working days of the decision.
- H. Fee. A fee of \$100 shall accompany the application for a temporary use permit.
- I. Exemptions. The following uses shall not require a temporary use permit:
 - 1. Estate or real estate sales involving the property or items from the property where the sale is held.
 - 2. Garage, yard or rummage sales provided:
 - a. Sales last not longer than three (3) days.
 - b. Sales are held no more than twice yearly.
 - c. Sales are conducted on the owner's property or one of the owner's property in case of a multi-party sale.
 - 3. Weddings, purely social parties or similar family events where the function or event involves the owner or lessor of the property and where no monetary consideration or fees for such use of the property or attendance is involved.

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

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

The purpose of this section is to provide predictable and balanced standards for the siting and screening of tower facilities on both public and private property within the jurisdiction of Lincoln County. These standards will protect the health, safety and general welfare of

persons in the area(s) surrounding such tower facilities from possible adverse aesthetics related to the placement, construction or modification of such tower facilities.

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

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

1. To regulate the location of telecommunication towers, antenna support structures and wireless communication facilities.
2. To protect residential areas and land uses from potential adverse impact of telecommunications towers, antenna support structures and wireless communication facilities.
3. To minimize adverse visual impact of tower sites through design, siting, landscaping and innovate camouflaging techniques.
4. To promote shared use and co-location of sites.
5. To insure telecommunications towers, antenna support structures and wireless communication facilities are compatible with surrounding land uses.
6. To facilitate the provision of services to residents and businesses in an orderly fashion.
7. To promote the location of telecommunications towers, antenna support structures and wireless communication facilities in non-residential areas.
8. To avoid potential damage to property caused by telecommunications towers, antenna support structures and wireless communication facilities by insuring that such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or when determined to be structurally unsound. Specifically, the Telecommunication Act of 1996 affirms the local government's right to control the siting, construction and modification of cellular and other wireless

telecommunication facilities. The permitting process of this article will not discriminate among providers of functionally equivalent services and will not prohibit the provisions of personal wireless services.

- B. **Applicability.** It shall be unlawful for any person, firm, or corporation to erect, construct in place, or place any tower facility without first receiving a permit(s) from the Lincoln County Planning and Zoning Office. Nor may any person, firm, or corporation alter, modify, transform, add to or change in any way an existing tower facility without first receiving a permit(s) from the Lincoln County Planning and Zoning Office.
- C. **Co-Location Requirements for New Tower Facilities.** New tower facilities shall be designed and constructed to permit the future co-location of other commercial wireless telecommunications services, according to the following criteria:

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

In satisfying co-location requirements, the owner of the tower must provide adequate access to the tower site and space within the owned or leased area to accommodate co-location user's equipment. Nothing in these regulations shall prevent the owner of the tower from requiring remuneration from a co-location user, provided that such remuneration is rate reasonable. The owner of the tower may also establish reasonable technical requirements for co-location to protect the owner's investment and guarantee effective telecommunication service. The owner of the tower shall have the authority to review all plans for co-location uses and require reasonable modifications for such plans to ensure safe and efficient operations of the communication services and protect the owner's investment.

- D. **General Standards.**

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

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

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

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

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

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

E. Application Requirements

1. Lincoln County Planning and Zoning Office may contract with an independent technical expert to review technical materials submitted by the applicant, and/or to determine if additional information is necessary. The tower facility applicant shall pay the cost of such review and/or independent analysis.
2. Name and address of the tower facility owner, record landowner of parcel and any duly appointed agents of the parties.
3. A visual study depicting where within a one (1) mile radius any portion of the proposed tower facility will be visible.
4. Site plan(s) drawn to a scale of one (1) inch equals twenty (20) feet or less, specifying the location of the tower facility, support structures, transmission buildings and/or other accessory uses, access, parking, fences, signs, lighting, landscaped areas and all adjacent land uses within two hundred forty (240) feet of the base.
5. Elevation drawings of "before" and "after" simulating and specifying ground levels, the location and height of antenna(s), support structures, equipment buildings and/or other accessory uses, fences and signs of the tower facility.
6. Map showing the search radius for the antenna location and the proposed broadcast coverage obtained by the tower facility, including a narrative describing a search radius of not less than one (1) mile for the requested site, clearly explaining why the site was selected, identifying and locating landing and takeoff areas of aircraft within the search radius, locating all existing tower facilities, and identifying all other structures that may be potential co-location sites.
7. Description of the tower facility design. (e.g. monopole)
8. An affidavit attesting to the fact that the Applicant made diligent, but unsuccessful, efforts to obtain permission for installation at a co-location facility.
9. Written, technical evidence from an engineer(s) that the proposed tower or communication facility cannot be co-located to other tower sites.

10. Written, technical evidence that an engineer registered in the State of South Dakota has provided the design for this specific tower facility and site ensuring the proper standards for design.
- F. Other Requirements. The County may require additional information from the applicant and impose additional standards, regulations or requirements as deemed necessary to protect the public health, safety and welfare. If the Planning Commission considers the information provided inadequate or if the applicant fails to supply required information, the Planning Commission may deny the application on this basis. Other requirements include, but are not limited to, the following:
1. A letter that requires the tower facility owner and successors to allow the shared use of the tower facility if an additional user(s) agrees in writing to meet reasonable industry terms and conditions for shared use.
 2. A copy of the FAA determination or a signed statement that the proposed tower facility has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or that no compliance with Part 77 is required, and the reasons therefore.
 3. A copy of the FCC's license or a signed statement from the proposed operator of the tower facility attesting to the fact that the tower facility complies with current FCC regulations, including compliance with the regulations of the FCC with regard to maximum radio frequency and electromagnetic frequency emissions, or a statement from the applicant that no such compliance is necessary, and the reasons therefore.
 4. Copy of a certificate of insurance for liability and workers compensation insurance that requires notification to Lincoln County Planning and Zoning Office prior to cancellation will be furnished.
 5. Documentation demonstrating that the tower facility has been designed to conform to applicable state structural building standards and accepted electrical engineering methods and practices as specified in applicable provisions of the National Electrical Code and a sworn statement that following completion of construction the tower facility will be inspected at the applicant's expense by a qualified engineer licensed by the State of South Dakota.
 6. The applicant shall submit proof, in the form of a signed affidavit, demonstrating a good faith effort to lease or purchase space on an adjacent existing tower facility. The affidavit shall state why space is not available, such as:
 - a. The planned tower facility would exceed the structural capacity of the tower facility and the structural capacity cannot reasonably be increased;
 - b. The planned tower facility would cause interference with the usability of other existing or planned equipment at the tower facility; and/or

- c. An existing tower facility cannot accommodate the planned antenna at a height necessary to function reasonably.

G. Exemptions. Towers exempt from the permitting process include the following:

- 1. Residential use no more than 10' above average existing tree canopy or roof line.
- 2. Normal maintenance to existing tower facilities.

H. Annual Notification - Failure to Comply Deemed Abandonment. The owner of the facility shall file an annual notification in writing to the Planning and Zoning Office as to the current operation of the tower facility. This annual report due on or before January 15th of each year shall include, but not be limited to, the following information:

- 1. Tower usage - type of usage, tower in service or out of service.
- 2. Documentation of antenna - number of co-locates.
- 3. Certification by owner of compliance with this section - signage, landscaping, lighting.
- 4. Annual maintenance performed.
- 5. Any changes from the original conditional use permit.

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

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

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

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

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

- J. Existing Tower Facilities. Existing tower facilities may continue in use and perform routine maintenance for the purpose now used and may not alter, convert, modify, transform, vary, add to or change in any way the form without complying with Section 12.11. Existing tower facilities shall be considered for the co-location of other antenna(s). The owner of an existing tower facility shall file an annual notification in writing to the Planning and Zoning Office as to the continuing operation of every tower facility constructed (see subsection H-Annual Notification). Failure to do so shall be determined to mean that the tower facility is no longer in use and considered abandoned.
- K. Maintenance. All tower facilities shall be maintained in a safe and clean manner. The tower facility owner shall be responsible for maintaining a graffiti, debris and litter free site. The landscape plan shall be maintained for the life of the tower facility. Trimming the tops of trees on site shall be allowed, only to maintain the average height of the canopy used to establish tower facility height. All tower facilities shall be subject to periodic inspection to ensure continuing compliance with all conditions of the application submitted and approval requirements.

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

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

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

12.12 Airport Approach Zones.

A. Approach Zone:

- 1. Within the air space above the approach zone to each end of a runway designed to be used for instrument landings, no building, structure or growth shall be erected, altered or permitted to project above a plane with a slope of one (vertical) to fifty (horizontal) projected from a point 200 feet beyond the end of a runway for a distance of 10,000 feet, said plane to be in the shape of symmetrical trapezoid 1,000 feet in width at its lowest point and 4,000 feet in width at its highest point; combined with a second plane with a slope of one (vertical) to forty (horizontal) extending from the upper edge of the first plane for an additional distance of 40,000 feet, said plane to be in the shape of a

symmetrical trapezoid 4,000 feet in width at its lowest point and 16,000 feet in width at its highest point.

2. Within the air space above the approach zone to each end of a runway not designed to be used for instrument landings, no building or structure shall be erected or altered to project above a plane with a slope of one (vertical) to forty (horizontal) projected from a point 200 feet beyond the end of the runway for a distance of 10,000 feet, said plane to be a symmetrical trapezoid (*) feet wide at its lowest point and (*) feet wide at its highest point.
- B. Transition Zones. Within the established transition zones adjacent to each instrument and non-instrument runway and approach zone, no building, structure or growth shall be erected, altered or permitted to project above a plane with a slope of one (vertical) to seven (horizontal). Transition zones extend outward and upward from a line (*) feet on either side of the center line of non-instrument runways for the length of such runway plus 200 feet on each end; to a height 150 feet above the elevation of the airport reference point. In addition, transition zones are established adjacent to both instrument and non-instrument approach zones which flare outward and upward symmetrically along the entire length of each approach zone to where they intercept to the surfaces of the horizontal and conical zones.
- C. Conical Zone. Within (*) feet from the established airport reference point, no building or structure shall be erected or altered to project above a horizontal plane 150 feet above the established airport elevation. This horizontal zone does not include the approach or transition zones. Within the conical zone, which commences at the periphery of the horizontal zone and extends outward there from a distance of (*) feet, no building or structure shall be erected or altered to project above a plane with a slope of one (vertical) to twenty (horizontal). Exception: Nothing in this subparagraph shall be construed as prohibiting the growth, construction, or maintenance of any tree or structure to a height up to twenty feet above the surface of the land.
- (*) The applicable distance in feet (referenced in this section) must be based on runway length as set forth in Section 77.27 of Part 77 of the Federal Aviation Regulations.

Article 13.00
Additional Yard Regulations

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

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

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

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

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

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

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

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

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

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

Article 14.00
Additional Height Regulations

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

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

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

Article 15.00
Parking and Loading Regulations

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

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

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

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

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

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

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

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

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

- A. Any driveways, parking lots, or loading/unloading areas in a commercial or industrial zoning district shall be constructed with a hard surface when the property is accessed from a hard surface road.
- B. If a driveway, parking lot or loading/unloading area is not hard surfaced with concrete or asphalt, a gravel surface shall be provided. The gravel surface shall be maintained to a minimum thickness of at least four inches.
- C. Adequate provisions shall be made for the disposal of storm water from a driveway, parking lot or loading/unloading area and the owner shall insure that such water does not flow onto adjoining property in a quantity or manner that would be detrimental thereto.
- D. An opaque fence, wall, berm, or landscaping of a height and character necessary for adequate screening of the parking lot from adjacent residentially used property shall be provided. Where there is a difference in elevation between the property which needs the screening and the property receiving the benefit of the screening, the height of the screen barrier shall be measured on the high side.
- E. The entrances and exits to and from any parking lot shall be approved by the Director. Proper directional signs shall be provided.
- F. The entrances and exits to and from any parking lot or loading/unloading area shall be approved by the Director. Proper directional signs shall be provided.

15.05 Off-Street Loading Requirements.

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

- 1. Office Buildings:

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

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

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

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

*GFA means gross floor area.

2. Retail or Service Establishment:

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

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

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

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

3. Wholesale, Commercial use;

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

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

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

4. Manufacturing or Industrial Use:

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

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

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

Article 16.00
On-Premise Signs

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

- A. Safety: To promote the safety of persons and property by providing that signs:
 - 1. Do not create a hazard due to collapse, fire, collision, decay, or abandonment;
 - 2. Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to see and interpret any official traffic sign, signal or device.

- B. Communications Efficiency: To promote the efficient transfer of information by providing that:
 - 1. Businesses and services may identify themselves;
 - 2. Customers and persons may locate a business or service;
 - 3. No person or group is arbitrarily denied the use of the sight line from public rights-of-way for communication purposes.

- C. Landscape Quality and Preservation: To protect the public welfare and to enhance the appearance and economic value of the landscape by providing that signs:
 - 1. Do not create a nuisance to persons using the public rights-of-way;
 - 2. Do not constitute a nuisance to occupancy of adjacent and contiguous property by their brightness, size, height or movement.

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

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

B. RR Rural Residential and R-1 Residential:

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

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

1. Wall, roof, or projecting signs:

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

16.03 Regulations and Limitations of Permitted Signs.

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

B. Projecting Signs.

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

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

D. Freestanding Signs.

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

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

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

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

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

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

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

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

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

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

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

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

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

16.08 Prohibited Signs. The following signs are prohibited:

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

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

Article 17.00
Off-Premise Signs

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

17.02 General Regulations.

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

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

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

17.03 Conditional Uses.

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

17.04 Exceptions.

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

17.05 Prohibited Signs. The following signs are prohibited:

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

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

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

Article 18.00
Nonconforming and Nonstandard Uses

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

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

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

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

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

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

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

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

18.06 Restoration After Damage. When the use of a building is nonconforming as defined by this ordinance and such a building is damaged by a fire, explosion, act of God, or the public enemy to the extent of more than 60 percent of its fair market value, it shall not be restored except in conformity with the provisions of the district in which the building is located. Exception: Single family dwellings may be restored if damaged less than 100 percent.

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

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

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

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

Article 19.00
Conditional Use Permits

19.01 Procedure. The Planning Commission may authorize by conditional use permit the uses designated in this ordinance when located in a zoning district allowing such use. The Planning Commission shall impose such conditions as are appropriate and necessary to insure compliance with the Comprehensive Plan and to protect the health, safety, and general welfare in the issuance of such conditional use permit.

19.02 Application. To obtain a conditional use permit, the applicant shall file an application with the Office of Planning and Zoning on a form as provided. Every application shall contain the following information:

- A. Legal description of the land on which such conditional use is requested.
- B. Name, address and phone number of the owner of the property which is the subject of such application.
- C. Name, address and phone number of the person making the application if made by anyone other than the owner.
- D. Zoning district classification under which the property is regulated at the time of such application.
- E. Any other information concerning the property as may be requested by the Office of Planning and Zoning.

19.03 Fees. Upon the filing of any application for conditional use with the Office of Planning and Zoning, the applicant shall pay to the County the appropriate fee as designated in Article 24.00.

19.04 Information on Site Plan. In addition to the following information, plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance and all relevant laws, rules, and regulations.

Exception: The Planning Director may waive the submission of plans, if he finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this title.

- A. The address of the property and the legal description.
- B. The name of the project and/or business.
- C. The scale and north arrow.

- D. All existing and proposed buildings or additions.
- E. Dimensions of all buildings.
- F. Distance from all building lines to the property lines at the closest points.
- G. Building height and number of stories.
- H. Dimensions of all property lines.
- I. Parking lots or spaces; designate each space, give dimensions of the lot, stalls, and aisles.
- J. Screening; show height, location, and type of material to be used.
- K. The landscaped setback and trees; indicate species of trees and material to be used for landscaping.
- L. Name and location of all adjacent streets, alleys, waterways and other public places.

Approved site plans shall not be changed, modified, or altered and all work shall be done in accordance with the approved site plans.

19.05 Planning Commission Hearing. Upon the filing of an application for a conditional use permit, the Planning Director shall set a date for public hearing on such requested conditional use, at which time and place the Lincoln County Planning Commission shall meet to consider the conditional use request.

- A. Notification. A good faith effort must be made by the applicant to notify all property owners (inclusive of Contract for Deed buyers) of land laying within five hundred (500) feet, inclusive of right-of-way, of the outer boundaries of the property involved in the request. The list of landowners to be notified shall be determined by records of the Director of Equalization. The Planning Department shall provide the applicant with “Notice of Hearing” forms for this purpose, and the notices are to be sent by the applicant to all parties on the aforementioned list by first class mail no less than one (1) week prior to the public hearing on the request held by the Planning Commission. The applicant shall sign an affidavit certifying that the required mailing was completed. The affidavit shall be provided to the Planning Department at least five (5) working days prior to the Planning Commission meeting.
- B. Signs. A sign(s) to be provided by the Office of Planning and Zoning shall be posted on or near the property at least five days prior to the scheduled hearing.
- C. Action. The Planning Commission shall decide whether to grant the conditional use with such conditions and safeguards as are appropriate or to deny a conditional use when not in harmony with the purpose and intent of these regulations. The decision of the Planning Commission shall be final unless an appeal is filed in accordance with Article 19.06.

19.06 Appeal of Planning Commission Decision. The decision rendered by the Planning Commission on a conditional use permit may be appealed to the Board of County Commissioners. The applicant or any other person aggrieved by the decision of the Planning Commission shall file a written appeal with the Office of Planning and Zoning within five working days of the Planning Commission decision. When an appeal is filed, the Planning Director shall present the Planning Commission's decision to the Board of County Commissioners for review. Notice of the meeting shall be given as required by Article 19.05 (A). The Board shall vote to either uphold, overrule or amend the decision of the Planning Commission.

19.07 Amendments. Amendments shall be processed in the same manner as required for a separate conditional use permit.

19.08 Expiration. A conditional use permit which has been approved shall expire by limitation and become null and void if the building, work or use authorized by such conditional use permit is not commenced within one year from the date of approval. This provision shall not apply to a conditional use permit approved for a residential use in the A-1 or RC zoning districts. Upon written request to the Planning Director and prior to the conditional use permit expiration date, a one-year time extension for the conditional use permit may be granted by the Planning Director, subject to the following conditions:

- A. There was no public objection presented during the public hearing process for the original conditional use permit;
- B. The land uses for the surrounding properties have not significantly been altered since the original approval date for the conditional use permit.

19.09 Conditional Use Criteria. The following considerations shall be employed when acting upon requests for conditional uses:

- A. The impact of the proposed use on adjacent properties shall be a major consideration. The proposed use should be generally compatible with adjacent properties and other properties in the district.
- B. Measures shall be taken to ensure that the proposed use does not alter the general character of the area or neighborhood.
- C. The effects of noise, odor, traffic, air and water pollution, and other negative factors shall be eliminated or controlled through the use of screening, setbacks, and orientation.

19.10 Preexisting Uses. An existing use eligible for a conditional use permit which was lawfully established on the effective date of this ordinance shall be deemed to have received a conditional use permit as herein required and shall be provided with such permit by the County upon request, and it shall not be a nonconforming use; provided, however, for any enlargement, extension, or relocation of such existing use, an application in accordance with this ordinance shall be required.

19.11 Reapplication. No applicant requesting a conditional use permit whose application includes the same or substantially the same requirements for the same or substantially the same property as that which has been denied by the Planning Commission or Board of County Commissioners shall be again considered by the Planning Commission before the expiration date of six (6) months from the date of the final action on the petition.

19.12 Review of Permit by Planning Commission. The following procedures shall be employed when acting upon reviews of conditional use permits:

- A. **Basis for Review.** Noncompliance with any of the terms, conditions or requirements placed on a conditional use permit by Lincoln County is sufficient cause to subject such permit to review by the Lincoln County Planning Commission.
- B. **Procedure.** If the Planning Director is reasonably satisfied there exists any noncompliance with the terms, conditions or requirements of a conditional use permit, the Director shall give written notice of such noncompliance to the person, firm, corporation or entity to which the permit was granted. Additionally, the Director shall advise the Planning Commission of such noncompliance at its next regularly scheduled meeting. Upon such advisement, the Planning Commission shall set a time for review of the permit at a subsequent regularly scheduled meeting. Such review will be open to the public.
- C. **Notice of Review Hearing.** At least ten (10) days prior to the hearing, the following shall occur:
 1. The Planning Director shall give written notice of the review hearing to the person or entity for whom the permit was authorized;
 2. Notice of the hearing shall be published at least once by the Planning Director in a legal newspaper of the county;
 3. The Planning Director shall be responsible for posting at least one sign on the property in such a manner so as to be clearly visible from the street, road or other public right-of-way from which entrance or access to the property is gained.
- D. **Hearing.** In the event the Planning Commission determines by substantial evidence that such compliance has not been established, it may do any of the following:
 1. Revoke said permit.
 2. Amend said permit.
 3. Postpone action for a period of time it deems appropriate to allow the permit holder to comply with all terms, conditions and requirements of the permit in question.
 4. Require any other such action it deems appropriate and in accordance with the provisions of this Section.

- E. Effect of Revocation. Any person, firm, corporation or entity to which a conditional use permit has been granted and subsequently revoked by the Planning Commission or Board of County Commissioners may not apply for a conditional use permit pursuant to Section 19.02 for a period of six months.
- F. Appeal. Appeals from decisions made by the Planning Commission pursuant to this section shall commence and proceed in accordance with Section 19.06.

Article 20.00
Change of Zone

20.01 Application to County or by County for Zoning Change. Any person, firm, or corporation desiring a change in regulations, restrictions, or boundaries of the zoning map of any property from one zoning district classification to another zoning district classification under this ordinance, shall make application for such change with the Office of Planning and Zoning. Such application form shall be provided by the Office and be completed in full by the applicant.

The Board of County Commissioners may from time to time on its own motion, after public notice and hearing, and after a recommendation by the Planning Commission amend, supplement, or change the boundaries or regulations herein or subsequently established.

20.02 Fees. Upon the filing of any application for a zoning district classification change with the Office of Planning and Zoning, the applicant shall pay to the County the appropriate fee as designated in Article 24.00.

20.03 Planning Commission Hearing. Upon the filing of an application and payment of the fee, the Office of Planning and Zoning shall set a date for at least one public hearing at which time the Planning Commission will consider such requests for a change in zoning district classification. The date for a public hearing shall be a day when the Planning Commission is regularly scheduled to meet.

- A. Legal Notice. The Planning Director shall cause to be published a legal notice as required in SDCL 11-2-29. The Lincoln County Auditor shall also provide a copy of the notice to the county auditor in the abutting county at least ten days before the hearing.
- B. Signs. A sign(s) to be provided by the Office of Planning and Zoning shall be posted on or near the property at least five days prior to the scheduled hearing.
- C. Planning Commission Recommendation. The Planning Commission shall consider all applications for zoning district classification changes and make a recommendation to the Board of County Commissioners.

20.04 Board Hearing. The Board of County Commissioners shall conduct a public hearing on all applications which have been forwarded to them from the Planning Commission.

- A. Legal Notice. The Board shall cause to be published a legal notice as required in SDCL 11-2-19.
- B. Signs. A sign(s) to be provided by the Office of Planning and Zoning shall be posted on or near the property at least five days prior to the scheduled hearing.
- C. Hearing. Upon the day of such public hearing, the Board shall review the decisions and recommendations of the Planning Commission on all applications. The Board, in making

its determination on such applications, may make changes in the zoning map in accordance with or in rejection or modification of the recommendations of the Planning Commission.

20.05 Reapplication. No application requesting a zoning district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board, shall again be considered by the Planning Commission before the expiration of six months from the date of the final action of the Board.

Article 21.00
Zoning Board of Adjustment

21.01 Establishment. The Lincoln County Planning Commission shall act as the Zoning Board of Adjustment. The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances, and hear appeals to the terms of these regulations in harmony with the general purpose and intent and in accordance with general and specific rules herein contained.

21.02 Operational Procedure.

- A. The Board shall meet at the regularly scheduled meetings of the Planning Commission. All meetings of the Board shall be open to the public and all business coming before the Board shall be transacted at such meetings.
- B. The Board shall keep minutes of its proceedings, records of examinations and other official actions, all of which shall be filed in the Office of Planning and Zoning and shall be a public record.

21.03 Appeals. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Planning Director in the enforcement of these regulations.

21.04 Standards. The Zoning Board of Adjustment shall not vary the regulations unless it shall make findings based upon the evidence presented to it in each specific case that all of the following conditions are present:

- A. The particular physical surroundings, shape or topographical conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out.
- B. The conditions upon which the application for a variance is based would not be applicable generally to other property within the same zoning classification or other property substantially similar in use.
- C. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which the property is located.
- D. The proposed variance will not unreasonably impair an adequate supply of light and air to adjacent property; increase the congestion in the public streets; increase the danger of fire; endanger the public safety; or diminish or impair property values within the area.
- E. That because of circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

- F. That the variance, if authorized, will represent the minimum variance that will afford reasonable relief and will represent the least modification desirable of the zoning regulations.
- G. The Board shall hear and make determinations on variance to exceed the height limits as established by these regulations.
- H. The Board of Adjustment, under its authority to grant variances may impose reasonable conditions on the grant, and one accepting those conditions is bound by them.

21.05 Application to County for Variance. Any person, firm or corporation desiring a variance or wishing to appeal a decision of the Planning Director or authorized representatives shall make application for such request to the Office of Planning and Zoning. Such application shall be provided by the Office and be completed in full by the applicant.

21.06 Fees. Upon the filing of any application for a variance or appeal by the Board, the applicant shall pay to Lincoln County the appropriate fee as designated in Article 24.00. These fees shall be utilized to help defray necessary administrative costs of processing the application as required.

21.07 Hearing. Upon the filing of an application, the Office of Planning and Zoning shall set a date for public hearing, at which time and place the Zoning Board of Adjustment shall meet to consider the request for variance or appeal.

- A. Signs. A sign(s) to be provided by the Office of Planning and Zoning shall be posted on the property at least five days prior to the scheduled hearing.
- B. Decision. All requests under this article shall be acted upon at a meeting of the Planning Commission. A favorable vote by two-thirds of the members of the Board of Adjustment shall be required to approve each request.

21.08 Appeals from Decision of Board. Appeals may be taken to the Circuit Court by any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the County, aggrieved by any decision of the Board of Adjustment, in the manner and form provided by the statutes of the State of South Dakota, in such cases made and provided.

21.09 Limitations. Any order of the Board of Adjustment granting a variance may be declared invalid by the Board of Adjustment unless substantially completed within two years from the date of such order. The Planning Director shall notify the property owner of record upon invalidation of a variance.

Article 22.00
Administration and Enforcement

22.01 Powers and Duties.

- A. The Planning Director is hereby authorized and directed to enforce all the provisions of this ordinance and establish rules for its administration.
- B. In accordance with prescribed procedures and with the approval of the Board of County Commissioners, the Planning Director may appoint technical officers and inspectors and other employees that shall be authorized to assist in the enforcement of this ordinance.

22.02 Right of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Planning Director or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises an ordinance violation, the Planning Director 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 Planning Director by this ordinance, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he 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 Planning Director or an authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Planning Director 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 Planning Director or an authorized representative for the purpose of inspection and examination pursuant to this ordinance.

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

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

Article 23.00 Building Permits

23.01 Building Permits Required. It shall be unlawful for any person, firm or corporation to erect, construct, change, enlarge, alter, repair, move, improve, remove, convert, demolish, use, occupy or maintain any building, structure or land use regulated by this ordinance or cause the same to be done without first obtaining a separate building permit for each building, structure or land use change from the Office of Planning and Zoning. A zoning permit is required prior to a change of use or occupancy within a building or structure.

23.02 Application. To obtain a building permit, the applicant shall apply at the Office of Planning and Zoning. Every applicant shall:

- A. Identify and describe the work to be covered by the permit for which application is made.
- B. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
- C. Indicate the proposed use or occupancy and work proposed.
- D. Be accompanied by a site plan.
- E. Be signed by permittee, or his authorized agent, who may be required to submit evidence to indicate such authority.
- F. Give such other data and information as may be required by the Planning Director.

23.03 Information on Site Plan. Plans shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the provisions of this ordinance and all relevant laws, ordinances, rule, and regulations.

Exception: The Planning Director may waive the submission of plans, if he finds that the nature of the work or change in land use applied for is such that reviewing of plans is not necessary to obtain compliance with this ordinance.

23.04 Issuance. The application, plans and other data filed by an applicant for a building permit shall be reviewed by the Planning Director. Such plans may be reviewed by other departments to verify compliance with any applicable laws or requirements under their jurisdiction.

If the Planning Director finds that the work described in an application for a permit and the plans, and other data filed therewith, conform to the requirements of this ordinance and other pertinent laws and ordinances, upon receipt of the building permit fee, the building permit shall be issued.

The Planning Director may issue a building permit for the construction or use of part of a building or a structure before the entire plans for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this ordinance. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building, structure, or use will be granted.

23.05 Validity of Permit. The issuance or granting of a permit or approval of plans shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this ordinance or of any other ordinance of the jurisdiction. No permit presuming to give authority to violate or cancel the provisions of this ordinance shall be valid.

23.06 Expiration. Every building or zoning permit issued under the provisions of this chapter shall expire by limitation and become null and void if the building or work or use authorized by such permit is not commenced within 180 days from the date of such permit, or if the building, work, or use authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall first be obtained to do so, provided no changes have been made or will be made in the original plans and specifications for such work.

Any permittee holding an unexpired building permit may apply for an extension of the time within which he may commence work under that building permit when he is unable to commence work within the time required for this section for good and satisfactory reasons. The Planning Director may, except as otherwise provided herein, extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.

23.07 Suspension or Revocation. The Planning Director may, in writing, suspend or revoke a building or zoning permit issued under the provisions of this ordinance whenever the permit is issued in error or on the basis of incorrect information supplied.

23.08 Zoning Permits Required. It shall be unlawful for any person, firm or corporation to change the use or occupancy within any building or structure regulated by this ordinance, or cause the same to be done without first obtaining a separate zoning permit for each use or occupancy change from the Office of Planning and Zoning. If the Planning Director finds that the change described in an application for a permit and the plans, and other data filed therewith, conform to the requirements of this ordinance and other pertinent laws and ordinances, the zoning permit shall be issued. A zoning permit shall be subject to the regulations of Section 23.06 Expiration and Section 23.07 Suspension or Revocation as outlined in this ordinance.

Article 24.00 Fees

24.01 General Regulations. The fees set forth in this article shall be paid at the time of filing an application with the Office of Planning and Zoning. Such fee shall be payable to the County Treasurer and under no conditions shall any fee be refunded after publication of any required legal notice or, if notice is not required, after the Planning Commission has considered the application. No action shall be taken upon any application unless all fees have been paid.

24.02 Board of Adjustment. A fee of \$250.00 shall be charged for filing a variance application or an appeal to the Zoning Board of Adjustment.

24.03 Change of Zone. A fee of \$350.00 shall be charged for filing an application to change the zoning classification of property, except to the Planned Development District. If any use, for which a rezoning is required, is commenced prior to the application for a rezoning, the application fee shall be double the regular fee.

24.04 Conditional Use. A fee of \$250.00 shall be charged for filing an application for a conditional use permit in any district. If any use, for which a conditional use permit is required, is commenced prior to the application for a conditional use permit, the application fee shall be double the regular fee.

24.05 Planned Development District. A fee of \$350.00 plus \$50.00 for each subarea shall be charged for the filing of an application to change to the Planned Development District. If any use, for which a rezoning is required, is commenced prior to the application for a rezoning, the application fee shall be double the regular fee.

24.06 Major Amendment. A fee of \$100.00 shall be charged for the filing of an application for a major amendment to a Planned Development District.

24.07 Minor Amendment. A fee of \$50.00 shall be charged for the filing of an application for a minor amendment to a Planned Development District.

24.08 Special Meeting. A fee of \$500.00 shall be charged for requesting a special meeting of the Planning Commission to consider any matter or issue addressed by the Ordinance.

24.09 Zoning Permit. A fee of \$50.00 shall be charged for all zoning permits not requiring a building permit fee.

Article 25.00
General Provisions

25.01 General Regulations. The following general regulations shall apply to all zoning districts:

- A. Except as otherwise provided, no building shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall any structure or land be used:
 - 1. Except for a purpose permitted in the district in which the structure or land is located;
 - 2. Except in conformance with the height and minimum lot requirements, and the parking and sign regulations, and any other applicable requirements of the district in which the structure or land is located.
 - 3. Except in conformance with any Federal, State or County codes as may be applicable. Where these regulations and any other rules and regulations conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- B. The density and yard requirements of these regulations are minimum regulations for each and every building existing at the effective date of these regulations and for any building hereafter erected or structurally altered. No land required for yards or other open spaces about an existing building or any building hereafter erected or structurally altered shall be considered a yard or lot area for more than one building.
- C. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on a lot except as otherwise provided in these regulations.
- D. Cooperatives, condominiums, and all other forms of property ownership do not affect the provisions of these regulations and all requirements shall be observed as though the property were under single ownership.

25.02 Violation and Penalty. Violations shall be treated in the manner specified below:

- A. The owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$500.00, 30 days in jail, or both. Each and every day that such violation continues may constitute a separate offense.

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 these

regulations, the appropriate authorities of Lincoln County, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of said building, structure or land.

25.03. Warning and Disclaimer of Liability. The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur, and flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the flood zone or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of Lincoln County or on any officer or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder.

25.04 Interpretation, Abrogation, and Severability. In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity, and general welfare. It is not the intent to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where these regulations and other regulations, easement, covenant or deed restriction conflict or overlap whichever imposes the more stringent restrictions shall prevail. All other regulations inconsistent with these regulations are hereby repealed to the extent of this inconsistency only. If any section, clause, provision or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

25.05 Saving Clause. These regulations shall in no manner affect pending actions either civil or criminal, founded on or growing out of any regulations hereby repealed. These regulations shall in no manner affect rights or causes of action, either civil or criminal, not in suit that may have already accrued or grown out of any regulations repealed.

25.06 Purpose of Catch Heads. The catch heads appearing in connection with the sections of these regulations are inserted simply for convenience to serve the purpose of an index. The introductory statements found at the beginning of each article are to serve as general references only. The catch heads, introductory statements, and illustrative examples of zoning terms shall be wholly disregarded by any person, office, court, or other tribunal in construing the terms and provisions of these regulations.

25.07 Effective Date. These regulations shall be in full force and effect from and after its passage and publication as provided by law.

Article 26.00
Definitions

26.01 Purpose. For the purpose of these regulations certain terms are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word 'building' shall include the word 'structure' and 'premises'; the word 'shall' is mandatory and not directory; the words 'used' or 'occupied' include the words 'intended', 'designed' or 'arranged to be used or occupied'; the word 'lot' includes the words 'plot', 'parcel' or 'tract', and the word 'person' includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. Any word not herein defined shall be as defined in any recognized standard English dictionary.

26.02 Definitions.

01. **ABANDONED SIGN.** A sign or sign structure which contains no sign copy, contains obliterated or obsolete sign copy, or is maintained in an unsafe or unsightly condition for a period of three months shall be considered an abandoned sign.
02. **ABANDONED WELL.** A well no longer used or intended to be used as a water source.
03. **ACCESSORY BUILDING OR USE.** A subordinate building or portion of the main building, the use of which is incidental to and customary in connection with the main building or the main use of the premises and which is located on the same lot with such main building or use. An accessory use is one which is incidental to the main use of the premises.
04. **ADULT ARCADE.** Any place to which the public is permitted or invited and in which coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images involving specific sexual activities or specific anatomical areas to persons in booths or viewing rooms.
05. **ADULT BOOKSTORE OR VIDEO STORE.** A commercial establishment that offers for sale or rent any of the following as one of its principal business purposes:
 1. Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, videocassettes or reproductions or slides, or other visual representations that depict or describe specific sexual activities or specific anatomical areas.
 2. Instruments, devices, or paraphernalia that are designed for use in connection with specific sexual activities.
06. **ADULT CABARET.** Any nightclub, bar, restaurant, or other similar commercial establishment that regularly features:
 1. Persons who appear in a state of nudity or seminudity.

2. Live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.
 3. Films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas.
07. **ADULT MOTION PICTURE THEATER.** A commercial establishment in which, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions that are characterized by the depiction or description of specific sexual activities or specific anatomical areas are predominantly shown.
 08. **ADULT ORIENTED BUSINESS.** Any adult arcade, adult bookstore or video store, cabaret, adult live entertainment establishment, adult motion picture theater, adult theater, massage establishment that offers adult service, or nude model studios.
 09. **ADULT SERVICE.** Dancing, serving food or beverages, modeling, posing, wrestling, singing, reading, talking, listening, or other performances or activities conducted for any consideration in an adult oriented business by a person who is nude or seminude during all or part of the time that the person is providing the service.
 10. **ADULT THEATER.** A theater, concert hall, auditorium, or similar commercial establishment that predominantly features persons who appear in a state of nudity or who engage in live performances that are characterized by the exposure of specific anatomical areas or specific sexual activities.
 11. **AGRICULTURE.** The use of land for agricultural purposes including farming, dairying, raising, breeding, or management of livestock, poultry, or honey bees, truck gardening, forestry, horticulture, floriculture, viticulture, and the necessary accessory uses for packaging, treating or storing the produce providing that the operation of any such accessory use shall be secondary to the normal agricultural activities. This definition shall not include intensive agricultural activities such as concentrated animal feeding operations and agribusiness activities.
 12. **AIRPORT.** A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.
 13. **ANIMAL UNIT.** A unit of measurement based on the amount of waste produced by the animal. For the purposes of this ordinance animal units (AU) shall be calculated according to the following chart. Animal units relate to inventory rather than annual production. Animal units are computed by multiplying the number of head of a particular animal times the corresponding animal unit equivalent. Other animal species equivalent which are not listed will be based on species' waste production.

ANIMAL SPECIES

ANIMAL UNIT EQUIVALENT
(AU/HEAD)

Feeder or Slaughter Cattle	1.0
Mature Dairy Cattle	1.4
Finisher Swine (over 55 lbs.)	0.4
Nursery Swine (less than 55 lbs.)	0.1
Farrow-to-Finish (sows)	3.7
Swine Production Unit (sows, breeding, gestating and farrowing)	0.47
Horses	2.0
Sheep	0.1
Turkeys	0.018
Laying Hens and Broilers (continuous overflow watering)	0.01
Laying Hens and Broilers (separate liquid handling system)	0.033
Ducks	0.2

14. ANIMAL WASTE, INCORPORATED. Animal waste applied to the land surface and mechanically mixed into the soil within 24 hours.
15. ANIMAL WASTE, INJECTED. Animal waste injected or tilled into the soil at the time of application.
16. ANIMAL WASTE, SURFACE APPLIED. Animal waste applied to the land surface without benefit of incorporation or injection. This shall not include the use of animal waste in irrigation waters.
17. ANTENNA. Any structure or device used for the purpose of collecting or radiating electromagnetic waves including but not limited to directional antennas such as panels, microwave dishes, satellite dishes, and omni-directional antenna such as whip-antenna.
18. ANTENNA SUPPORT STRUCTURE. Any existing structure that supports wireless communications facilities, such as but not restricted to, telecommunications and broadcast towers, buildings, clock towers, steeples, and light poles.
19. AQUIFER. A geologic formation, group of formations, or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use.
20. AQUIFER, SHALLOW. Any aquifer having the following characteristics:
 1. The aquifer is within fifty (50) feet or less below the land surface with fifteen (15) feet or less of continuous, overlying, extremely low permeability material, such as

clayey till or shale. Weathered till or highly fractured weathered shale is not an extremely low permeability for purposes of this ordinance; or

2. The aquifer is greater than fifty (50) feet but less than one hundred feet (100) below the land surface with thirty (30) feet or less of continuous, overlying, low to extremely low permeability geological material that may be a combination of weathered and unweathered till, shale, or till and shale.
21. **AQUIFER PROTECTION AREA.** A geographical area overlying a geologic formation, group of formations or part of a formation capable of yielding, storing, or transmitting a usable amount of groundwater to wells or springs for domestic or animal use. Any deposition of sand and gravel that is connected to water bearing strata or is not isolated.
22. **AUTOMOBILE SALES.** The use of any building, land area, or their premises for the display and sale of new or used automobiles, panel trucks or vans, trailers, or recreational vehicles and including any warranty repair work and other repair service conducted as an accessory use.
23. **AUTOMOBILE SERVICE STATION.** Shall mean any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.
24. **AUTOMOBILE STORAGE YARD.** The temporary storage of vehicles which are impounded, licensed, and operable, in an unroofed area.
25. **BANNERS.** A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame secured or mounted so as to allow movement of the sign caused by movement of the atmosphere; i.e. pennants, twirling signs, balloons, or other gas-filled figures, ribbons, or other similar moving devices.
26. **BAR/LOUNGE.** An establishment that is licensed to sell alcoholic beverages, including beer, by the drink.
27. **BED AND BREAKFAST ESTABLISHMENT.** A private single-family residence which is used to provide limited meals and temporary accommodations for a charge to the public.
28. **BEST MANAGEMENT PRACTICES (BMP).** Schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge, manure disposal, manure application, manure stockpiles, or drainage from raw material storage.

29. **BILLBOARD.** A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. Also, an off-premise sign.
30. **BOARD OF COUNTY COMMISSIONERS.** The governing body of Lincoln County.
31. **BOARDINGHOUSE.** A building, other than a hotel or apartment hotel, where for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more persons.
32. **BROADCAST.** To convey, generate, transmit or receive electromagnetic signals regardless of frequency, power level or communications use.
33. **BROADCAST TOWER.** Shall mean a structure, not including offices or studio, for the transmission or broadcast of radio, television, radar, or microwaves.
34. **BUILDABLE AREA.** That portion of the lot that can be occupied by the principal use, thus excluding the front, rear and side yards.
35. **BUILDING.** Any structure, either temporary or permanent, forming an open, partially enclosed, or enclosed space constructed by a planned process of materials and components to be designated and used for the shelter or enclosure of any person, animal, or property of any kind. For the purpose of these regulations, retaining walls, concrete slabs, utility poles and fences are not considered structures.
36. **BUILDING, DETACHED.** A building surrounded by open space on the same lot.
37. **BUILDING ELIGIBILITY.** See 'eligible building site'.
38. **BUILDING, HEIGHT OF.** The vertical distance from the grade to (a) the highest point of a flat roof, (b) the deck line of a mansard roof, or (c) the average height between eaves and ridge for gable, hip, and gambrel roofs.
39. **BUILDING LINE.** Is a line on the lot running parallel to and the required horizontal distance from the nearest property line.
40. **BUILDING, PRINCIPAL.** A non-accessory building in which is conducted the principal use of the lot on which it is located.
41. **BUS/TRUCK TERMINAL.** An area and building where buses, trucks, and cargo are stored; where loading and unloading are carried on regularly; and where minor maintenance of these types of vehicles is performed.
42. **CAMOUFLAGE.** A covering or disguise of any kind to hide or conceal.

43. **CAMPGROUND.** A plot of ground consisting of two or more campsites where camping units can be located and occupied as temporary living quarters.
44. **CATHODIC PROTECTION.** A technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell; protection of a tank through the application of either galvanic anodes or impressed current.
45. **CHANGE OF USE.** Substitution of one thing for another specifically regarding use of land or use of a building.
46. **CHEMIGATION.** The process of applying agricultural chemicals (fertilizers or pesticides) through an irrigation system by injecting chemicals into the water.
47. **CLASS V INJECTION WELL.** A conduit through which potentially contaminated but generally non-hazardous fluids can move from the land surface to the subsurface; the types of primary concern in Lincoln County are (1) commercial/industrial facility septic tanks used to dispose of more than domestic wastewater and (2) dry wells for repair/service bay drains at facilities servicing motorized vehicles/equipment.
48. **COMMERCIAL RECREATION FACILITY.** A recreation facility operated as a business and open to the public for a fee.
49. **CONCENTRATED ANIMAL FEEDING OPERATION.** A lot, yard, corral, building or other area where animals have been, are, or will be stabled or confined for a total of 90 days or more during any 12 month period; and where crops, vegetation, forage growth, or post-harvest residues are not sustained over any portion of the lot or facility. For the purpose of these regulations, a concentrated animal feeding operation is further defined as follows:
50. **CONCENTRATED ANIMAL FEEDING OPERATION - EXISTING.** A non-permitted operation of at least 200 animal units which existed on August 3, 1995.
51. **CONCENTRATED ANIMAL FEEDING OPERATION - NEW.** An operation which did not exist prior to August 3, 1995.
52. **CONTAINMENT FACILITY, PRIMARY.** The tank, pit, container, pipe, enclosure, or vessel of first containment of a regulated substance.
53. **CONTAINMENT FACILITY, SECONDARY.** A second level of containment outside the primary containment facility designed to prevent a regulated substance from reaching land or waters outside the containment area.
54. **CONTAMINATION.** The process of making impure, unclean, inferior or unfit for use by introduction of undesirable elements.

55. CONTINGENCY PLANS. Detailed plans for control, containment, recovery and clean up of hazardous materials released during floods, fires, equipment failures, leaks and spills.
56. COMPREHENSIVE PLAN. The adopted long-range plan intended to guide the growth and development of the area, including analysis, recommendations and proposals of economy, housing, transportation, community facilities, and land use.
57. CONDITIONAL USE. A use that would not be appropriate generally or without restriction throughout the zoning district, but which if controlled, would promote the public health, safety and welfare.
58. CONTAMINATION, AIR. A concentration of any radioactive or toxic material which is a product, by-product, or otherwise associated with any exploration, mining or milling operation that increases ambient air radiation levels by 50 mrems from the background levels established prior to the commencement of such activity, measured at the perimeter of the mining or milling site or at the top of an exploration hole.
59. CONTAMINATION, WATER. A concentration of any radioactive or toxic material which is a product, by-product, or otherwise associated with any exploration, mining or milling operation that exceeds the maximum contaminate levels established by the Federal Safe Drinking Water Act and regulations promulgated thereunder.
60. CONTRACTOR'S SHOP AND STORAGE YARD. Use of land or building(s) for storage and preparation of materials used by that same individual(s) in conducting the business of construction and repair work, generally completed at some other on-site location.
61. DAY CARE. The providing of care and supervision of a child or children as a supplement to regular parental care, without transfer of legal custody or placement for adoption, with or without compensation, on a regular basis for a part of a day.
62. DAY CARE, CENTER. Is normally in a facility used only for providing day care nursery or pre-kindergarten services, and is limited in number over twelve (12) by the square footage of useable space available. The ratio is presently thirty-five (35) square feet per child indoors and fifty (50) square feet per child outdoors.
63. DAY CARE, FAMILY. Care is done in a family home and the number of children cared for is limited to a maximum of six (6) children under fourteen. Included in that count are the providers' own children six years and under. See (Home Occupation).
64. DAY CARE, GROUP. Is normally in a family home. The number of children cared for is seven (7) to twelve (12) children under the age of fourteen including the provider's own children six years and under.
65. DENSITY. The number of families, individuals, dwelling units, or housing structures per unit of land.

66. DEVELOPMENT. The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.
67. DISTRICT. An area for which regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.
68. DWELLING. A building, or portion thereof, constructed in conformance with the International Building Code, and used exclusively for human habitation, including single-family, two-family, and multiple-family dwellings, but not including hotels, motels, or lodging houses. This definition does not include a mobile home or manufactured home (see subsection 111).
69. DWELLING, SINGLE FAMILY. A building designed for or occupied exclusively by one family.
70. DWELLING, TWO FAMILY. A building designed for or occupied exclusively by two families.
71. DWELLING, MULTIPLE. A building designed for or occupied exclusively by three or more families.
72. DWELLING UNIT. One or more rooms in a dwelling occupied or intended to be occupied as separate living quarters by a single family as defined herein.
73. ELECTRICAL SUBSTATION. A premises which may or may not contain buildings, where the interconnection and usual transformation of electrical service takes place between systems. An electrical substation shall be secondary, supplementary, subordinate, and auxiliary to the main system.
74. ELIGIBLE BUILDING SITE (BUILDING ELIGIBILITY). A site which fulfills the requirements for the construction or placement of a residential dwelling or manufactured home. To compute the number of eligible building sites on a lot of record of forty acres or more, the total acreage of the parcel shall be divided by forty acres. The resulting whole number is the number of building sites eligible on the lot of record.
75. EXPLORATION. The act of searching for or investigating a mineral deposit. It includes, but is not limited to, sinking shafts, tunneling, drilling core and bore holes and digging pits or cuts and other works for the purpose of extracting samples prior to commencement of development of extraction operations, and the building of roads, access ways, and other facilities related to such work. Any and all shafts, tunnels, or holes shall not exceed 18 inches in diameter unless the conditional use for exploration provides for a larger diameter. The term does not include those activities which cause no or very little surface disturbance, such as airborne surveys and photographs, use of instruments or devices which are hand-carried or otherwise transported over the surface to make magnetic, radioactive, or other tests and measurements, boundary or claim surveying, location work,

or other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not involved in exploration.

76. **FACILITY.** Something built, installed or established for a particular purpose.
77. **FAMILY.** One or more individuals, related by blood or law, occupying a dwelling unit and living as a single household unit. A family shall not include more than three (3) adults who are unrelated by blood or law, in addition to persons actually related by blood or law the following persons shall be considered related by blood or law for the purposes of this ordinance: (1) A person residing with the family for the purpose of adoption; (2) Not more than six (6) persons under eighteen (18) years of age, residing in a foster home licensed or approved by a governmental agency; (3) Not more than four (4) persons nineteen (19) years of age or older residing with the family for the purpose of receiving foster care licensed or approved by a governmental agency; and (4) any person who is living with the family at the direction of a court.
78. **FARMSTEAD.** An area which existed on August 3, 1995 and encompasses a farm dwelling or dwellings and other agricultural buildings and structures devoted to and used in connection with a farming operation. A farmstead is generally bounded on one or more sides by a tree belt, is located on one or more quarter-quarter section parcels or equivalent area, and does not include crop land, hay land or pasture.
79. **FLOOD INSURANCE RATE MAP (F.I.R.M.).** An official map of Lincoln County on which the Federal Insurance Administration has delineated the areas of flood hazard and their potential for flooding.
80. **FLOOD PLAIN.** A land area adjoining a river, creek, watercourse or lake which is likely to be flooded and which is designated as Zone A, A0 or A1- A30 on the F.I.R.M.
81. **FLOOD PROOFING.** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water, and sanitary facilities, structures, and contents of buildings in a flood hazard area.
82. **FLOOR AREA.** The square feet of floor space within the outside line of walls and includes the total of all space on all floors of a building. It does not include porches, garages, or space in a basement, or cellar when said space is used for storage or incidental uses.
83. **FREESTANDING SIGN (Ground Sign).** A sign supported by one or more uprights, poles, or braces in or upon the ground and not attached to any building.
84. **FRONTAGE.** All the property on one side of a street or highway, between two intersecting streets (crossing or terminating) or for a distance of 400 feet on either side of a proposed building or structure, measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street

and the dead-end of the street, but not including property more than 400 feet distant on either side of a proposed building or structure.

85. GARAGE, PRIVATE. A detached accessory building or portion of a main building housing the automobiles of the occupants of the premises, but not commercial vehicles.
86. GARAGE, PUBLIC. A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automobile body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.
87. GARAGE, STORAGE. Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.
88. GREENHOUSE. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.
89. GROUND SIGN. See (Freestanding Sign).
90. GROUND WATER. Subsurface water that fills available openings in rock or soil materials such that it may be considered water saturated.
91. GROUP HOME. A supervised living or counseling arrangement in a family home context providing for the 24 hour care of children or adults.
92. HAZARDOUS MATERIAL. Any contaminant as defined in this ordinance, and any hazardous chemical for which a material safety data sheet must be filed under 42 USC 11021 and 11022 as in effect on the date of publication of this ordinance.
93. HOME OCCUPATION, MINOR. A business, profession, occupation, or trade conducted for gain or support and located entirely within a dwelling, which use is accessory, incidental, and secondary to the use of the dwelling for residential purposes and does not change the essential residential character or appearance of such dwelling.
94. HOME OCCUPATION, MAJOR. A business, profession, occupation, or trade conducted for gain or support and located entirely within a dwelling, and/or accessory building thereto, which use is accessory, incidental, and secondary to the use of the property for residential or agricultural purposes and does not change the essential residential or agricultural character or appearance of such property.
95. HYDROLOGIC BALANCE. The relationship between the quality and quantity of inflow to and outflow from the storage in hydrologic units, such as a drainage base and aquifer, soil zone lake, or reservoir it encompasses, the quantity and quality relationships between precipitation, runoff, evaporation and the change in ground and surface water storage.

96. **HYDROLOGIC REGIME.** The entire state of water movement in a given area which is a function of the climate and includes the entire water cycle for the drainage area.
97. **JOINT ZONING JURISDICTION.** The area outside a municipality where the Board of County Commissioners has granted to the municipality joint zoning powers with the County.
98. **KENNEL.** Any premise or portion thereon where dogs, cats, or other household pets are raised, trained, boarded, harbored, or kept for payment. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.
99. **LEAKS AND SPILLS.** Any unplanned or improper discharge of a potential contaminant including any discharge of a hazardous material.
100. **LOADING SPACE.** A space within the main building or on the same lot for the standing, loading, or unloading of trucks.
101. **LOT.** A parcel or tract of land having specific boundaries and which has been recorded in the Register of Deeds office. A lot used for residential purposes shall include only one main building together with its accessory buildings, open spaces and parking spaces required by these regulations and shall have its principal frontage upon a road or other approved access.
102. **LOT AREA.** The lot area is the area of a horizontal plane bounded by the front, side and rear lot lines. Public right-of-way shall not be considered part of the lot area.
103. **LOT, CORNER.** A lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.
104. **LOT, DEPTH.** The mean horizontal distance between the front and rear lot lines.
105. **LOT, DOUBLE FRONTAGE.** A lot having a frontage on two nonintersecting roads, as distinguished from a corner lot.
106. **LOT, FRONTAGE.** The length of the front lot line measured at the street right-of-way line.
107. **LOT, INTERIOR.** A lot other than a corner lot.
108. **LOT LINE.** A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.
109. **LOT LINE, FRONT.** The lot line separating a lot from a street right-of-way.

110. LOT LINE, REAR. The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line. In no case, shall any structure be closer than three feet to any residential lot line.
111. LOT LINE, SIDE. Any lot line other than a front or rear lot line.
112. LOT OF RECORD. Part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds, or a parcel of land the deed or agreement to convey to which was recorded in the office of said Register of Deeds prior to August 3, 1995.
113. LOT, WIDTH. The width of a lot at the front yard line.
114. MAIN BUILDING. See 'Principal Building'.
115. MAJOR STREET. Streets or roads which have been designated as freeways or arterial routes on the major street plan.
116. MANUFACTURING:
1. LIGHT MANUFACTURING. Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building.
 2. GENERAL MANUFACTURING. Those manufacturing processes including light manufacturing which have the potential to be a nuisance due to dust, odor, noise, vibration, pollution, smoke, heat, glare, or the operation of the processes outside the building.
117. MANURE STORAGE AREA. An area for the containment of animal manure in excess of 8,000 pounds or 1,000 gallons.
118. MAP, OFFICIAL ZONING. The map or maps, which are legally adopted as a part of the zoning regulations that delineate the boundaries of the zoning districts.
119. MASSAGE ESTABLISHMENT. An establishment in which a person, firm, association, or corporation engages in or permits massage activities, including any method of pressure on, friction against, stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of external soft parts of the body with the hands or with the aid of any mechanical apparatus or electrical apparatus or appliance. This subdivision does not apply to:
1. Physicians who are licensed pursuant to SDCL Ch. 36-4 or a podiatrist licensed pursuant to SDCL Ch. 36-8.

2. Registered nurses or licensed practical nurses who are licensed pursuant to SDCL Ch. 36-9.
 3. Physician assistants who are licensed pursuant to SDCL Ch. 36-4A or certified nurse practitioners and certified nurse midwives who are licensed pursuant to SDCL Ch. 36-9A.
 4. Physical therapists licensed pursuant to SDCL Ch. 36-10.
 5. Athletic trainers licensed pursuant to SDCL Ch. 36-29.
 6. Massage therapists licensed pursuant to SDCL Ch. 36-35.
 7. Chiropractors licensed pursuant to SDCL Ch. 36-5.
120. MILLING. The processing or enhancing of a mineral.
 121. MINE DEWATERING DISCHARGE. Water that has been discharged from active or abandoned mines in areas affected by mineral exploration, mining and milling.
 122. MINERAL. An inanimate constituent of the earth in a solid, liquid or gaseous state which, when extracted from the earth, is useable in its natural form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For the purpose of these regulations, this definition does not include surface or subsurface water, geothermal resources, or sand, gravel and quarry rock.
 123. MINERAL EXTRACTION. The removal of a mineral from its natural occurrence on affected land. The term includes, but is not limited to, underground and surface mining.
 124. MOBILE HOME/MANUFACTURED HOME. Any single-family permanent living quarters, more than eight (8) feet wide and thirty-two (32) feet in length, and designed and built to be towed on its own chassis.
 125. MOBILE HOME PARK. A parcel or tract of land designed and maintained for the purpose of providing a location for mobile homes and manufactured homes as living quarters and where private roads provide access to individual lots. This definition shall specifically exclude sales lots for mobile homes, manufactured homes, travel trailers and similar operations.
 126. MOTOR VEHICLE REPAIR SHOP. Any building or structure in which a business, service or industry involving the maintenance, servicing or repair of vehicles is conducted or rendered. This includes rebuilding of engines, spray paint operations and hourly repair.
 127. MREM. One thousandth of a REM.

128. **NEIGHBORHOOD UTILITY FACILITY.** Telephone, electric, and cable television lines, poles, and equipment; water or gas pipes, mains and valves; sewer pipes and valves; lift stations; telephone exchanges and repeaters; and all other facilities and equipment (excluding buildings that exceed 120 square feet of roof area) necessary for conducting a service by a government or a public utility. This definition does not include an electrical substation.
129. **NONCONFORMING BUILDING OR STRUCTURE.** Any building or structure which does not comply with all of the regulations of this ordinance or any amendment hereto governing bulk for the zoning district in which such building or structure is located; or is designed or intended for a nonconforming use.
130. **NONCONFORMING USE.** A use of land, buildings, structures, or premises that lawfully existed prior to the adoption, revision, or amendment to this ordinance, but which fails, by reason of such adoption, revision, or amendment, to conform to the present use restrictions of the zoning district in which it is located.
131. **NONSTANDARD USE.** The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.
132. **NUDE MODEL STUDIO.** A place in which a person who appears in a state of nudity or who displays specific anatomical areas is observed, sketched, drawn, painted, sculptured, photographed or otherwise depicted by other persons who pay money or other considerations. The term, nude model studio, does not include a proprietary school that is licensed by this state, a college, or a university that is supported entirely or in part by taxation, a private college or university that maintains and operates educational programs in which credits are transferable to a college or university that is supported entirely or in part by taxation or a structure to which the following apply:
1. A sign is not visible from exterior of the structure and no other advertising appears indicating that a nude person is available for viewing.
 2. A Student must enroll at least three days in advance of a class in order to participate.
 3. No more than one nude or seminude model is on the premises at any time.
133. **NUDE, NUDITY OR STATE OF NUDITY.** Any of the following:
1. The appearance of a human anus, genitals, or a female breast below a point immediately above the top of the areola.

2. A state of dress that fails to opaquely cover a human anus, genitals, or a female breast below a point immediately above the top of the areola.
134. OFFICE OF PLANNING AND ZONING. The office designated by the Board of County Commissioners to administer and enforce this ordinance.
135. OUTDOOR STORAGE. The keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours. Goods, material, merchandise, or vehicles shall not include items listed, nor be of a nature as indicated in the definition of a salvage or junkyard as defined herein.
136. PARKING SPACE. An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street and permitting ingress and egress of an automobile.
137. PASTURE. A field that provides continuous forage to animals and where the concentration of animals is such that a vegetative cover is maintained during the growing season.
138. PERMISSIVE USES. Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.
139. PERMITTED SPECIAL USE. A use allowed in a zoning district subject to the applicable restrictions of that zoning district and additionally subject to certain restrictions for that specific use.
140. PERSONAL SERVICES. Establishments primarily engaged in providing services involving the care of a person or their apparel. Including but not limited to: laundry or dry cleaning, garment services, coin operated laundry, photographic and art studios, beauty shop, barber shop, shoe repair, reducing salon and health club, and clothing rental.
141. PLACE OF WORSHIP. A structure where persons regularly assemble for worship, ceremonies, rituals, and education relating to a particular form of religious belief and which a reasonable person would conclude is a place of worship by reason of design, signs, or architectural or other features.
142. PLANNING COMMISSION. The Planning Commission appointed by the Board of County Commissioners, who shall regularly meet and make determinations or recommendations as provided for by this Ordinance.
143. PLANNING DIRECTOR. The individual appointed by the Board of County Commissioners and designated to administer and enforce the zoning ordinance.
144. PORTABLE SIGN. Any sign not permanently attached to the ground or building.

145. PREMISES. A lot, parcel, tract or plot of land together with all buildings and structures thereon.
146. PRIMARY CONTAINMENT FACILITY. A tank, pit, container, pipe or vessel of first containment of a liquid or chemical.
147. PRINCIPAL BUILDING. A building in which is conducted the primary or predominant use of the lot on which it is located.
148. PRINCIPAL USE. The primary or predominant use of any lot.
149. PUBLIC UTILITY FACILITIES. See (Neighborhood Utility Facilities). The definition is the same as the Neighborhood except that buildings that exceed 120 square feet in roof area are allowable.
150. QUARTER-QUARTER SECTION. A quarter of a quarter section as determined by the United States Rectangular Land Survey land survey system shall be considered a quarter-quarter section for purposes of these regulations. For purposes of these regulations, rights-of-way for public or private transportation shall not impact the completeness of a quarter-quarter section.
151. RECHARGE CAPACITY. The ability of the soils and underlying materials to allow precipitation and runoff to infiltrate and reach the zone of saturation.
152. REGULATED SUBSTANCE. A regulated substance shall include: pesticides and fertilizers, hazardous and toxic substances designated by the EPA thru any of the following; Clean Water Act, Toxic Substances Control Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response Compensation and Liability Act; petroleum and petroleum substances, kerosene, fuel oil, oil sludge, oil refuse, oil mixed with other wastes, crude oils, additives used in refining oils and gasoline. This term does not include sewage and sewage sludge.
153. REM (ROENTGEN EQUIVALENT MAN). A measurement of the biological effects resulting from ionizing radiant energy where roentgen is the amount of radiation leading to the absorption of 88 ergs of energy per gram of air.
154. RESIDENCE. A permanent dwelling place.
155. RETAIL SALES AND TRADE. Establishments engaged in selling products, goods or merchandise to the general public for personal or household consumption; and establishments engaged in providing services or entertainment to the general public including eating establishments, hotels, motels, repair shops, indoor amusement, copying services, health, professional, educational, and social services, and other miscellaneous services.

156. **SALVAGE OR JUNK YARD.** An open area where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to: scrap iron and other metals, paper, rags, rubber tires, bottles, and motor vehicles. This definition includes an automobile wrecking or dismantling yard, but does not include uses established entirely within enclosed buildings.
157. **SANITARY LANDFILL.** A site for the disposal of garbage and other refuse material.
158. **SECONDARY CONTAINMENT FACILITY.** A second tank, catchment pit, pipe or vessel that limits and contains a liquid or chemical leaking or leaching from a primary containment area.
159. **SEMINUDE.** A state of dress in which clothing covers no more than the genitals, pubic region, and female breast below a point immediately above the top of the areola, as well as portions of the body that are covered by supporting straps or devices.
160. **SETBACK/SETBACK LINE.** That line that is the required minimum distance from any lot line that establishes the area within which the principal structure must be erected or placed.
161. **SIGN.** Any object, device, or structure, or part thereof, situated outdoors or visible from outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. This definition does not include national or state flags or their emblem or insignia, interior window displays, athletic scoreboards, or the official announcements or signs of government.
162. **SIGN AREA.** The area of the largest single face of the sign within the perimeter which forms the outside shape including any frame which forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.
163. **SIGN (OFF PREMISE).** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.
164. **SIGN (ON PREMISE).** A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.
165. **SOLID WASTE RECEIVING STATION.** A facility where garbage and other refuse material is collected at a central location, compacted and then transported for disposal at a landfill site.
166. **SPECIFIED ANATOMICAL AREAS.** Any of the following:

1. A human anus, genitals, the pubic region, or a female breast below a point immediately above the top of the areola that is less than completely and opaquely covered.
 2. Male genitals in a discernibly turgid state even if completely and opaquely covered.
167. **SPECIFIC SEXUAL ACTIVITIES.** Any of the following:
1. Human genitals in a state of sexual stimulation or arousal.
 2. Sex acts, normal or perverted, actual or simulated, including acts of human masturbation, sexual intercourse, oral copulation, or sodomy.
 3. Fondling or other erotic touching of the human genitals, pubic region, buttocks, anus or female breast.
 4. Excretory functions as part of or in connection with any of the activities under subsection (1), (2), or (3) of this subdivision.
168. **STABLE.** Any premise or part thereon where horses or any equine animal are maintained, boarded, bred or cared for in return for payment, or are kept for the purpose of sale.
169. **STATIONARY TANK.** An above ground tank which is fixed permanently in place on a foundation, rack, cradle, stilts or on the ground. The term does not include tanks mounted on wheels, trolleys, skids, pallets or rollers.
170. **STORY.** That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
171. **STREET.** A public right-of-way which affords the principal means of access to abutting property. Also referred to a road or highway.
172. **STREET LINE.** The line between the public right-of-way and private property.
173. **STRUCTURE.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. For the purpose of these regulations, retaining walls, concrete slabs and utility poles are not considered structures.
174. **SUBDIVISION.** The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

175. **SURFACE IMPOUNDMENT.** A facility, or part of a facility which is a natural topographic depression, man-made excavation, or dike area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.
176. **TEN YEAR TIME OF TRAVEL DISTANCE.** The distance that ground water will travel in ten years. This distance is a function of aquifer permeability and water table slope.
177. **TOWER FACILITY(IES).** Structures thirty-five feet (35') or more in height and that may include a tower, antenna(s), equipment building(s), anchor points and other related equipment used by broadcast services and/or wireless telecommunications services.
178. **TOWER, HEIGHT.** The height of the tower is the vertical distance from the point of contact with the ground to the highest point of the tower including all antenna or other attachments.
179. **TOWER, MONOPOLE.** A tower consisting of a single pole, constructed without any guy wires and ground anchors.
180. **TRAILER.** Means any of the following:
1. **TRAVEL TRAILER.** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.
 2. **PICK-UP COACH.** A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
 3. **MOTOR HOME.** A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.
 4. **CAMPING TRAILER.** A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.
181. **TRUCK STOP.** Any building, premises, or land in which or upon which a business, service or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities.

182. UNSAFE SIGN. A sign on which the display area or structure has deteriorated due to rust, rotting, or physical damage to the point where any portion of the sign has the potential to fall shall be considered unsafe.
183. UNSIGHTLY SIGN. A sign which has deteriorated to the point where at least one-fourth of the display area is no longer clearly recognizable at a distance of twenty feet; or where the paint is peeling, chipping or flaking from the structure shall be considered an unsightly sign.
184. WAREHOUSE. A building used primarily for the storage of goods and materials.
185. WASTE. Any garbage, refuse, manure, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded materials, including solid, liquid, semi-solid or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include solid or dissolved materials in domestic sewage or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended to January 1, 1986, or source, special nuclear or by-product materials as defined by the Atomic Energy act of 1954, as amended to January 1.
186. WATER TABLE. The upper surface of a zone of saturation where the body of ground water is not confined by an overlying impermeable zone.
187. WHOLESALE MERCHANDISING/TRADE. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.
188. WIND ENERGY CONVERSION SYSTEM (WECS). Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power.
189. WIRELESS TELECOMMUNICATION. Any ground or roof mounted structure of more than 35 feet in height above average ground level built for the purposes of supporting, elevating or attaching antenna(s) for broadcasting of cellular, personal communications, specialized mobilized radio, enhanced specialized mobilized radio, paging, and similar services. For all sections of this ordinance, wireless telecommunication shall not be considered a public utility.
190. YARD. Reserved.
191. YARD, FRONT. A yard across the full width of the lot extending from the front line of the main building to the front line of the lot.
192. YARD LINE. See (Building Line).

193. **YARD, REAR.** A yard extending the full width of the lot between a principal building and the rear lot line.
194. **YARD, REQUIRED FRONT.** The required front yard shall extend across the front of a lot between the property lines. There shall be a required front yard on each street side of a corner lot. The required front yard with the smallest required front yard may be referred to as the side-street-side front yard.
195. **YARD, REQUIRED REAR.** The required rear yard shall extend across the rear of a lot between the property lines. On corner lots, the required rear yard may be to the rear of either street. On interior lots, the required rear yard shall, in all cases, be at the opposite end of the lot from the front yard.
196. **YARD, REQUIRED.** A required yard shall mean the required open space between a property line and a building line. The open space shall be unoccupied and unobstructed from the ground upwards except as otherwise provided in this ordinance.
197. **YARD, REQUIRED SIDE.** The required side yard shall extend between the required front yard line and the required rear yard line. There shall only be one required side yard on a corner lot.
198. **YARD, SIDE.** A yard between the main building and the side line of the lot, and extending from the front yard line to the rear yard line.
199. **ZONE OF CONTRIBUTION.** The entire area around a well or wellfield that contributes water to the well or wellfield.
200. **ZONING DISTRICT.** A specifically delineated area within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.
201. **ZONING PERMIT.** A document signed by the Planning Director or an authorized representative as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a building, which acknowledges that such use or building complies with the provisions of the zoning regulations or an authorized variance therefrom.