

**ZONING
ORDINANCE**

FOR

**THE CITY
OF
FLANDREAU**

**PREPARED BY
THE FLANDREAU PLANNING AND ZONING COMMISSION AND CITY COUNCIL**

**WITH ASSISTANCE FROM
THE FIRST DISTRICT ASSOCIATION OF LOCAL GOVERNMENTS**

CITY OF FLANDREAU, SOUTH DAKOTA

ZONING ORDINANCE

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ARTICLE I GENERAL PROVISIONS

CHAPTER 1.01 TITLE AND APPLICATION.

Section 1.01.01. Title.

This ordinance shall be known and referred to as “The Zoning Ordinance of the City of Flandreau, South Dakota.”

Section 1.01.02. Jurisdiction.

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

Section 1.01.03. Purpose.

To promote the general welfare of the population through sound policies of land development and land management, to preserve natural beauty and ecological balance; to this end this Ordinance will prevent overcrowding of the land with population and structures, and provide for adequate sanitation, transportation, and other community facilities.

This ordinance has been prepared in accordance with the Comprehensive Plan for the City and is designed to coordinate physical development of the community with needs for public services and facilities.

Section 1.01.04. Intent.

To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the general land use plan.

CHAPTER 1.02 ORDINANCE PROVISIONS

Section 1.02.01. Provisions of Ordinance Declared to Be Minimum Requirements.

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants; the most restrictive or that imposing the higher standards shall govern.

Section 1.02.02. Violations/Penalties for Violation.

1. Violations shall be treated in the manner specified below:
 - a. Any person who starts work, for which a permit is required by this Zoning Ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All fees assessed there under shall be rounded to the nearest whole dollar.

- b. Upon finding such violation, the City of Flandreau shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the fee for the building permit plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars (\$5.00), including the postage costs.
 - c. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the building permit fee. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (2) below.
 - d. Any administrative fee or penalty imposed under the provisions of this Zoning Ordinance shall be in addition to any other fees or charges required under this Ordinance.
2. It is declared unlawful for any person to violate any of the terms and provisions of these regulations or other official control adopted by the City Council pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this Zoning Ordinance may be subject to a civil or criminal penalty. The penalty for violation of this Zoning Ordinance shall be two hundred dollars (\$200.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense.
 3. In the event, any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of these regulations, the appropriate authorities of the City of Flandreau in addition to other remedies, may institute injunction, mandamus or other appropriate actions or proceedings in a court of competent jurisdiction to prevent, restrain, correct or abate such violation or threatened violation.
 4. Any taxpayer of the City may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

Section 1.02.03. Separability Clause.

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

Section 1.02.04. Repeal of Conflicting Ordinances.

All ordinances or part of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance, in particular the previous Title 12 are repealed entirely.

Section 1.02.05. Effective Date.

This Ordinance shall take effect and be in force from and after its passage and publication according to law.

CHAPTER 1.03. OFFICIAL ZONING MAP

Section 1.03.01. Official Zoning Map.

The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor of the City attested by the City Finance Officer under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number 476 of the City of Flandreau, State of South Dakota," together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the City Finance Officer.

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

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

Section 1.03.02. Rules Where Map Designation Uncertain.

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

1. The district boundaries are either streets or alleys, highways, rights-of-way, railroad rights-of-way, waterways, lot lines, property lines, quarter section lines, half section lines, or full section lines, unless otherwise shown.
2. Where the designation on the Official Zoning Map indicates the various districts are approximately bounded by lot lines, the lot lines shall be the boundaries of such districts unless boundaries are otherwise indicated on the map.
3. In subdivided property, the zoning district boundary line on the Official Zoning Map may be determined by use of the scale contained on the map.

Section 1.03.03. Annexation.

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the City of Flandreau shall be automatically placed into the "A" Agricultural zoning district, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Chapter 3.04, Section 3.04.05 of these regulations.

Section 1.03.04. Changes and/or Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Finance Officer, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Flandreau, State of South Dakota."

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

Changes to the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 3.04, Section 3.04.05 of these regulations

ARTICLE II DISTRICT REGULATIONS

CHAPTER 2.01 APPLICATION OF DISTRICT REGULATIONS

Section 2.01.01. Applicability of Regulations.

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

Section 2.01.02. Compliance; Generally.

No building, or any part thereof shall hereafter be used or occupied, and no building or any part thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no premises shall be used for any purpose other than a purpose permitted in the District in which said building or premise is located, except as hereinafter provided.

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

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

- To exceed the height or bulk;
- To accommodate or house a greater number of families;
- To occupy a greater percentage of lot area;
- To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this ordinance.
- No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or are below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

CHAPTER 2.02 NON-CONFORMING USES

Section 2.02.01. Intent.

Within the districts established by this Ordinance or amendments that may later be adopted there exist;

- Lots,
- Structures,
- Uses of land and structures, and
- Characteristics of use

Which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

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

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

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

Section 2.02.02. Repairs and Maintenance

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

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

Section 2.02.03. Uses and Structures.

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

1. If no structural alterations are made, a nonconforming use or structure may be changed to another nonconforming use or structure of the same or more restricted zoning district.
2. Whenever, a nonconforming use or structure has been changed to a conforming use, it shall not be changed back to a nonconforming use.

3. If any nonconforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six months after such casualty and completed within a reasonable time thereafter. However, if the damage caused by such casualty is such as to cause a loss in value exceeding 50 percent of the replacement value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.
4. When a nonconforming use or structure is discontinued for a period of 1 year, it shall not be continued unless in conformance with the requirements of this ordinance and SDCL 11-6-39.
5. Any nonconforming use may be extended throughout any part of a structure, which was arranged or designed for such use previous to the adoption of this ordinance, but shall not be extended outside each structure.
6. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance, which do not enlarge, move or structurally alter a nonconforming use.
7. Type I and Type II Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a nonconforming to a conforming use. If a replacement Type I and/or Type II Manufactured Home is of larger dimension than the existing Type I and/or Type II Manufactured Home, then application must first be made to the City Planning and Zoning Commission for special permit.
8. "Non-Conforming Land Use" shall be deemed to include non-conforming manufactured home courts existing at the time of the adoption of this Ordinance, and the substitution or replacement of Type I and Type II Manufactured Homes to said manufactured home court shall not be deemed to have changed the use thereof from a non-conforming to a conforming use.
9. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the City Planning and Zoning Commission as set forth elsewhere in this Ordinance.

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

Any use which is permitted as a conditional use in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

Section 2.02.05 Non-conforming Lots of Record.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this ordinance, notwithstanding limitations imposed by other provisions of this ordinance. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such a lot fails to meet the requirements of area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations of the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements in this ordinance.

CHAPTER 2.03 DISTRICT REGULATIONS

Section 2.03.01. Generally

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

Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses are existing at the effective date of these regulations and qualify as nonconforming uses.

Deviation from zoning district lot, yard and related requirements, and deviation from city-wide zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 3.04, Section 3.04.04 of these regulations.

The Board of Adjustment may establish additional requirements and standards for uses and structures permitted by Conditional Use Permit as conditions to said Conditional Use Permit.

Section 2.03.02. Zoning Districts.

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

A. **“A” Agricultural District**

The intent of the “A” Agricultural District is to preserve open space and land currently used for agricultural purposes. This land is considered not yet ready for further development and may further be subject to periodic flooding.

B. “C1” Central Commercial District

The purpose of the “C1” Central Commercial District is to provide commercial areas oriented to the pedestrian shopper.

C. “FP” Flood Plain District

The intent of the “FP” Flood Plain District is to protect from encroachment watershed areas subject to flooding, backwater spreading, and floodwater or overflow of streams or rivers.

D. “HC” Highway Commercial District

The purpose of the “HC” Highway Commercial District is to accommodate industrial uses able to meet performance standards and commercial uses not compatible with the Central Commercial District.

E. “I” Industrial District

The purpose of the “I” Industrial District is to provide space for a wide range of industrial uses and structures, and for certain commercial uses. Regulations are intended to provide guidelines for locating activities which may be injurious or offensive to occupants of adjacent areas, or which emit odors, fumes or gases, dust, smoke, noise, or vibrations which are evident beyond the property of such uses.

F. “R1” Single Family Residential District

The purpose of the “R1” Single Family Residential District is to provide locations for low-density residential dwellings. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible land uses.

G. “R2” General Residential District

The purpose of the “R2” General Residential District is to provide a stable environment for the development of two-family and multiple family dwelling units free from incompatible land uses.

H. “R3” Residential Manufactured Home District

The purpose of the “R3” Residential Manufactured Home District is to permit a broad variety of housing types with an emphasis of the development of a single-family residential manufactured home park located in an appropriate environment. It is the purpose of the “R3” District to encourage site development in accordance with good planning principles; to prevent detrimental effects to the use or development of adjacent properties or the general neighborhood; and to promote the health, safety and welfare of the present and future inhabitants of the City.

CHAPTER 2.04 “A” - AGRICULTURAL DISTRICT

Section 2.04.01. Permitted Uses.

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

1. Any form of agriculture activity and related farm buildings, but excluding feed lots.
2. Site-built single-family dwellings.
3. Modular homes.
4. Public parks and recreation areas.

Section 2.04.02 Permitted Accessory Uses.

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

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limits of this district (See Chapter 4.03).
2. Roadside stands for sales of agricultural products grown or produced on the premises.

Section 2.04.03 Conditional Uses.

The following uses may be permitted, as a conditional use in the “A” Agricultural District by the Board of Adjustment subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare. The Board of Adjustment may grant the following uses provided the written consent of more than fifty percent (50%) of the number of owners of property within two hundred fifty (250) feet of any property line of the premises is obtained.

1. Airports.
2. Cemeteries.
3. Commercial or private recreation areas not normally accommodated in commercial areas such as golf courses, campgrounds, drive in theatres, riding stables, race tracks, swimming pools, etc.
4. Private clubs.
5. Stables.
6. Type I Manufactured Home.
7. Extraction of sand, gravel, minerals and petroleum or natural gas.
8. Public buildings or facilities erected or established and operated by any governmental agency.

9. Radio and television towers and transmitters.
10. Home occupations.
11. Utility substations.
12. Veterinarian offices and animal hospitals.
13. Nurseries and greenhouses.
14. Type II manufactured home

Section 2.04.04. Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "A" Agricultural District.

Section 2.04.05. Area Regulations.

1. **Minimum Lot Requirements** - The minimum lot area for permitted uses shall be one (1) acre or 43,560 square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. Uses permitted by conditional use shall have a minimum lot area and width as determined by the Board of Adjustment.
2. **Minimum Yard Requirements** - Permitted uses shall have a minimum front yard of seventy-five (75) feet, minimum side yards of thirty (30) feet, and a minimum rear yard of fifty (50) feet. Uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment. See also Chapter 4.07.

1. Height Regulations:

Single Family Dwellings – Two and one – half (2 ½) stories, excluding basement, or thirty-five (35) feet.

Other Allowable Uses -- Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

Section 2.04.06. Cross-references.

1. Visibility At Intersections In Residential Districts (See Chapter 4.01).
2. Fences (See Chapter 4.02).
3. Parking (See Section 4.05.01 and 4.05.03).

CHAPTER 2.05 “R1” SINGLE FAMILY RESIDENTIAL DISTRICT

Section 2.05.01. Permitted Uses.

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

1. Site-built single-family dwellings.
2. Modular homes.
3. Public park and recreation areas.
4. Real estate signs, advertising the real estate for sale on which located. Signs not to be larger than three feet by four feet not to remain longer than two (2) weeks following the closing of sale or such longer period as the Board of Adjustment may permit.
5. Churches and parish houses.
6. Public and private schools.

Section 2.05.02. Permitted Accessory Uses.

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

1. Accessory uses and structures customarily incidental to permitted uses, except stables (See Chapter 4.03).

Section 2.05.03. Conditional Uses.

The following uses may be permitted as a conditional use in the “R1” Single Family Residential District by the Board of Adjustment, subject to such requirements as Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare. The Board of Adjustment may grant the following uses provided the written consent of more than fifty percent (50%) of the number of owners of property within two hundred fifty (250) feet of any property line of the premises is obtained.

1. Bed and breakfast establishments;
2. Two-family dwellings;
3. Home occupations;
4. Offices of recognized professions providing such profession is carried on in their respective residence, and there is no display nor advertising except one sign, not exceeding one (1) square-foot in area, non illuminated, and mounted flat against the wall of the principal building;
5. Public buildings or facilities established and operated by any governmental agency;

6. Hospitals', nursing homes, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance;
7. Licensed commercial day care facilities;
8. Utility substations;
9. A shelter for battered women and children or who are otherwise adversely affected by domestic abuse which may also serve as a food pantry for the needy;
10. Commercial storage buildings used exclusively for storage and not for performance of any other services.

Section 2.05.04. Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "R1" Single Family Residential District."

Section 2.05.05. Area Regulations.

1. **Minimum Lot Requirements:** The minimum lot area for residences shall be nine thousand seven hundred fifty (9,750) square feet. The minimum lot width for residences shall be seventy-five (75) feet. The minimum lot depth width for residences shall be one hundred thirty (130) feet. Other permitted uses and uses permitted by conditional use shall have a minimum lot area, width, and depth as determined by the Board of Adjustment. All lots shall front on and have ingress and egress by means of a public right-of-way.
2. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total lot area.
3. **Minimum Yard Requirements:** Residential dwellings shall have a minimum *front yard of thirty (30) feet*, measuring the same from the most outward point of the building. For the purpose of this ordinance a porch and overhang shall be deemed to be part of said building except as provided for by Article V, Definitions "Front Yard". In the case of corner lots, both frontage yards shall be provided according to the pattern of existing structures. Residential dwellings shall have *minimum side yards of nine (9) feet, and a minimum rear yard of twenty-five (25) feet*; however, accessory structures may be placed within five (5) feet of an alley. Other permitted uses and uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment. See also Chapter 4.07.
4. **Height Regulations:**

Single Family Dwellings -- Two and one-half (2 ½) stories, excluding basement, or thirty-five (35) feet.

Other Allowable Uses -- Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

Section 2.05.06. Cross-references.

1. Visibility at Intersections In Residential Districts (See Chapter 4.01).
2. Fences (See Chapter 4.02).
3. Parking (See Section 4.05.01. 4.05.02, and 4.05.03).

CHAPTER 2.06 “R2” GENERAL RESIDENTIAL DISTRICT

Section 2.06.01. Permitted Uses.

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

1. Any permitted use in the “R1” District.
2. Two-family dwellings.
3. Multiple-family dwellings.
4. Type I manufactured homes.

Section 2.06.02. Permitted Accessory Uses.

1. Accessory uses and structures customarily incidental to permitted uses. (See Chapter 4.03).

Section 2.06.03. Conditional Uses.

The following uses may be permitted as a conditional use in the “R2” General Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare. The Board of Adjustment may grant the following uses provided the written consent of more than fifty percent (50%) of the number of owners of property within two hundred fifty (250) feet of any property line of the premises is obtained.

1. Any conditional use permitted in the “R1” District; except two-family dwellings which are a permitted use in this district;
2. The conversion of an existing single-family residential dwelling into a two-family or multiple family dwelling.
3. Type II manufactured home.

Section 2.06.04. Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “R2” General Residential District.

Section 2.06.05. Area Regulations.

1. **Minimum Lot Requirements:** The minimum lot area for residences shall be six thousand hundred (6,000) square feet. The minimum lot width for residences shall be fifty (50) feet. The minimum lot depth for residences shall be one hundred thirty (130) feet. For multiple family dwelling units up to four units, the minimum lot area for two-family and multiple family dwellings shall have a minimum lot area of six thousand (6,000) square feet for the first dwelling unit plus two thousand four hundred (2,400) square feet for each additional dwelling unit. For multiple family apartments, condominiums and townhouses for single-family occupancy of more than four dwelling units shall have a minimum lot area of thirteen thousand two hundred (13,200) square feet for the first four dwelling units plus one

thousand eight hundred fifteen (1,815) square feet for each additional dwelling unit. Other permitted uses and uses permitted by conditional use shall have a minimum lot area, width, and depth as determined by the Board of Adjustment. All lots shall front on and have ingress and egress by means of a public right-of-way.

2. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed thirty percent (30%) of the total lot area.
3. **Minimum Yard Requirements:** Residential dwellings shall have a minimum **front yard of thirty (30) feet**, measuring the same from the most outward point of the building. For the purpose of this ordinance a porch and overhang shall be deemed to be part of said building except as provided for by Article V, Definitions "Front Yard". In the case of corner lots, both frontage yards shall be provided according to the required depth for front yards in that district or according to the prevailing yard pattern of existing structures. Residential dwellings shall have **minimum side yards of six (6) feet, and a minimum rear yard of twenty-five (25) feet**, however, accessory structures may be placed within five (5) feet of an alley. Other permitted uses and uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment. (See Chapter 4.07).

4. **Height Regulations:**

Single Family Dwellings – Two and one-half (2 ½) stories, excluding basement, or thirty-five (35) feet.

Other Allowable Uses – Seventy-five (75) feet for towers or steeples and not more than forty-five (45) feet for the principal building.

Section 2.06.06. Cross-references.

1. Visibility At Intersections In Residential Districts (See Chapter 4.01).
2. Fences (See Chapter 4.02).
3. Parking (See Section 4.05.01. 4.05.02, and 4.05.03).

CHAPTER 2.07 “R3” RESIDENTIAL MANUFACTURED HOME DISTRICT

Section 2.07.01. Permitted Uses.

The following uses and structures shall be permitted:

1. Any permitted use in the “R2” District.
2. Type II manufactured home.

Section 2.07.02. Permitted Accessory Uses.

1. Accessory buildings and uses customarily incident thereto, excluding stables (See Chapter 4.03).
2. No part of any manufactured home park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well being of park residents and for the management and maintenance of the park.

Section 2.07.03. Conditional Uses.

The following uses may be permitted as a conditional use in the “R3” Combined Residential District by the Board of Adjustment, subject to such requirements as the Board seems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare. The Board of Adjustment may grant the following uses provided the written consent of more than fifty percent (50%) of the property owners within two hundred fifty (250) feet of any property line of the premises is obtained.

1. Manufactured home park developments.
2. Manufactured home subdivisions.
3. Any conditional use permitted in the “R1” District; except two-family dwellings and Type II manufactured homes which are a permitted use in this district.

Section 2.07.04. Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “R3” Residential District.

Section 2.07.05. Manufactured Home Park Minimum Standards.

Manufactured home parks shall meet the following minimum standards:

1. Streets.

Each manufactured home shall abut or face a public private roadway or street, such roadway or street having an all-weather surface of at least thirty (30) feet in width where parking is permitted on both sides, and twenty-six (26) feet in width where parking is

restricted to one side only. Where private streets are proposed, they shall have a minimum right-of-way of forty (40) feet.

2. Open Space or Buffer Zone.

A landscape buffer area of ten (10) feet in width shall be provided and maintained around the perimeter of the park, except where walks and drives penetrate the buffer.

3. Lot Area.

Each lot provided for the occupancy of a single manufactured home unit shall not be less than fifty feet in width and have an area of not less than five thousand five hundred (5,500) square feet, and the same shall be defined by markers at each corner.

4. Density.

No park shall be permitted an average net density of manufactured home lots of more than seven (7) units per acre and each park shall provide an area of not less than two (2) acres.

5. Spacing and Yard Requirements.

All manufactured housing units will be positioned on the manufactured home space in compliance and accordance with the zoning requirements at the time of establishment of the manufactured home Park. Manufactured home parks established after the effective date of this ordinance, will comply with the following:

a. Front Yard.

All manufactured homes shall be located at least twenty (20) feet from any road or street. The distance will be measured from the wall of the structure to the street or roadway at the closest point. (See Chapter 4.07)

b. Side and Rear Yards.

All manufactured homes shall have minimum side yards of seven (7) feet and a minimum rear yard of ten (10) feet. (See Chapter 4.07)

c. Exceptions to minimum yard requirements. (See also Chapter 4.07)

A garage, canopy, or carport may project into a required side or rear yard provided it is located no closer than ten (10) feet to another manufactured home garage, canopy, carport, or addition thereto, and provided further that the maximum depth be twenty-four (24) feet.

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

An enclosed vestibule containing not more than forty (40) square feet in area may project into a required yard for a distance not to exceed four (4) feet, but in no event closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto.

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

d. **Maximum Lot Coverage:**

No manufactured home shall occupy more than twenty-five (25%) of the area of the lot on which it is situated.

6. Parking

Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set aside in a location convenient to the occupants of the trailer or camping units and shall have ingress and egress by means of a public way. Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings not exceeding twenty-five (25) feet in width in the curb line of said street.

7. Refuse Collection

One refuse collection station shall be provided, with a minimum of one (1) two-yard dumpster situated on concrete, screened on four sides, for each twelve (12) families or fractions thereof, conveniently located to serve tenants not more than one hundred fifty (50) feet from any trailer unit served, and to be conveniently located for collection.

8. Recreation Area

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

9. On-Site management

Each manufactured home park shall provide on-site management, by the owner or his/her representative. This requirement may be waived if a point of contact is established to ensure that the management, repairs, maintenance and janitorial work connected with the manufactured home park and all provisions of this Chapter are complied with.

10. Water Supply and Distribution System and Sewage Disposal:

Each manufactured home shall be connected to the City sanitary sewer and water system.

11. Tie Down Requirements

All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Administrative Official, shall be anchored to the ground, in accordance with the manufacturer's specifications or as prescribed by the TR-75, issued June 1972, by the U.S. Department of Defense.

12. Maximum Age Limitation:

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

13. Expansion.

Existing manufactured home parks may be extended to a total area of no less than two (2) acres provided the area of expansion complies with all other regulations herein set forth.

14. Building/Moved-in Building Permit Required

Whenever a manufactured home is moved into a manufactured home park, a permit from the Administrative Official shall be required.

15. Skirting

All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation, approved by the administrative Official, shall be skirted within thirty (30) days of placement.

Section 2.07.06. Application Procedure.

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

1. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to Federal and State highways, and County, Township, and City roads/streets.
2. Property lines and square footage of the proposed park.
3. Location and dimensions of all easements and right-of ways.
4. Proposed general lay-out, including parking and recreation areas.
5. General street and pedestrian walkway plan.
6. General utility, water, and sewer plan.

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

Section 2.07.07. Manufactured Housing Subdivisions.

Nothing in this Ordinance shall be construed to prohibit subdividing an approved manufactured home park development into individual owner occupied lots. However, any such development shall be required to meet the subdivision regulations of the City of Flandreau.

Section 2.07.08. Cross-references.

1. Visibility At Intersections In Residential Districts. (See Chapter 4.01)
2. Fences. (See Chapter 4.02)
3. Parking. (See Section 4.05.01. 4.05.02, and 4.05.03)

CHAPTER 2.08 “C1” CENTRAL COMMERCIAL DISTRICT (Ordinance 595)

Section 2.08.01. Permitted Uses.

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

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

Section 2.08.02. Permitted Accessory Uses.

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

1. Accessory buildings and uses customarily incidental to permitted uses. (See Chapter 4.03).

Section 2.08.03. Conditional Uses.

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

1. Bar or tavern.
2. Licensed day care centers.
3. On-sale and off-sale liquor establishments.
4. Lumberyards.
5. Garages, repair shops, and service stations.
6. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided.
7. Second floor apartments (Apartments on the 1st floor are not allowed).
8. Site-built, single-family dwellings.

Section 2.08.04. Prohibited Uses.

1. All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “C1” Central Commercial District.

Section 2.08.05. Area Regulations.

1. **Minimum Lot Requirements:** Permitted uses shall have a minimum lot area of three thousand five hundred (3,500) square feet and a minimum lot width of twenty-five (25) feet. Uses permitted by conditional use shall have a minimum lot area and width as determined by the Board of Adjustment.
2. **Minimum Yard Requirements:** No yards shall be required in the “C1” Central Commercial District provided, however, that all buildings located on lots adjacent to a residential district shall observe a yard requirement equivalent to the minimum yard requirements of the residential district on the side or sides adjacent. Uses permitted by conditional use shall have minimum yard requirements as determined by the Board of Adjustment. (See Chapter 4.07).
3. **Maximum Lot Coverage:** The maximum lot coverage for all permitted uses shall not exceed ninety (90) percent. The maximum lot coverage for all uses permitted by conditional use shall be as determined by the Board of Adjustment.
4. **Maximum Height:** The maximum height of all buildings and structures shall not exceed thirty-five (35).

Section 2.08.06. Cross-references.

1. Fences (See Chapter 4.02).
2. Parking (See Section 4.05.01).
3. Screening (See Chapter 4.15).

CHAPTER 2.09 “HC” HIGHWAY COMMERCIAL DISTRICT (Ordinance 527, 528, 578, 583)

Section 2.09.01. Permitted Uses.

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

1. Horticulture and the raising of field crops.
2. Garages, repair shops, and service stations.
3. On-site signs.
4. Utility substations.
5. Wholesale or retail sales of: lumber and other building materials; farm equipment; motor vehicles; marine crafts; manufactured homes; trailers; farm and garden supplies; fuel and ice; motor vehicles and automobile equipment; drug and chemicals; all allied products; dry goods and apparel; groceries and related products; electrical goods; hardware; plumbing; heating and equipment and supplies; machinery and equipment and supplies; beer, wine, and distilled alcoholic beverages; paper and paper products; furniture and home furnishings; lumber and construction materials; firearms, equipment and supplies; and eating establishments.
6. General farm products (specifically including the sale of live animals identified as: ducklings, baby pheasants, goslings, and chicks, but no other farm animals or livestock), household goods, and equipment maintenance.
7. Mortuaries.
8. Contract construction services.
9. Off-site signs.
10. Truck or bus terminal.
11. Wholesale merchandising or storage warehouse.
12. Hotel/motel.
13. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided.
14. Offices.
15. Finance, insurance and real estate services.

Section 2.09.02. Permitted Accessory Uses.

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

1. Accessory buildings and uses customarily incidental to permitted uses. (See Chapter 4.03)

Section 2.09.03. Conditional Uses.

The following uses may be permitted as a conditional use in the “HC” Highway Commercial District by the City Board of Adjustment subject to such requirements, as the Board deems necessary to protect and promote the health, safety and general welfare.

1. Food lockers, provided that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors.
2. Churches and parish houses.

Section 2.09.04. Prohibited Uses:

All users and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “HC” District.

Section 2.09.05. Area Regulations.

1. **Minimum Lot requirements:** The minimum lot area for permitted uses shall be twenty thousand (20,000) square feet. The minimum lot width for permitted uses shall be one hundred (100) feet. The minimum lot area and width for uses permitted by conditional use shall be as determined by the City Board of Adjustment.
2. **Minimum Yard Requirements:** Permitted uses shall have a minimum front yard of twenty-five (25) feet, minimum side yards of ten (10) feet, and a minimum rear yard of twenty (20) feet. The minimum yard requirement shall be forty (40) feet when the permitted or conditional use is adjacent to residentially zoned property. The minimum yard requirements for uses permitted by conditional use shall be as determined by the City Board of Adjustment. (See Chapter 4.07).
3. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed seventy-five percent (75%) of the total lot area. The maximum lot coverage for uses permitted by conditional use shall be as determined by the City Board of Adjustment.
4. **Maximum Height:** The maximum height of all buildings and structures shall not exceed forty-five (45) feet.

Section 2.09.06. Cross-references.

1. Fences (See Chapter 4.02).
2. Parking (See Section 4.05.01 and 4.05.03).
3. Screening (See Chapter 4.15).
4. Visibility at Intersections in Residential Districts (See Chapter 4.01).

CHAPTER 2.10 “I” – INDUSTRIAL DISTRICT

Section 2.10.01. Permitted Uses.

The following uses and structures shall be permitted in the “I” Industrial District:

1. Horticulture and the raising of field crops.
2. On-site signs.
3. Utility substations.
4. Motor freight terminals, garaging and equipment maintenance.
5. Contract construction services.
6. Storage plants, lumber yards, distributing stations and warehouses.
7. Motor freight terminals, garaging and equipment maintenance.
8. Light assembly work, machine shops doing assembling or shaping and light cutting and sampling.
9. Woodworking shops or plants.
10. Any industrial use, other than those permitted by conditional use, which can meet the performance standards listed in section 2.10.06.

Section 2.10.02. Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the “I” Industrial District:

1. Caretaker and watchman quarters;
2. Buildings and structures customarily incidental to permitted uses.
3. (See Chapter 4.03).

Section 2.10.03. Conditional Uses.

The following uses may be permitted as a conditional use in the “I” Industrial District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

1. Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment.
2. Slaughterhouse.
3. Explosive manufacture or storage.

4. Fertilizer manufacture.
5. Incineration or reduction of garbage, dead animals, fat, or refuse.
6. Livestock sales or auction barns and yards.
7. Grain storage facilities.

Section 2.10.04. Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "I" District.

Section 2.10.05. Area Regulations.

1. **Minimum Lot Requirements:** The minimum lot area for permitted uses shall be thirty thousand (30,000) square feet. The minimum lot width for permitted uses shall be one hundred fifty (150) feet. The minimum lot area and width for uses permitted by conditional use shall be as determined by the Board of Adjustment.
2. **Minimum Yard Requirements:** Permitted uses shall have a minimum front yard of fifty (50) feet; minimum side yards of ten (10) feet, except when bordering a residential district, then a side yard should be thirty five (35) feet and such side yards shall be landscaped or fenced in a suitable manner to buffer residential uses; and a minimum rear yard depth of thirty five (35) feet shall be required which abut a residential district and such rear yard shall be landscaped or fenced in a manner to buffer residential uses. All other rear yards shall be twenty-five (25) feet. The minimum yard requirements for uses permitted by conditional use shall be as determined by the Board of Adjustment. (See Chapter 4.07).

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

Storage yards for junk shall be set back a minimum of one hundred (100) feet from any adjoining street line and thirty-five (35) feet from any other property line, and shall be screened by a solid wall at least two (2) feet above the highest stock pile and maintained in a state of good repair. Further provided, that no storage yard for junk shall be allowed on any lot in an "I" Industrial zone that is within five hundred (500) feet of a residential zone.

2. **Maximum Lot Coverage:** The maximum lot coverage for all buildings and structures shall not exceed fifty (50) percent of the total lot area. The maximum lot coverage for uses permitted by conditional use shall be as determined by the Board of Adjustment.
3. **Maximum Height:** the maximum height of all buildings and structures shall not exceed forty-five (45) feet.

Section 2.10.06. Performance Standards.

1. **Noise.** All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.
2. **Air Pollution.** State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation or property.
3. **Odor.** The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.
4. **Glare, Heat or Radiation.** Every use shall be so operated that there is no emission or heat, glare, or radiation visible or discernable beyond the property line.
5. **Vibration.** Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.
6. **Sewage and Liquid Wastes.** No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radio-active nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.
7. **Fire Hazard.** All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the City Council.
8. **Physical Appearance.** All operations shall be carried on within an enclosed building except that new or operable equipment and waste materials stored in enclosed containers, not readily visible from the street, may be displayed or stored in the open.

Section 2.10.07. Cross-references.

1. Fences (See Chapter 4.02).
2. Parking (See Section 4.05.01 and 4.05.03).
3. Screening (See Chapter 4.15).
4. Visibility At Intersections In Residential Districts (See Chapter 4.01).

CHAPTER 2.11 “FP” FLOOD PLAIN DISTRICT

Section 2.11.01 – Purpose

The purpose of this Chapter is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

1. To protect human life and health;
2. To minimize expenditure of public money for costly flood control projects;
3. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. To minimize prolonged business interruptions;
5. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
6. To help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
7. To insure that potential buyers are notified that property is in an area of special flood hazard; and
8. To ensure that those who occupy the areas of special flood hazard assume responsibility of their actions.

Section 2.11.02 – General

1. The flood hazard areas of the City of Flandreau, South Dakota, are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.
2. The flood losses may be caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protection from flood damage also contribute to the flood loss.
3. In order to accomplish its purposes, this Chapter includes methods and provisions for:
 - a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increased erosion or in flood heights or velocities;
 - b. Requiring that uses vulnerable to floods, including facilities which serve such uses, to be protected against flood damage at the time of initial construction;

- c. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- d. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- e. Preventing or regulating the construction of flood barrier which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

Section 2.11.03 – Definitions.

For the purpose of interpreting this Chapter, certain words used herein are defined as follows:

1. “Area of special flood hazards” means that land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year; and, are those lands designated on the Flood Insurance Rate Map (FIRM) as Zone A, A17 and A23.
2. “Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year.
3. “Development” means a man-made change to improve or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
4. “Existing manufactured home park or manufactured home subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this Chapter.
5. Expansion to an existing manufactured home park or manufactured home subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete or the construction of streets).
6. “Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters and/or
 - b. The unusual and rapid accumulation or runoff of surface waters from any source.
7. “Flood Insurance Rate Map” (FIRM) means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
8. “Flood Insurance Study” means the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Boundary-Floodway Map; and the water surface elevation of the base flood.

9. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface more than one foot.
10. "Habitable floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation or a combination thereof. A floor used only for storage purposes is not a "habitable floor."
11. "Manufactured home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.
12. "New construction" means structures for which the "start of construction" commenced on or after the effective date of this Ordinance.
13. "New manufactured home park or manufactured home subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this Ordinance.
14. "Start of construction" means the first placement of permanent construction of a structure (other than a manufactured home) on a site, such as the pouring of slabs or footings or any work beyond the state of excavation. Permanent construction does not include land preparations, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of the accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a manufactured home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For manufactured homes not within manufactured home park or manufactured home subdivision, "start of construction" is the date on which the construction of facilities for servicing the site on which the manufactured home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.
15. "Structure" means a walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.
16. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
 - a. Before the improvement or repair is started, or
 - b. If the structure has been damaged and is being restored, before the damage occurred.

For the purpose of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- i. Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- ii. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 2.11.04 – General Provisions

1. **LANDS TO WHICH THIS CHAPTER APPLIES.** This Chapter shall apply to all areas of special flood hazards within the corporate limits of the City of Flandreau, South Dakota.
2. **BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.** The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood Insurance Study for the City of Flandreau, South Dakota,” dated July 16, 1980, with the accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted by reference and declared to be a part of this Chapter. The Flood Insurance Study is on file in the Office of the City Finance Officer at 136 East Second Avenue, Flandreau, South Dakota.
3. **ABROGATION AND GREATER RESTRICTIONS.** This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and other ordinance, easement or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
4. **INTERPRETATION.** In the interpretation and application of this Chapter, all provisions shall be:
 - a. Considered as minimum requirements;
 - b. Liberally construed in favor of the governing body; and
 - c. Deemed neither to limit nor repeal any other powers granted under State statutes.
5. **WARNING AND DISCLAIMER OF LIABILITY.** The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Flandreau, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

Section 2.11.05 Permitted Uses:

The following open space uses shall be permitted within the Flood Plain District provided they do not require structures, landfill or storage of materials or equipment. In addition, no use shall adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributary to the main stream.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting;
2. Industrial-commercial uses such as loading areas, parking areas, and airport landing strips;
3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

Section 2.11.06 Uses Permitted on Review:

No permit shall be issued for the construction of any building or structure including railroads, street, buildings and utility lines or for any use within the Flood Plain District until plans for construction have been submitted to the Board of Adjustment and approval is given in writing after the other provisions of this Chapter have been fulfilled. In its review of plans submitted, the Board of Adjustment shall be guided by the following standards, keeping in mind that the purpose of this district is to prevent encroachment into the floodway which will unduly increase flood levels and endanger life and property.

1. Any structures or filling of land permitted shall be of a type not appreciably damaged by floodwaters;
2. Any use permitted shall be in harmony with and not detrimental to the uses permitted in the adjoining district;
3. Any permitted structures or the filling of land shall be designed, constructed, and placed on the lot so as to offer the minimum obstruction to and effect upon the flow of water;
4. The storage or processing of materials that are in time of flood buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited.
5. Any structure shall be constructed on fill so that the first floor is at least one foot above the regulatory flood-protection elevation. The fill, which shall include the access to the structure from a public street, shall have an elevation no less than one foot below the regulatory flood protection elevation for the particular area and the fill shall extend no less than ten (10) feet beyond the limits of any structure or building erected thereon. Where existing streets or utilities are at elevations which make compliance with this provision impractical or in other special circumstances, the Board of Adjustment may authorize other techniques for elevation.

6. Any structure may, in special circumstances, be protected by other flood proofing measures to a point at or above the regulatory flood protection elevation.
7. Where in the opinion of the Board of Adjustment, engineering and other studies are needed to determine the effects of flooding on a proposed structure or fill and/or the effect of the structure or fill on the flow of water, the Board of Adjustment may require the applicant to submit such data.
8. The granting of approval of any structure or use shall not constitute a representation, guarantee or warranty of any kind by the Board of Adjustment or by any officer or employee thereof, of the practicality or safety of any structure or use proposed and shall create no liability upon or cause action against such public body, officer or employee for any damage that may result pursuant thereto.
9. In the event an existing structure is damaged beyond fifty (50) percent of its replacement value, repairs to and or replacement of the existing structure shall meet the provisions of this zoning district.

Section 2.11.07 Area, Height, and Parking Regulations

1. Any structure or use permitted shall comply with the minimum area, height, and parking regulations established for such structure and use in the most restrictive of the adjacent zoning districts and with other parts of the Chapter which regulate the use of its normal accessory uses.

Section 2.11.08 – Administration

1. **ESTABLISHMENT OF DEVELOPMENT PERMIT.** A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in 2.11.04. Application for Development Permit shall be made on forms furnished by the City Finance Officer and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage of materials, drainage facilities; and the location of the foregoing.

Specifically the following information is required:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in 2.11.09 - Nonresidential Construction;
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. **DESIGNATION OF THE BOARD OF ADJUSTMENT.** The Board of Adjustment is hereby appointed to administer and implement this Chapter by granting or denying development permit applications in accordance with its provisions.

3. **DUTIES AND RESPONSIBILITIES OF THE BOARD OF ADJUSTMENT.** Duties of the Board of Adjustment shall include, but not be limited to:

a. Permit Review:

- i. Review all development permits to determine that the permit requirements of this Chapter have been satisfied.
- ii. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies of which prior approval is required.
- iii. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure the encroachment provisions of 2.11.09—Floodways (I) are met.

b. Use of Other Base Flood Data:

When base flood elevation data has not been provided in accordance with 2.11.04—Bases for Establishing the Areas of Special Flood Hazard, the board of adjustment shall obtain, review, and reasonably utilize any as floor elevation data available from a Federal, State or other source, on order to administer 2.11.09—Specific Standard, Residential Construction and Specific Standards, Nonresidential Construction.

c. Information to be Obtained and Maintained:

- i. Obtain and record the actual elevation (in relation to mean sea level of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- ii. For all new substantially improved floodproofed structures:
 - a) Verify and record the actual elevation (in relation to mean sea level); and
 - b) Maintain the floodproofing certifications required in 2.11.09 - Establishment of Development Permit.
 - c) Maintain for public inspection all records pertaining to the provisions of this Chapter.

d. Alteration of Watercourses:

- i. Notify South Dakota Department of Water and Natural Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification of the Federal Insurance Administration.

- ii. Require that maintenance be provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- e. Interpretation of FIRM boundaries:

Make interpretation where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in 2.11.08—Variance Procedure.

4. VARIANCE PROCEDURE – BOARD OF ADJUSTMENT

- a. The Board of Adjustment of the City of Flandreau, South Dakota, shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- b. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Administrative Official in the enforcement or administration of this Chapter.
- c. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:
 - i. The danger that materials may be swept onto other lands to the injury of others;
 - ii. The danger of life and property due to flooding or erosion damage;
 - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - iv. The importance of the services provided by the proposed facility to the community;
 - v. The necessity to the facility of a waterfront location, where applicable;
 - vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - vii. The compatibility of the proposed use with existing and anticipated development;
 - viii. The relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
 - ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - x. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site; and,

- xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer gas, electrical, and water systems, and streets and bridges.
- d. Upon consideration of the factors of Section 2.11.09 and the purposes of this Chapter, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.
- e. The City Finance Officer shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.
- f. Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decision to the Circuit Court, as provided in South Dakota Codified Laws.

5. CONDITIONS FOR VARIANCE

- a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots of existing structures constructed below the base flood level providing items (C i-xi) in 2.11.08 - Variance Procedure have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variances increases.
- b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, without regard to the procedures set forth in the remainder of this section.
- c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- e. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, increase nuisances, cause fraud on or victimization of the public as identified in 2.11.09—Variance Procedure, or conflict with existing local laws or ordinances.
- f. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

- g. Approval or denial of any application for a variance shall be by a three-fourths (3/4) majority (4 votes) of all members of the Board of Adjustment.

Section 2.11.09 — Provisions for Flood Hazard Reduction

1. **GENERAL PROVISIONS** – In all areas of special flood hazards, the following standards are required:
 - a. Anchoring
 - i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
 - ii. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:
 - a) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
 - b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring additional ties per side;
 - c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - d) Any additions to the manufactured home be similarly anchored.
 - b. Construction Materials and Methods
 - i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - ii. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - c. Utilities
 - i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
 - iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding;

d. Subdivision Proposals

- i. All subdivision proposals shall be consistent with the need to minimize flood damage;
- ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- iv. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

2. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation data have been provided as set forth in 2.11.04 and 2.11.09—Use of Other Base Flood Data, the following standards are required:

a. Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including the basement, elevated to or above base flood elevation.

b. Nonresidential Construction

New construction and substantial improvement for any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- iii. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Board of Adjustment.

c. Manufactured homes

- i. Manufactured homes shall be anchored in accordance with Section 2.11.09—Anchoring.
- ii. For new manufactured home parks and manufactured home subdivisions; for expansions to existing manufactured home parks and manufactured home subdivisions; for existing manufactured home parks and manufactured home subdivisions or improvement of the streets, utilities, and pads equal or exceeds 50 percent of the value of the streets; utilities and pads before the repair, reconstruction

or improvement has been commenced; and for manufactured homes not placed in a manufactured home park or manufactured home subdivision, require that:

- a) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the base flood level;
- b) Adequate surface drainage and access for a hauler are provided; and,
- c) In the instance of elevation on pilings, that:
 - 1. Lots are large enough to permit steps,
 - 2. Piling foundations are placed in stable soil no more than ten feet apart, and
 - 3. Reinforcement is provided for pilings more than six feet apart, and
 - 4. Reinforcement is provided for pilings more than six feet above the ground level.
- iii. No manufactured home shall be placed on a floodway, except in an existing manufactured home park or an existing manufactured home subdivision.

d. Floodways

Located within areas of special flood hazards established in 2.11.04 are areas designated as floodways. Since the floodways are an extremely hazardous area due to the velocity of flood water which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- i. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- ii. If Section d—Floodways (I) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of 2.11.09—Provision for Flood Hazard Reduction.
- iii. Prohibit the placement of any manufactured homes, except in an existing manufactured home park or existing home subdivision.

ARTICLE III ADMINISTRATION

CHAPTER 3.01 GENERAL

Section 3.01.01. Permits Required.

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Administrative Official. No permit shall be issued by the Administrative Official except in conformity with the provisions of this ordinance, unless he received a written order from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this ordinance.

Section 3.01.02. Applications.

All applications for permits shall be accompanied by a site plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this ordinance. Such plans and data accompanying the permit shall be final and conclusive, and a deviation therefrom shall require a new permit.

The Administrative Official shall return one copy of the permit application to the applicant, after such copy has been marked either approved or disapproved and attested to by his signature on such copy. The Administrative Official shall retain the original of the permit application and site plan, similarly marked. The Administrative Official shall then, if the application is approved, issue a signed building permit; or if the application is disapproved he shall notify the party making the application as to rejection of said plans.

Section 3.01.03. Fee Schedule.

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

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

Section 3.01.04. Issuance of Permits.

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

Section 3.01.05. Expiration of Use Permit.

If the work desired in any use permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected.

If the work described in any use permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new permit has been obtained.

Section 3.01.06. Building Permits.

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

1. An application for a building permit, accompanied with the appropriate fee, available from the Administration Official, shall be completed by the landowner requesting the Building Permit. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:
 - A. Applications for building permits shall be accompanied by a site plan drawn to scale with the following information indicated in order to determine compliance with this Ordinance.
 - i. A site plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.
 - ii. The location of the said lot with respect to existing rights-of-way and adjacent lots.

- iii. A letter of certification stating that the lot to be built upon has been accurately surveyed. This requirement may be waived by the Administrative Official in the event lot markers (pins) have been located.
 - iv. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.
 - v. The Administrative Official in cases of permits to alter the interior of any existing structure may waive any of the above requirements.
2. One copy of the application shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. Then Administrative Official for city records shall retain one copy of the application, similarly marked.
 3. The Administrative Official shall then, if the applicant is approved, issue a signed building permit. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.
 4. Building permits shall be posted in a conspicuous place upon the premises and visible from a public right-of-way at all times from the beginning until completion of such construction, alteration, or repair.
 5. With application for a building permit, the site must be clearly staked out and/or plans that clearly indicate the structure to be erected or remodeled, or alterations of the exiting structure will be examined by the Administrative Official.
 6. The Administrative Official will again examine the site after the completion of the foundation and rafters of the structure and will grant permission to proceed if complied with application.

CHAPTER 3.02. ADMINSTRATIVE OFFICIAL

Section 3.02.01. Establishment and Purpose.

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

Section 3.02.02. Duties.

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

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

2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.
3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.
4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.
5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.
6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.
7. Provide public information relative to all matters arising out of this Ordinance.
8. Forward to the Planning and Zoning Commission all applications for amendments to this Ordinance.
9. Forward to the Board of Adjustment, applications for appeals, variances, or other matters on which the Board of Adjustment is required to pass under this ordinance.
10. Initiate, direct, and review, from time to time, a study of the provisions of this ordinance, and to make such reports available to the Planning and Zoning Commission. The Administrative Official shall receive applications for Building Permits, Conditional Uses, Variances, and Zoning Amendments.
 - a. For building permits, the Administrative Official shall approve the application only in accordance with the provisions of the City's Zoning Regulations.
 - b. For Conditional Uses and Variances, the Administrative Official review the application, and shall make a recommendation to the Board of Adjustment to either approve or approve said application.
 - c. For Zoning Amendments, the Administrative Official shall review the application, and shall make comments regarding said application to the Planning and Zoning Commission and City Council.

3.02.03. Powers.

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

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

CHAPTER 3.03 BOARD OF ADJUSTMENT

3.03.01. Establishment.

A Board of Adjustment is hereby established, which shall consist of the members of the City Planning and Zoning Commission, as provided for in the provisions of Chapter 11-4 of South Dakota Codified Laws and Amendments. The Planning Commissioner, acting as a Board of Adjustment member, shall serve for a term of three (3) years. The Mayor, with City Council approval, shall also appoint two (2) alternates to the Board of Adjustment. If a Planning Commissioner, acting as a Board of Adjustment member, is unable to attend a meeting or has a conflict, the first alternate, or second alternate, in turn shall serve in the member's place. Alternates may be appointed for a term of three (3) years.

Section 3.03.02. Procedures for Meetings.

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

The Board of Adjustment shall keep minutes of its meetings and proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official action, all of which shall be filed in the office of the City Finance Officer of the City of Flandreau, South Dakota and shall be a public record.

Section 3.03.03. Powers and Duties of Board of Adjustment.

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

1. Administrative Review:

- a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administration Official in the enforcement of this Ordinance.
- b. To hear and decide appeals to decisions made by the Administrative Official regarding building permits, conditional uses, variances, zoning amendments and other matters relating to the enforcement of this ordinance.
- c. Conditional Uses: To hear and decide only such conditional uses as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance.

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

Section 3.03.04. Hearings; Appeals; Notice:

Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer of the governing body of the City affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days of such lesser period as may be provided by the rules of the Board, by filing with the Administrative Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

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

Section 3.03.05. Stay of Proceedings

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

CHAPTER 3.04 PROCEDURES FOR CONDITIONAL USES, VARIANCES AND ZONING AMENDMENTS

Section 3.04.01. Conditional Uses.

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

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

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A conditional use Permit from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
 - a. An application for a conditional use Permit, available from the Administrative Official, shall be completed by the landowner requesting the conditional use Permit. Any

required attachments and fees as in Section 3.01.03 shall further accompany the application. The written application for a conditional use shall indicate the section of this Ordinance under which the conditional use is sought and stating the grounds on which it is requested; Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit application, the revised, update or corrected information shall accompany the application for a conditional use Permit.

- b. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval of or disapproval of the application.
- c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the adjacent landowners (excluding streets and alley) by mail at the expense of the applicant, at least one week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.
- d. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
- e. The Board of Adjustment shall rule that it is empowered under the section of this ordinance described in the application to grant the Conditional Use, and that the granting of the Conditional Use will not adversely affect the public interest; and
- f. Before any Conditional Use Permit shall be issued, the Board of Adjustment shall make a written finding certifying compliance with the specific rules governing individual Conditional Uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:
 - i. Utilities, refuse, and service areas, with reference to locations, availability, and compatibility;
 - ii. Screening and buffering with reference to type, dimensions, and character;
 - iii. Required yards and other open space; and
 - iv. General compatibility with adjacent properties and other property in the district.
 - v. Entrance and exit to property and proposed and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
 - vi. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties.

- vii. Off-street parking and loading areas where required, with particular attention on effects of the conditional use on adjoining properties and properties generally within the district.
2. In order to preserve the intent of these Zoning Regulations and to protect the public interest, the Board of Adjustment may attach conditions to a conditional use Permit. A Conditional Use Permit shall remain valid only as long as the original applicant complies with any terms and conditions of the Conditional Use Permit, as attached by the Board of Adjustment.
3. Approval or denial of any application for a Conditional Use Permit shall be by a three-fourths (3/4) majority (4 votes) of all members of the Board of Adjustment.

Section 3.04.02. Variances.

Variances are designed to allow some flexibility in the Zoning Regulations, in cases where the exceptional shape of a parcel of land, in cases where use of a property is overwhelmingly affected by exceptional topographic conditions, or any other extraordinary situation or condition of such a parcel of land. Variances are to be approved only when a property owner demonstrates that the provisions of all or part of these Zoning Regulations present an undue hardship on such property owner's use of such parcel land. A variance shall include a description of the specific regulatory item or items in these Zoning Regulations, which are found to produce, said undue hardship. Variances shall only be granted when the Board of Adjustments finds that such relief from these Zoning Regulations will be neither detrimental to the public good nor in conflict with the intent of these Zoning Regulations.

The following procedure for requesting a Variance shall be followed:

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this ordinance shall not be granted by the Board of Adjustment unless and until:
 - a. An application for Variance, available from the Administrative Official, shall be completed by the landowner requesting the variance and shall be accompanied by any required attachments and fees as in Section 3.01.03. The written application for a variance shall indicate the section of this Ordinance under which the variance is sought and stating the grounds for which it is requested. Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a variance.
 - b. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval or disapproval of the application.
 - c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the adjacent landowners (excluding streets and alleys) by mail at the expense of the applicant, at least one week before the public hearing. The Administrative Official shall publish notice

of the public hearing, with all costs to be paid by the applicant, no less than (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed variance.

- d. A public hearing shall be held. Any party may appear in person, or by agent or attorney;
- e. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this ordinance shall not be granted by the Board of Adjustments unless and until:
 - i. A written application for a variance is submitted demonstrating:
 - ii. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district;
 - iii. That literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance;
 - iv. That the special conditions and circumstance do not result from the actions of the applicant;
 - v. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.
 - vi. That granting the variance request will not confer on the applicant any special privilege that is denied by this ordinance to other lands, structures, or buildings in the same district.
 - vii. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- f. The Board of Adjustment shall make findings that the requirements of Section 3.04.02.1.e.i above have been met by the applicant for a variance;
- g. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure; and
- h. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- i. Approval or denial of any variance shall be by a three-fourths (3/4) majority (four votes) of all members of the Board of Adjustment.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Chapter 1.02, Section 1.02.02 of this Code.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

Section 3.04.03. Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official.

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.
2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.
3. The concurring vote of three-fourths (3/4) of all members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance.

Section 3.04.04. Appeals.

Any persons, or any board, taxpayer department, board, or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State of South Dakota.

Section 3.04.05. Zoning Amendments.

Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the City Planning and Zoning Commission, as provided herein, the City Council may change zoning district boundaries, use groups, or the regulations established by this ordinance. A proposed change of zoning district boundaries or regulations may be initiated by the City Planning and Zoning Commission, City Council, or by application of one or more of the owners of property within the area requested to be changed. However, no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published once ten (10) days prior to the date of the meetings as provided in South Dakota Compiled Laws Chapter 11-4, and its and Amendments. Unless otherwise provided for in these regulations, any change in these regulations, shall require City Council approval of an ordinance describing said changes. The City Council may not consider said ordinance until the Planning and Zoning Commission has delivered a recommendation to either approve or not approve said ordinance.

The following procedure for requesting a Zoning Amendment shall be followed:

1. The landowner or other person(s) requesting the Amendment shall complete an application for Amendment, available from the Administrative Official. Completed applications shall be returned to the Administrative Official for review. To be considered by the Planning and Zoning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:
 - a. Any required attachments and fees, including Registered or Certified Mail costs in Section 3.01.03; and
 - b. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for enforcement of this ordinance.
 - c. The Administrative Official shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning and Zoning Commission for their review.
 - d. The Administrative Official shall set the date, time, and place for a joint public hearing to be held by the Planning and Zoning Commission and City Council. The Administrative Official shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Administrative Official shall notify all owners of property within 250 feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one week before the public hearing.
 - e. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning and Zoning Commission.
 - f. The Planning and Zoning Commission shall either recommend or not recommend approval of the amendment to the city council.
 - g. The City Council shall either approve or not approve the ordinance describing the proposed changes to these Zoning Regulations, in accordance with standard procedures for reading, approval, publication, and effective date.
 - h. When the City Council approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds (2/3) of the City Council.
 - i. Protest Standard: The protest shall be signed by at least forty percent (40%) of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within two hundred fifty (250) feet of the area affected by the amendment.

Section 3.04.06. Reapplication.

1. No application requesting a variance, conditional use, or zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board, shall again be considered by the Planning and Zoning Commission or Board of Adjustment before the expiration of six (6) months from the date of the final action of the Planning and Zoning Commission or Board of Adjustment.

ARTICLE IV SUPPLEMENTAL REGULATIONS

CHAPTER 4.01 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.

On a corner lot in any zoning district, excluding the "C1" District, no planting, structure, or obstruction to vision between the range of three (3) and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line each of which is fifty (50) feet distance from the point of intersection (Clear View Triangle).

CHAPTER 4.02 FENCES

Section 4.02.01 Construction Limitations

1. Notwithstanding other provisions of this ordinance, fences, walls, and hedges may be permitted in any required yard, or along the edge of any required yard, provided that no solid fences, walls or hedges extending past the building setback into the front yard and side yard setback shall not exceed twenty-four (24) inches in height above the ground level, and fences of a chain-link material extending past the building setback into the front yard shall not exceed forty-eight (48) inches in height above the ground level. However, if the fence, wall or hedge running parallel to the street is further than forty (40) feet from the street line, it may be seven (7) feet high.
2. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the city limits any fences of any character or material, without first securing permission from the Administrative Official. Further, no such fence of any kind shall be built closer than one foot to the inside sidewalk line or street right-of way, and no electric fence or fence with barbed wire may be constructed in any residential district within the city limits. Except that barbed wire may be used in connection with a security fence when the barbed wire is at least six (6) feet from the ground.
3. Fences that are adjacent to alleys shall be set back five (5) feet from the street/boulevard right-of-way.
4. The side of the fence considered being the face (facing as applied to fence post) should face abutting property.
5. In the event a fence is to be constructed on the property line, abutting property owners shall be notified prior to the issuance of a permit.
6. The installation of a fence shall be in a manner as to which access to the City for the purposes of reading utility meters is provided.
7. The height of fences shall be determined as measured from the highest grade elevation on either side of the fence wall to the top of the fence.

CHAPTER 4.03 ACCESSORY BUILDINGS

1. Only specifically authorized accessory uses allowed; accessory uses must be subordinate to principal use.
2. No accessory use shall be permitted in any district unless such use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.
3. Location: No accessory use, building, or structure, which is attached to or within ten (10) feet of the principal structure, permitted by this Ordinance may be located in a front yard except by conditional use permit. No accessory building and no structure, equipment or material of any kind may be located or erected in a required side yard. No separate accessory building shall be erected within 5 feet of any side or rear lot line. Accessory buildings may be located in a rear yard, but may not occupy more than 30% of a rear yard.
4. No accessory building may be used for residential dwelling purposes at any time.
5. Residential Districts.

Accessory uses shall be permitted for the principal permitted uses and conditional uses of the residential districts only in accordance with the provisions of the following table hereby adopted by reference and declared to be part of this Ordinance.

6. Commercial and Industrial Districts.

In any commercial district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

Permitted uses:

Principal Use

Single family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers

Permitted Accessory Uses

1. Private garages.
 - a. Attached garages shall be limited to maximum dimensions of 30 feet by 36 feet and conform to the design of the house.
 - b. Unattached garages shall be limited to maximum sidewalls of ten (10) feet**; maximum dimensions of 30 feet by 36 feet; and a maximum of 4/12 roof pitch or to conform to the design of the house.
 - c. Roofing and Siding materials shall be of a type customarily used on site-constructed residence. This is not to include corrugated galvanized steel or steel panel siding. Siding and roofing material requirements may receive a variance if consent of all adjacent landowners is obtained.
2. Buildings or structures for customary residential storage purposes not over 10 feet in height and not exceeding 150 square feet in gross floor area.
3. Readily moveable sports, recreation, or outdoor cooking equipment.
4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools, barbeque pits, and similar improvements provided a site plan for such facility is approved.
5. Readily moveable sports, recreation, or outdoor cooking equipment.

Principal Use

Single family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers

Permitted Accessory Uses

- 6. Readily moveable sports, recreation, or outdoor cooking equipment.
- 7. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools, barbeque pits, and similar improvements provided a site plan for such facility is approved.
- 8. Home occupations but only as defined herein.
- 9. Non-commercial greenhouses provided that greenhouses over 100 square feet in floor area must have an approved site plan.
- 10. Off-street parking and storage of vehicles, but only as provided in Chapter 4.05 of this Ordinance.

Churches, Convents and Monasteries

- 1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use.

All conditional uses

- 1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use

All other items

- 1. No accessory uses permitted.

** The height side walls shall be determined as measured from the highest grade elevation on either side of the wall to the top of the eave.

CHAPTER 4.04 REGULATION OF SIGNS

Section 4.04.01. Purpose and Intent.

The purpose of this article is to establish a set of standards for the fabrication, erection, and use of signs, symbols, markings, or advertising devices within the City. These standards are designed to protect and promote the general welfare, health and safety of persons within the community to aid and assist in the development and promotion of business and industry by providing regulations which allow and encourage creativity, effectiveness and flexibility in the design and use of such devices.

Section 4.04.02. Definitions.

Flag. Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

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.

Sign, Area. The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign copy surface, but excluding any structural or supporting elements such as uprights, aprons, poles, beams or standards.

Sign, Area Identification or Nameplate. A freestanding ground sign or pylon which identifies the names of neighborhood, a residential subdivision, a multiple residential complex, or a commercial or industrial complex consisting of three (3) or more businesses.

Sign, Changeable Copy/Reader Board. An outdoor sign or any portion thereof which is permanently affixed or mounted to a support structure or building, which has removable characters, letters or illustrations that may be manually changed or rearranged without altering the underlying sign surface .

Sign, Electronic Message Center. A sign utilizing electronic technology such as Light Emitting Diodes (LED's), incandescent bulbs, or magnetized flipping devices to display messages, advertising, or animation.

Sign, Flashing. An illuminated sign on which such illumination is not kept constant in intensity or color at all times, when such sign is in use.

Sign, Freestanding. A sign attached to, or a part of, a self-supporting structure. Any supporting structure shall be set firmly below the ground surface and shall not be attached to any building or any other structure (Pylon or Ground Sign).

Sign, Government. Any sign which directs traffic, displays street names, or which serves any public purpose duly authorized by governing body having jurisdiction thereof.

Sign, Ground. A sign supported or upon standards, poles, beams or other supports directly affixed to the ground.

Sign, Identification or Nameplate. A sign which bears the name or address or both of the business or the occupant of the building on which it is located.

Sign, Illuminated. A sign which has artificial light source directed upon it or which has an interior light source.

Sign, Informational. A sign erected on private property and on the same property as the sign relates to for the following uses: Church, school, hospital, club, library, civic or other similar types, providing general information about the use or uses such as name and address.

Sign, Institutional. A sign which identifies such uses as hospitals, clinics, churches, schools, government buildings, libraries, museums, apartment complexes, and retirement homes.

Sign, Marquee and/or canopy. Any message or identification which is affixed to a projection or extension of a building or structure, erected in such a manner as to provide a shelter or cover over the approach of any structure of a store, building, or place of public assembly being at least ten (10) feet above any public sidewalk and being at least two (2) feet behind face of curb.

Sign, Motion. A sign which revolves, rotates or moves in any way by mechanical means.

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.

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.

Sign, Permanent. A sign permanently attached to framing, or a sign with a support member at or below the frost line or attached to a building or other structure by direct attachment to a rigid wall, frame or structure.

Sign, Pylon. A freestanding ground sign erected upon a post or posts not more than fifteen (15) feet apart.

Sign, Projecting. A sign affixed to an exterior wall or roof of a building and which extends more than eighteen (18) inches from the face of the building wall and which is perpendicular to the building wall being at least ten (10) feet above sidewalk and being at least two (2) feet behind face of curb.

Sign, Roof. A sign erected upon the roof or parapet wall of a building or structure.

Sign, Temporary. Any sign used for varying periods of time which is not permanently attached to the ground or other permanent structure. The following are examples of temporary signs:

1. **Banner Sign.** A sign constructed of cloth, canvas, fabric, paper, cardboard or any other lightweight material. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.
2. **Construction Sign.** A temporary sign identifying a building or construction site, architects, engineers, contractors, or suppliers.
3. **Inflatable Sign.** A sign capable of expanding due to the injection of air, gas, water or vapor.
4. **Political Sign.** A temporary sign (such as poster card or lawn signs) advertising a candidate or issue to be voted upon a definite election day.
5. **Portable Sign.** Any sign not permanently attached to the ground or other permanent structure designed to be transported from structure to structure or site to site at periodic intervals. Portable signs include signs attached to or painted on vehicles, unless said vehicle is used in the normal day-to-day operations of the business.
6. **Real Estate Sign.** A temporary sign advertising the sale or lease of property or buildings.

Sign, Wall. A sign attached to or erected against the wall of a building or structure with the exposed face of the sign in a plane approximately parallel to the face of said wall and extending not more than eighteen (18) inches from the building wall face.

Section 4.04.03. District Regulations - Table 4.04.03.1.

Signs shall be allowed on private property in accordance with Table 4.04.03.1. If the letter "Y" appears for a sign type in a column, such sign is allowed. If the letter "N" appears for a sign type in a column, such a sign is not allowed in the zoning districts represented by that column under any circumstances.

Section 4.04.04. District Regulations - Table 4.04.04.1.

Individual signs shall not exceed the maximum number or square footage nor encroach into the minimum setback shown on Table 4.04.04.1.

**TABLE 4.04.03.1
SIGN BY TYPE AND ZONING DISTRICT**

	ZONING DISTRICTS					
	R1 R2 R3	C1	HC	I	AG	INS (a)
SIGN TYPE - FREE STANDING						
Ground	Y (b)	Y	Y	Y	Y	Y
Pole	Y (b)	Y	Y	Y	Y	Y
Off-Premises Sign	N	Y	Y	Y	Y	N
SIGN TYPE - BUILDING						
Identification	Y (c)	Y	Y	Y	Y	Y
Marquee/Canopy	N	Y	Y	N	N	N
Projecting	N	Y	Y	Y	N	N
Roof	N	Y	Y	N	N	N
Wall	Y	Y	Y	Y	Y	Y
Window	Y	Y	Y	Y	Y	N
Off-Premises Sign	N	Y	Y	Y	Y	N
SIGN TYPE - MISCELLANEOUS						
Banner (g)	N	Y	Y	Y	N	Y
Flag	Y	Y	Y	Y	Y	Y
Inflatable (g)	N	Y	Y	N	N	Y
Portable (g)	N	Y	Y	Y	N	Y
Temporary	Y (d)	Y	Y	Y	Y	Y
SIGN CHARACTERISTICS						
Changeable Copy	N	Y	Y	Y	N	Y
Electronic Message Center	N	Y	Y	Y	Y	Y
Illuminated (e)	N	Y	Y	Y	Y	Y
Indexing	N	Y	Y	Y	Y	Y
Neon	N	Y	Y	Y	Y	N
Non-Illuminated	Y	Y	Y	Y	Y	Y
On-Premise Sign	Y (f)	Y	Y	Y	Y	Y

- (a) This column does not represent a zoning district. It applies to institutional and certain residential uses permitted in residential districts. Such uses include, hospitals, clinics, churches, schools, government buildings, libraries, museums, apartment complexes, and retirement homes.
- (b) Pylon and Ground signs shall be reserved for institutional uses.
- (c) Single family residential identification limited to one (1) Nameplate not more than one (1) square foot per unit.
- (d) Temporary signs shall not include banner, pennant, inflatable or portable signs.
- (e) On-premises signs shall be limited to signs advertising home occupations. The sign advertising the home occupation shall be limited to a single sign with a maximum area of four (4) square feet.
- (f) Signs shall be illuminated so as not to emit lighting directly on any adjoining property. No sign shall include a source of illumination that produces glare clearly visible beyond a property line.

(g) Permitted only in accordance with section 4.04.05.

**Table 4.04.04.1
Number, Dimensions And Location Of Individual Signs And Maximum Total Sign Area By
Zoning District**

Sign Type: Free Standing						
Zoning District	R1, R2, R3	C1	HC	I	A	Ins (a)
Number Permitted Per Feet Of Street Frontage (c)	NA	1 For Each Building with up to 200' of Frontage; 201' to 400' of Frontage is Allowed one Additional Sign	1 For Each Building with up to 200' of Frontage; 201' to 400' of Frontage is Allowed one Additional Sign	1 For Each 500' of Frontage	1 For Each 500' of Frontage	1 For Each Frontage
Setback From Right-Of-Way and/or property lines (Feet) (b)	NA	0	0	10	10	6
Maximum Area (Sq. Ft)	NA	1 Sq. Ft For Each 2 Lineal Ft Of Frontage Or 75 Sq Ft. Whichever Is Less	2 Sq. Ft For Each 1 Lineal Ft Of Frontage Or 300 Sq Ft. Whichever Is Less	1.33 Sq. Ft For Each 2 Lineal Ft Of Frontage Or 200 Sq Ft. Whichever Is Less	1 Sq. Ft For Each 2 Lineal Ft Of Frontage Or 200 Sq Ft. Whichever Is Less	64
Maximum Height (Feet)	NA	20	Street Frontage (SF) of 1-50' = 20' SF of 51-150' = 25' SF Over 151' = 30' *f	Street Frontage (SF) of 1-50' = 20' SF of 51-150' = 25' SF Over 151' = 30', *f	20	10
Minimum Clearance (Feet) (d)	NA	10	6	10	10	6
Sign Type: Building						
Zoning District	R1, R2, R3	C1	HC	I	A	Ins
Area (Sq. Ft)	4	NA	NA	NA	NA	24
Wall Area (%) (e)	NA	15	20	5	10	NA
Maximum Total Sign Area (f) (g) (h)						
Zoning District	R1, R2, R3	C1	HC	I	A	Ins
Maximum Total Square Feet –Single Frontage	4	400	800	800	750	88
Maximum Total Square Feet For Lots With 2 Or More Frontage	NA	600	1000	1000	1000	280

- This column does not represent a zoning district. It applies to institutional and certain residential uses permitted in residential districts. Such uses include, hospitals, clinics, churches, schools, government buildings, libraries, museums, apartment complexes, and retirement homes.
- No part of any sign shall protrude into the horizontal or vertical setback line.
- Lots with two (2) or more frontages shall be regulated according to Table 4.04.04.1. However, signage cannot be accumulated and used on one (1) frontage in excess of that allowed for lots with only one (1) street frontage.
- Projecting business signs shall be at least twelve (12) feet above the sidewalk and shall not extend over the sidewalk to a point closer than two (2) feet from the face of the curb.
- The percentage figure here shall mean the percentage of the area of the wall which such sign is a part of, attached to or most nearly parallel to.
- Lots with buildings that function as malls or shopping centers and contain more than five (5) businesses shall be allowed 50 square feet of additional signage for each additional business, over five (5) businesses, located within said building.
- Window signs shall not count toward **MAXIMUM TOTAL SIGN AREA**.
- In the case where two (2) or more buildings reside on a lot with an identical legal description, the buildings will share in an apportioned amount of signage contingent upon the amount of building frontage.

Section 4.04.05. General Regulations Applicable to All Zoning Districts.

1. Off-Premise signs
 - a. Off-premise signs shall not be located within one hundred (100) feet of an existing residential zone.
 - b. Off-premise signs shall not be located closer than five hundred (500) feet to another off-premise sign.
 - c. Off-premise signs shall be fabricated to withstand a minimum windload factor of thirty (30) pounds per square foot.
 - d. Off-premise signs shall not be longer than thirty (30) feet with a maximum square footage per Table 4.04.04.1.
 - e. For the purpose of this article, a back-to-back or V-type sign shall be considered as one (1) structure not to contain more than two (2) signs, with a maximum square footage per facing per Table 4.04.04.1.
 - f. No off-premise sign shall be permitted within the public right-of-way.
2. Limitations on use of Inflatable Signs.
 - a. Inflatable signs, excluding balloons smaller than twenty-four (24) inches diameter may be displayed under the following conditions:
 - i. They do not interfere with utility lines, antennas or towers.
 - ii. No cabling, tie-downs or tether lines are located on or across public property.
 - iii. They are not located in any airport approach zone.
 - iv. Inflatable signs may be displayed on a lot for forty-five (45) days per calendar year. A permit may be issued for fifteen (15) consecutive days with not less than thirty (30) calendar days between permit expiration and issuance of a new permit.
3. Limitations on use of Banners.
 - a. Banner signs shall be regulated as follows:
 - i. Banners shall be secured to a structure or building at all times.
 - ii. Banners shall not contain a commercial message.
 - iii. Banners are permitted for the opening of a new business, for not more than fifteen (15) days;
4. Limitations on use of Portable Signs.
 - a. Portable signs shall be regulated as follows:
 - i. Portable signs may be displayed on a lot for forty-five (45) days per calendar year. Permits shall be issued for fifteen (15) consecutive days with not less than thirty (30) calendar days between permit expiration and issuance of a new permit.
 - ii. Portable signs shall be secured against overturning.
 - iii. Portable signs shall not exceed forty-eight (48) square feet.

5. Miscellaneous

- a. No sign shall be erected which resembles any official marker erected by a government agency.
- b. No sign shall be installed which by reason of position, shape or color would conflict with the proper functioning or interpretation of any traffic sign or signal. They shall not be located any place that would obstruct visibility at street intersections.
- c. There shall be no use of revolving beacons, zip flashers or similar devices that would so distract automobile traffic as to constitute a safety hazard.
- d. No sign shall be permitted to obstruct any door, fire escape, or stairway of any building or structure.
- e. All signs shall be maintained in good condition and the area around them kept free from debris, bushes, high weeds, and from anything else which would be an eyesore or nuisance. The surface of all signs must be repainted whenever necessary as determined by inspection to prevent the sign surface from becoming unkempt in appearance.
- f. Signs which become unsafe shall be repaired or removed upon notification by the Administrative Official. When any sign is removed the entire surrounding area shall be cleared of all debris and unsightly projections and protrusions which were part of the sign structure.
- g. Temporary political signs may be permitted for a period of not more than thirty (30) days before and ten (10) days after an election and removal shall be the responsibility of the candidate or his campaign manager. They shall not be fastened to power poles or located on any public property.
- h. Temporary real estate development signs or construction site signs may be erected providing they do not exceed thirty-two (32) square feet square feet of area, are not more than fifteen (15) feet above grade, and not within one hundred (100) feet of an existing residential structure. They shall not be fastened to power poles or located on any public property.
- i. Temporary signs advertising buildings for rent or sale may be placed in the yard of such building providing such signs are not closer than ten (10) feet to any property line and do not exceed forty (40) square feet in industrial areas and fifteen (15) square feet in other areas. They shall not be fastened to power poles or located on any public property.
- j. No roof sign shall be erected higher than fifteen (15) feet above the roof or outside parapet wall.
- k. No signs shall be painted on, attached to, or affixed to any trees, rocks, or other similar organic or inorganic natural matter.
- l. No signs shall be fastened to power poles or located on any public property.
- m. For the purpose of this article, maximum square footage of a sign shall be computed on the basis of one (1) side of any multi-faced sign.

- n. Nothing in this article shall require removal or discontinuance of a previously legally existing display sign that is not enlarged, extended or relocated but the same shall be deemed a non-conforming use under the terms of this article. Such signs may be modernized but not enlarged except in conformity with the provisions of this article.
- o. With the exception of Government Signs, signs shall not be located in the public right-of-way.

CHAPTER 4.05 PARKING

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

1. Off-street parking of motor vehicles, recreational vehicles, watercraft or trailers shall not be permitted in the required front or side yard of any residence except as follows:
 - a. Upon a driveway providing direct access to the garage or rear yard;
 - b. Upon a driveway (parking pad) which is no wider than twenty-two (22) feet in width and further, the location of the driveway (parking pad) complies with the minimum side-yard setback and there is no additional driveway providing direct access to the garage or rear yard.
2. No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Section 4.05.02 Parking and Storage of Certain Vehicles:

1. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.
2. Automobiles, trailers and recreation equipment shall not be parked on residentially zoned lots which do not contain a structure.

Section 4.05.03 Off-Street Parking Requirements:

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

USE OR STRUCTURE	MINIMUM OFF-STREET PARKING REQUIREMENTS	MINIMUM OFF-STREET LOADING REQUIREMENTS
Bed & Breakfast	One (1) space for each guest room	None
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Churches	One (1) space for each four (4) seats in the main seating area	None
Eating & Drinking Places	One (1) space for each three-(3) customer seating spaces	One space per establishment
Hospitals	One (1) space for each three (3) beds	Three (3) spaces per establishment
Hotels/Motels	One (1) space for each guest room	One (1) space per establishment
Industrial Uses	One (1) space for each two (2) employees on the maximum working shift	Two spaces per establishment
Libraries	One (1) space for each five hundred- (500) square feet of floor area	One space per establishment
Medical or dental clinics	One (1) space for each examining or operating room plus one (1) space for each doctor and employee	None
Manufactured home parks	Two (2) spaces for each manufactured home	None
Mortuaries & funeral homes	Five (5) spaces for each reposing room	Two (2) spaces per establishment
Multiple family dwellings Nursing, Convalescent & Rest Homes	Two (2) spaces for each dwelling unit exclusive of required yards; One (1) space for each five beds	None
Private Clubs, Lodges, Social or Fraternal Organizations	One (1) space for each one hundred (100) square feet or one (1) space for each three (3) seats at bars or dining tables, whichever is greater	None

USE OR STRUCTURE

Schools

Service Establishments

Retail sales establishments

Single-family dwellings

Theatres, auditoriums, & places of public assembly

Wholesale & distribution

MINIMUM OFF-STREET PARKING REQUIREMENTS

One (1) space for each twenty-five students

One (1) space for each three hundred (300) square feet of floor area

One (1) space for each three hundred (300) square feet of floor area

Two (2) spaces for each dwelling unit exclusive or required yards

One (1) space for each four (4) seats of design capacity

One (1) space for each two (2) employees on the maximum working shift

MINIMUM OFF-STREET LOADING REQUIREMENTS

One (1) space per school

One (1) space per establishment

One (1) space per establishment

None

One (1) space per establishment

Two (2) spaces per establishment

CHAPTER 4.06 STRUCTURES TO HAVE ACCESS

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to private streets approved by the Board of Adjustment, and all structures shall be so located on lots as to provide safe and convenient access for services, fire protection and required off-street parking.

CHAPTER 4.07 YARDS

No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

Section 4.07.01 Yards, Reduction in Size.

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

Section 4.07.02 Additional Yard Requirements.

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

1. Except in the, "A", and "C1" Districts, a corner lot must have a front yard on both streets
2. On lots in any residentially zoned block fronting on one side of the street between two streets where one or more residences already exist, no building shall hereafter be erected and no existing building shall be reconstructed or altered in such a way that any portion thereof shall be closer to the street line than the average improved building front on that street in that block, but in no case shall the set-back line be less than twelve (12) feet from the front lot line. Provided, however, that on lots in any block fronting one side of a street between two intersecting streets in the above districts, the set-back line may be increased, providing that the owners of three-fourths (3/4) of the front footing on said side of the street in said block shall petition the Planning and Zoning Commission to establish the set-back line at a certain distance named in the petition. If the Planning and Zoning Commission shall approve of establishing the set-back line as petitioned, it may be so established.
3. On through lots and reversed frontage lots, a front yard must be provided on both streets.
4. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.

Section 4.07.03 Exceptions to Yard Requirements

The following exceptions may be made to the yard requirements:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.
2. In commercial and industrial districts, filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.
3. Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.

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

In any district, only one (1) structure housing a permitted or permissible principal use may be erected on single lot, provided that yard and other requirements are met.

CHAPTER 4.09 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in Chapter 2.03 do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

CHAPTER 4.10 PRIVATE WASTEWATER TREATMENT SYSTEMS (SEPTIC TANKS)

All existing septic tanks shall be considered Non-conforming Uses. All structures used for human habitation, commercial and industrial use must be connected to a sewage disposal system approved by the City Board of Adjustment. Exception: On-site septic systems, installed per regulations of the South Dakota Department of Environment and Natural Resources, may be allowed on property owned or developed by the City if the said property is located further than one-fourth (1/4) of mile from an existing City sanitary sewer collection line. On-site septic systems shall be required to be removed and connected to the City sanitary sewer system when such system is within two hundred (200) feet of a lot containing said septic system. Minimum requirements include watertight septic tank connected to a drain field; and no drain area to be deeper than five (5) feet. If the city sanitary sewer system is available within 200 feet, all such structures must be connected at the landowner cost.

CHAPTER 4.11 MANUFACTURED HOME PROVISIONS.

Section 4.11.01 Modular Homes.

1. Modular homes shall meet the following regulations.
 - a. Modular homes shall meet or exceed Uniform Building Codes.

- b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.
- c. Modular homes shall have more than 1000 square feet in ranch style and 850 square feet split and be placed on a permanent foundation.
- d. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.
- e. Modular homes shall have a minimum of a 4/12-roof pitch.
- f. Have siding material of a type customarily used on site-constructed residences.
- g. Have roofing material of a type customarily used on site-constructed residences.

Section 4.12.02 Type I and Type II Manufactured Homes.

- 1. For the purpose of this Ordinance, manufactured homes will be regulated by type. Two (2) types of homes are defined under these regulations.
 - a. Type I manufactured home shall:
 - 1) Have more than 1,100 square feet of occupied space in a double section or larger multi section unit.
 - 2) The running gear and hitch have been removed.
 - 3) Has been anchored to a permanent foundation (permanent perimeter enclosure) and permanent footing.
 - 4) Prior to placement of a home on the foundation, it must be inspected and approved by the Administrative Official.
 - 5) Have a gabled roof with a pitch of at least 4/12 feet.
 - 6) Have siding material of a type customarily used on site-constructed residences.
 - 7) Have roofing material of a type customarily used on site-constructed residences.
 - 8) The age of the manufactured house may not exceed ten years from the date of manufacture.
 - b. Type II manufactured home shall:
 - 1) Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit.
 - 2) Utilize a perimeter enclosure in accordance with approved installation standards, as specified in 4.11.02.B.2.

- 3) Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the TR-75, issued June 1972, by the U.S. Department of Defense or by the ANTI/NFPA 501A Standards.
- 4) Have siding material of a type customarily used on site-constructed residences.
- 5) Have roofing material of a type customarily used on site-constructed residences.
- 6) Have a gabled roof with a pitch of at least 3/12 feet.
- 7) The age of the manufactured house may not exceed ten (10) years from the date of manufacture.
- 8) Be placed onto a support system. In accordance with approved installation standards, as specified in Section 4.10.02.2.

2. Installation standards

- a. Permanent Foundation (Permanent Perimeter Enclosure) as required for Type I Manufactured Homes. Those manufactured homes designated in this Ordinance (Type I), as requiring a permanent perimeter enclosure must have footings and crawl space or basement walls. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).
 - i. A crawl space must be constructed of concrete or masonry block grouted solid with one number four (1/2") horizontal rebar, continuous tied to number four rebar verticals placed in the footing four feet (4') on center.
 - ii. The foundation shall be (a) an approved wood basement constructed of 2 x 6 frame work and treated with water resistant materials; or (b) a foundation shall be constructed with eight inches poured concrete or concrete block.
 - iii. The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be sixteen (16) inches below grade and the bottom of the footing to be below the frost line.

b. Foundation Siding/Skirting

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

c. Support System

- 1) All HUD-Code manufactured homes of the Type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.
- 2) Type II manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANTI/NFPA 501A 1977 installation standards.

3. Nonconforming Homes.

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

4. Replacement of Nonconforming Homes.

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

5. Structural Alteration.

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

CHAPTER 4.12 PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS

No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are Type I manufactured homes and Type II manufactured homes without a permanent foundation located in appropriately zoned areas of the community provided said manufactured homes are anchored with tie downs to prevent the manufactured home from dangerous motion during high wind or other weather related events.

CHAPTER 4.13 UTILITY EASEMENTS.

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

CHAPTER 4.14 MOVED IN BUILDINGS

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.
 - a. The fee for said permit as prescribed in Section 3.01.03 shall have been paid.

- b. That it shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical, and construction requirements of the city of Flandreau.
- c. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.
- d. The applicant shall also file with the City Finance Officer a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the city, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.
- e. Any building, which is not newly constructed to be used for first occupancy, shall also meet the following minimum requirements to obtain a permit.
 - i. The written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of more than fifty (50) percent of the number of owners of property within 150 feet (excluding streets and alleys) of said proposed location has been received.

CHAPTER 4.15 SCREENING

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

CHAPTER 4.16 – ADOPTION OF BUILDING CODE

There is hereby adopted by the City of Flandreau, South Dakota, for the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use and occupancy location and maintenance of buildings, and structures, including permits and penalties, that certain building code known as the Uniform Building Code, Abbreviated Edition, recommended by the National Board of Fire Underwriters, (most recent addition) thereof and the whole thereof, save and except such portions that are hereinafter deleted, modified or amended, of which not less than one (1) copy has been and now is filed in the office of the City Finance Officer of the City of Flandreau, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Ordinance shall take effect, the provisions thereof shall be controlling in the construction of all buildings and other structures within the corporate limits of the City of Flandreau.

CHAPTER 4.17 SOUTH DAKOTA HIGHWAY 32 REGULATIONS

1. With respect to all property and improvements located on South Dakota Highway #32 from the Big Sioux River east to the Junction with South Dakota Highway #13, the following rules and limitations regarding encroachments on the public right-of-way shall be complied with:
 - a. All encroachments on or above the right-of-way shall be prohibited.
 - b. The use of the right-of-way by owners or leases of abutting property for the storage of vehicles, placement of portable signs or other private use thereof shall be prohibited.
 - c. Where the highway passes through established business districts and the buildings are at the property line and are continuous or very closely spaced, encroachments overhanging the right-of-way will be prohibited except under the following conditions:
 - i. Awnings, canopies, marquees and similar installations on building shall be permitted to remain in place until such time that they become functionally or structurally obsolete, providing that the edge of such encroachment be not less than one meter back from the face of the curb.
 - ii. Advertising or similar signs which are less than one meter back from the face of the curb and are supported wholly from the front of the building shall be permitted to remain in place until such time that they become functionally or structurally obsolete, providing that the bottom of such encroachment be not less than four and one-half meters (approximately 14.5 feet) above the curb elevation.
 - iii. The replacement of obsolete or the installation of new awnings, canopies, marquees, advertising signs or similar installations supported wholly from the building shall be permitted provided that no part of the encroachment is less than one meter back from the face of the curb and two and one-half meters (approximately 8 feet) above the curb elevation.
 - iv. In the event the encroachments referred to in (1), (2) and (3) above, by reason of color or placement, obscure or in any way detracts from the effectiveness of the highway signs, traffic signals, pedestrian safety, or interferes with the free or safe flow of traffic, the city may cause the removal of such encroachments or take appropriate measures to improve highway signs or traffic signals and traffic safety.
 - v. The provisions of subparagraphs (1), (2), (3) and (4) above shall not apply to isolated businesses or commercial buildings in outlying areas.
 - vi. In cases where there are encroachments of long standing which will in no way impair the highway operation or interfere with the free and safe flow of traffic and in the opinion of the South Dakota Transportation Commission, the immediate removal would impose unreasonable hardship, the South Dakota Transportation Commission may at its discretion permit the encroachment to remain for a specific period. The permission is subject to revocation or extension at the Commission's discretion. On Federal Aid Projects, the permitting of such encroachments as described in this paragraph shall be in conformance with 23 CFR 1.23.
- D. No access to the street/highway at points other than constructed as part of the highway project will be permitted without prior approval of the Department of Transportation or their authorized representatives.

CHAPTER 4.18 SMALL CELL WIRELESS COMMUNICATION FACILITIES (Ordinance 591)

Section 4.18.01 Purpose

The provisions of this Chapter shall be known as the Small Cell Facilities Regulation. It is the purpose of these provisions to develop standards and siting criteria, and to establish

removal procedures. It is further the purpose of these provisions:

1. To establish regulations and siting standards for small cell wireless communication facilities (SCFs), whether in the public right-of-way or on other public or private property, in a manner that will protect the public's health, safety, and welfare and maintain the aesthetic integrity of the community;
2. To facilitate the provisions of wireless communication services; and
3. To provide regulations which are specifically not intended to, and shall not be interpreted or applied to: (a) prohibit or effectively prohibit the provision of wireless services; (b) unreasonably discriminate among functionally equivalent service providers; or (c) regulate wireless communication facilities and wireless transmission equipment on the basis of the environmental effects of radio frequency emissions to the extent that such emissions comply with the standards established by the Federal Communications Commission.

Section 4.18.02 Definitions

As used in this Chapter, the following terms shall have the meanings set forth below:

1. *Administrative Official* – The City Administrator for the City of Flandreau, South Dakota, or such other person(s) designated by either act of ordinance, resolution, motion, or such other official appointment determination made by the Flandreau City Council for the purpose of overseeing the enforcement of this Chapter.
2. *Antenna* – Any communications equipment that transmits or receives electromagnetic radio frequency signals used in the provisions of wireless services. This definition does not include broadcast radio or television antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.
3. *Applicant* – Any person who submits an application as, or on behalf of, a wireless provider.
4. *City* – The City of Flandreau, South Dakota.
5. *Collocation* – The mounting or installation of an antenna or a small cell facility on a pre-existing utility pole or SCF support structure and/or modifying a utility pole or SCF support structure for the purpose of mounting or installing an antenna or SCF

on that utility pole or SCF support structure in order to transmit and/or receive radio frequency signals for communications purposes.

6. *FCC* – The Federal Communications Commission.
7. *Height* – The vertical distance measured from the base of the structure at grade to the highest point of the structure, including the antenna.
8. *Network Interface Device* – The telecommunications demarcation and test point separating the wireless facility and the wireline backhaul facility.
9. *Person* – An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the City.
10. *Public Right-of-Way or Right-of-Way or ROW* – The surface and space above and below any street, sidewalk, avenue, boulevard, alley, lane, easement, right-of-way, highway or thoroughfare open for public use in which the City has an interest in law or equity, whether held in fee, or other estate or interest, or as a trustee for the public.
11. *Small Cell Facility or SCF* – A wireless facility that either meets both of the following qualifications or is within a stealth design that is consistent with the design guidelines:
 - a. Each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has been exposed to the elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three cubic feet; and
 - b. Each provider's equipment enclosures shall be no larger than 28 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meters, concealment measures, network interface device, underground enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switches, cable, conduit, and vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.
 - c. The facility is mounted (i) on a utility pole or SCF support structure 50 feet or less in height including antennas; (ii) on a utility pole or SCF support structure no more than ten percent (10%) taller than other adjacent structures of substantially similar design; or (iii) on an existing utility pole or SCF support structure on which it is to be located to a height of more than the greater of either fifty feet (50') or the height of such utility pole or SCF support structure plus ten percent (10%).
12. *Small Cell Facility Permit* – A permit authorizing the installation, construction, and maintenance of a small cell facility.

13. *Small Cell Facility Support Structure or SCF Support Structure* – A structure, such as a monopole; tower, either guyed or self-supporting; billboard; building; or other existing structure designed to support, or capable of supporting, SCFs. Such term does not include a utility pole.
14. *Stealth Design* – Any SCF that is integrated as an architectural feature of a utility pole or changes a support structure design so that the purpose of the utility pole or SCF support structure for providing wireless services is not readily apparent. This includes the ability of SCFs to blend into the neighborhood environment at a given location and camouflage or conceal the SCF subject to applicable law.
15. *Utility Pole* – A pole or similar structure that is, or may be used, in whole or in part to facilitate telecommunications, electric, distribution, lighting, traffic control, signage, or to carry lines, cables, or other similar function, or for location or collocation of small cell facilities. Such term does not include a SCF support structure.
16. *Wireless Facility* – Equipment at a fixed location that enables wireless services between user equipment and a communications network, including (a) equipment associated with wireless communications; (b) radio transceivers; (c) antennas; (d) coaxial or fiber optic cable located on a utility pole or SCF support structure or immediately adjacent to the utility pole or SCF support structure or directly associated with equipment located on the utility pole or SCF support structure; (e) regular and backup power supplies and rectifiers; and comparable equipment, regardless of technological configuration. The term includes SCFs but does not include (a) the structure or improvements on, under, or within which the equipment is collocated; or (b) wireline backhaul facilities.
17. *Wireline Backhaul Facility* – An above-ground or underground wireline facility used to transport communications data from a wireless facility network interface device to a network.
18. *Wireless Infrastructure Provider* – A person that builds or installs wireless facilities or utility poles or SCF support structures, but not a wireless provider.
19. *Wireless Provider* – A wireless infrastructure provider or a wireless service provider.
20. *Wireless Services* – Any services, using licensed or unlicensed spectrum, including the use of WiFi, whether at a fixed location or mobile, provided to the public.
21. *Wireless Services Provider* – A person who provides wireless services.

Section 4.18.03 Applicability

1. Permit Processing.

For all SCF installation types, including new and replacement utility poles and SCF collocation to existing SCF support structures or existing utility poles, the Administrative Official shall issue permits in accordance with the terms and procedures set forth in this Chapter.

2. Zoning Exemption.

All SCF installations shall be exempt from general zoning restrictions unless a provision of such zoning code is explicitly cited by a section of this Chapter.

3. Exempt Activities.

This Chapter shall not apply to: (a) routine maintenance; or (b) the replacement of an SCF, utility pole, or SCF support structure which was previously approved pursuant to this Chapter with another SCF, utility pole, or SCF support structure that is the same or substantially similar.

Section 4.18.04 Siting and Collocation Criteria

1. SCFs shall:

- a. Be located on existing structures, such as utility poles or SCF support structures; or
- b. Be located on public property and structures if the controlling public entity agrees to the placement.

2. Applications to collocate SCFs at locations other than those listed in Section 4.18.04(1) may not be approved administratively. However, if an applicant certifies that it is not technically feasible, economically feasible, or places an undue burden to collocate an SCF at a location designated in Section 4.18.04(1), the applicant may request a special review of the application as provided under Section 14.18.05(3). Such certification shall include a written statement indicating the reason why said location is not feasible.

Section 4.18.05 Small Cell Facility Permits

1. Permit Required

An SCF permit shall be required to install any SCF, utility pole, or SCF support structure. Applications for an SCF permit shall be considered and approved pursuant to the provisions of this Section. An SCF permit shall be deemed to include all other municipal permits which may be necessary to place and construct an SCF, utility pole, or SCF support structure as represented in an approved application. The granting of an SCF permit pursuant to this Chapter is not a grant of any franchise. All applications shall first be reviewed administratively and then, if not eligible for administrative approval, may be considered via the special review process.

2. General Review Provisions

- a. Review Period. The Administrative Official must approve or deny all SCF permit applications pursuant to this Chapter (i) within ninety (90) days after the date an application is filed for an SCF permit application to place a new utility pole or SCF support structure, or (ii) within sixty (60) days after the date

an application is filed for collocation of an SCF. If approved, the permit shall be issued on or before day ninety (90) or sixty (60).

- b. Tolling of Review Period. An applicant and the Administrative Official can mutually agree in writing to toll the applicable review period at any time.
- c. Final Decision. By the end of the applicable review period, the City must advise the applicant in writing of its final decision. If the final decision is to deny the application, the final decision shall state the basis for denial, including specific code provisions on which the denial is based.
- d. Nondiscrimination. The Administrative Official shall process all applicants under this Chapter in a nondiscriminatory manner. Aesthetic requirements shall be (i) reasonable, (ii) no more burdensome than for other types of infrastructure deployments, and (iii) objective and published in advance.

3. Small Cell Facility Permit Process

- a. Administrative Review Process:

An application submitted pursuant to this subsection shall be reviewed as follows:

- (i) Submission of Application: Applicant shall submit a complete SCF Application accompanied by any corresponding application fee to the Administrative Official.
- (ii) Review for Completeness: The Administrative Official shall review the application for completeness following submittal. The Administrative Official must provide a written notice of incompleteness to the Applicant within ten (10) days of receipt of the SCF Permit Application, clearly and specifically delineating all missing information. Information specified in a notice of incompleteness shall be limited to that which is relevant to the approval or denial of an Application under this Chapter. Applicant shall then submit all information specified in the notice of incompleteness. The applicable review period shall restart at zero on the date the Applicant provides the missing information to complete the application. For subsequent determinations of incompleteness, the applicable review period shall be tolled if the Administrative Official provides written notice within ten (10) days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The applicable review period will continue, and shall not restart at zero, on the date the Applicant provides the missing information identified in a subsequent incompleteness review.
- (iii) An application may not be approved via the Administrative Review Process unless the proposed SCF, Utility Pole, or SCF Support Structure meets all applicable location and design requirements

of this Chapter. An application shall be approved via the Administrative Review Process if the proposed SCF, Utility Pole, or SCF Support Structure meets all applicable location and design requirements of this Chapter.

b. Special Review Process:

- (i) An Applicant may request a Special Review of an application which is not eligible for administrative approval due to not meeting the applicable location or design requirements of this Chapter and where compliance with said requirements is not technically feasible, economically feasible, or poses an undue burden.
- (ii) Special Reviews shall be conducted by the Board of Adjustment in a public meeting. Notice of such meeting shall comply with SDCL 1-25-1.1. The review hearing and final decision shall take place within the applicable sixty (60) or (90) day review period which shall begin on the date a complete application is submitted to the Administrative Official.
- (iii) The Board of Adjustment must approve, by majority vote of all members, an SCF application upon finding that the proposed installation has no reasonable alternative which better fits the location and design requirements of this Chapter. The Board shall deny an application which does have a reasonable alternative which better fits the location and design requirements of this Chapter. For an alternative to be reasonable, the alternative must be technically feasible, economically feasible, and must not impose an undue burden.
- (iv) After the Board of Adjustment has made a determination on an SCF application, the Administrative Official shall issue an SCF permit if the application was approved. If denied, the Administrative Official shall provide a notice of final decision including the grounds upon which the Board of Adjustment denied the application.

4. Small Cell Facility Permit Applications

a. Application Form:

The Administrative Official shall designate or develop an Application Form for an SCF Permit. An Applicant may include requests for new or replacement Utility Poles or SCF Support Structures. The Administrative Official shall allow for Applications to be consolidated pursuant to this Section. Each Applicant must submit a complete Application for each permit desired.

b. Consolidated Applications:

Each SCF Permit request in a Consolidated Application shall be considered individually.

- c. All Applications for the placement of an SCF, including modification or construction of a Utility Pole or SCF Support Structure submitted under this Chapter shall include the following:
 - (i) Photo Simulations: A photo simulation of a reasonably representative installation type that includes to-scale visual simulations that show unobstructed before-and-after construction daytime views from at least two angles, together with a map that shows the location of the proposed installation, including all equipment. A separate set of such materials shall be required for any design which is materially different.
 - (ii) Noise Study: A noise study for the SCF (1) requested by the City, (2) the proposed site is within twenty (20) feet of a residential structure, and (3) the application proposes to utilize equipment which may produce a persistent or chronic audible tone at such distance.
 - (iii) Radio Frequency (RF) Emissions Compliance: Whereas the FCC has exclusive jurisdiction to establish radio frequency emission safety standards, the City may only require a written report or statement, signed and sealed by a South Dakota licensed engineer or signed by a competent employee of the applicant, which explains compliance with the RF emissions limits established by the FCC.
 - (iv) Utility Pole or SCF Support Structure Inspection: For collocations or modifications to existing Utility Pole or SCF Support Structure, Applicant shall inspect the structure to which a proposed SCF would be attached and determine, based on a structural engineering analysis by a South Dakota registered professional engineer, the suitability of the Pole or structure for the Applicant's purposes. The structural engineering analysis shall be submitted to the Administrative Official and shall certify that the Utility Pole or SCF Support Structure can reasonably support the proposed SCF.
 - (v) New and Replacement Utility Poles and SCF Support Structures: For new and replaced Utility Poles and SCF Support Structures, Applicant shall submit foundation drawings demonstrating the foundation and new or replacement Utility Pole or SCF Support Structure can reasonably support the SCF.
 - (vi) Design Justification: A clear and complete written analysis that explains how the proposed design complies with the applicable design standards under this Section. A complete design justification must identify all applicable design standards under

this Chapter and provide a factually detailed reason why the proposed design either complies or cannot feasibly comply.

- (vii) Site Plan: A site plan clearly indicating the location, type, height and width of the proposed pole, on-site land uses and zoning, adjacent land uses and zoning, distances to nearby objects, structures, and property lines, adjacent roadways, proposed means of access, utility runs, and other information which may uniquely impact the SCF's fitness for a particular site.
- (viii) Aesthetic Compliance Summary: An explanatory statement of aesthetic considerations and requirements factored into Applicant's design such as stealthing, finishing, fencing, landscaping, or other elements which may impact the visual appeal of the SCF.
- (ix) A clear and complete written statement of purpose which shall minimally include: (1) a description of the technical objective to be achieved; (2) a to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and (3) full-color signal propagation maps.

5. General Standards

a. Utility Pole Design:

An existing Utility Pole may be replaced or extended to accommodate Small Cell Facilities subject to the following requirements:

- (i) Replacement and New Utility Poles: Replacement Utility Poles shall be substantially similar to the width, color, and material of the original or adjacent Utility Poles. The City may approve minor deviations up to the minimum additional height needed to allow for the required clearance from electrical wires to accommodate an antenna or antennas and may also approve minor deviations up to fifty percent (50%) of the pole width at its base, not to exceed thirty inches (30"), when housing equipment is placed within the pole base. Replacement Utility Poles shall be located as close as possible to the existing Utility Pole, and the replaced Utility Pole shall be removed. Replacement street lights and poles shall conform to the adopted streetscape design standard for the zoning district. New Utility Poles shall mimic the design of a Replacement Utility Pole that is most suitable for the proposed location.
- (ii) Replacement and Existing Utility Pole Height: The height of any antennas at the top of a replacement or existing Utility Pole or any pole extender, shall be no higher than the greater of either fifty feet (50') or the height of such Utility Pole or SCF Support Structure plus ten percent (10%).

- (iii) **Equipment Concealed:** Whenever technically feasible, antennas, cabling, and equipment shall be fully concealed within a Pole, or otherwise camouflaged to appear to be an integrated part of a Pole.
- (iv) **Flush-Mounting and Pole-top Antennas:** When technically feasible, antennas will be flush-mounted on a Pole, which means either: (1) mounted directly to the pole with no gap other than that which may be required for screws, bolts, or similar hardware; (2) located at the top of the Pole; or side mounted by mounted arm as needed for required clearance . Canisters attached to the top of a Pole shall not exceed the diameter of the Pole, unless technically required, and then shall not be more than fifty percent (50%) greater than the diameter of the Pole at the point of attachment or up to sixteen inches (16”) in diameter, whichever is greater.
- (v) **Antenna Design:** Each antenna shall be located in an enclosure of no more than three (3) cubic feet in volume, or in case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than three (3) cubic feet.
- (vi) **No Illumination:** Small Cell Facilities shall not be illuminated except for small status LEDs installed by the manufacturer. Such LEDs may not be of a nature which is likely to distract a vehicle or pedestrian due to brightness, size, blinking, other similar condition, or any combination thereof.
- (vii) **Generators and Battery Backup:** Generators are not permitted for Small Cell Facilities. A battery backup may be permitted if it is concealed consistent with the provisions of this Chapter.
- (viii) **Cabinet Location and Dimensions:** Any equipment cabinet for a Small Cell Facility shall utilize the smallest cabinet enclosure that is technically feasible to enclose the equipment. Disconnect switches may be located outside of the primary equipment cabinet.
- (ix) **Painting, Coating, or Finish Material:** The exterior of an SCF shall be painted, coated, or be of a material which draws minimal attention from an observer. For example, an SCF painted in blaze orange or safety green is highly likely to draw attention and be distracting. An SCF finished with polished aluminum is more likely to be distracting than an SCF finished with matte grey paint.

b. **Ground-Mounted Equipment:**

To allow full use of the Public Right-of-Ways by pedestrians, bicyclists, and other users, all ground-mounted equipment, excluding antennas, shall to the

extent feasible be either (i) underground, (ii) incorporated into street furniture, or (iii) concealed in the base of a Pole, and in all cases shall comply with the Americans with Disabilities Act (ADA), City construction standards, and any applicable State or federal regulations in order to provide clear and safe passage within the Public Right-of-Ways. The location of any ground-mounted equipment shall also comply with the Americans with Disabilities Act (ADA), City Construction Standards, and any applicable State or federal regulations in order to provide clear and safe passage within the Public Right-of-Ways.

c. Building-Mounted Small Cell Facilities:

Antennas may be mounted to a building if the antennas do not interrupt the building's architectural theme.

- (i) **Balanced Design:** Small Cell Facilities attached to the side or roof of buildings shall employ a symmetrical, balanced design for all façade-mounted antennas. Subsequent deployments on a structure's exterior will be required to ensure consistent design, architectural treatment and symmetry with any existing Small Cell Facilities on the same side of the structure.
- (ii) **Architectural Preservation:** The interruption of architectural lines or horizontal or vertical reveals is prohibited unless demonstrated to be unavoidable.
- (iii) **Complementary Architecture:** New architectural features, such as columns, pilasters, corbels, or other ornamentation that conceal an antenna or antennas, may be used only if the new feature complements the architecture of the existing building.
- (iv) **Mounting Brackets:** Small Cell Facilities shall utilize the smallest mounting brackets necessary in order to provide the smallest offset from the building.
- (v) **Concealment:** Skirts or shrouds shall be utilized on the sides and bottoms of antennas in order to conceal mounting hardware, create a cleaner appearance, and minimize the visual impact of the antennas. Exposed conduit, cabling and wiring is prohibited.
- (vi) **Matching Paint:** Small cell facilities, and all visible mounting hardware, shall be painted and textured to match adjacent building surfaces.
- (vii) **Permission:** All installations of a Small Cell Facility shall have permission from the Utility Pole or SCF Support Structure owner to install the Small Cell Facility on such Utility Pole or SCF Support Structure. Nothing in this Section affects the need for an Applicant seeking to place a Small Cell Facility on a Utility Pole or SCF Support Structure that is not owned by the City to obtain from the owner of the Utility Pole or SCF Support Structure any

necessary authority to place the Small Cell Facility, nor shall any provision of this Section be deemed to affect the rates, terms, and conditions for access to or placement of a Small Cell Facility on a Utility Pole or SCF Support Structure not owned by the City. This Section does not affect any existing agreement between the Administrative Official and an entity concerning the placement of Small Cell Facilities on any City-owned Utility Pole or SCF Support Structure.

d. Preferred Projecting or Marquee Sign:

Small Cell Facilities replicating a projecting or marquee sign must comply with the City's sign regulations. All antennas shall be completely screened by the façade of the sign. All cables and conduit to and from the sign shall be routed from within a building wall. Cable coverings may be allowed on the exterior of the building wall in limited circumstances and in situations where the coverings are minimally visible and concealed to match the adjacent building surfaces.

e. Parking Lot Lighting:

Small Cell Facilities are permitted as attachments to or replacements of existing parking lot light fixtures. The design of the parking lot light fixture shall be in accordance with applicable Municipal Code and Construction Standards, except that a pole extender up to five (5) feet in height may be utilized.

f. Purely Aesthetic Standards:

To the extent that a requirement is purely aesthetic, an SCF applicant shall not be required to meet a more burdensome standard than other users of the right-of-way. Other users of the right-of-way shall meet the purely aesthetic standards of this Chapter for new or replacement deployments to the extent which is technically and economically feasible.

6. Permit Conditions

- a. A permittee shall comply with all applicable law, including, but not limited to, applicable historic preservation ordinances of the City and utility undergrounding requirements.
- b. Issuance of any permit pursuant to this Chapter shall not confer any ownership rights in the Public Right-of-Way.
- c. No permittee may construct, operate, place, locate, or maintain any Small Cell Facility so as to interfere with the use of the Public Right-of-Way by the City, the general public, or any other persons authorized to use or be present in or upon the Public Right-of-Way.

- d. No permittee or affiliate thereof shall take any action or cause any action to be done which may impair or damage any ROW, or other property located in, on or adjacent thereto. Any and all Public Right-of-Way, public property, or private property that is disturbed or damaged by the permittee or affiliate thereof during the construction, operation, maintenance, or repair of a Small Cell Facility shall be promptly repaired by permittee. In the event permittee fails to make such repairs within a reasonable time period, the City may complete or cause to be completed the repair work and bill the actual and reasonable costs to the permittee. Public property, private property, and Public Right-of-Way must be restored to as good a condition as before the disturbance or damage occurred to the reasonable satisfaction of the City.
- e. In the event of an unexpected repair or emergency, the owner of a Small Cell Facility may commence such repair and emergency response work as required under the circumstances, provided it shall notify the City promptly before such repair or emergency work, or the next day thereafter if advance notice is not practicable.
- f. Each permittee shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state, and local requirements. Permittee shall be responsible for all electrical or other utility costs associated with operating each installed SCF.
- g. Every Small Cell Facility shall be subject to the right of periodic inspection by the City, after notification to the Small Cell Facility owner. Each operator must respond to requests for information regarding its system and plans for the system as the City may from time to time issue, including requests for information regarding its plans for construction, operation and repair of the Public Right-of-Way.
- h. The City retains the right and privilege, after notifying the Small Cell Facility owner, to move any Small Cell Facility located within the Public Right-of-Way as the City may determine to be necessary, in response to any public health or safety emergency.
- i. To the extent permitted by South Dakota law, the City shall not be liable for any damage to any Small Cell Facility within the Public Right-of-Way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the Public Right-of-Way by or on behalf of the City, except to the extent such damage is due to or caused by the City's negligence or willful misconduct.
- j. Restoration shall comply with the following:
 - (i) When a permittee, or any person acting on its behalf, does any work in or affecting any Public right-of-way, it shall, at its own expense, promptly remove any obstructions therefrom and restore such right-of-way or property to the same, or better than the, condition which existed before the work was undertaken. As used in this Section, "promptly" shall mean as soon as required by the City in the reasonable exercise of the City's discretion.

- (ii) If weather or other conditions do not permit the complete restoration required hereunder, the permittee shall temporarily restore the affected right-of-way or property. Such temporary restoration shall be at the permittee's sole expense, and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.
 - (iii) A permittee or other person acting on its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting the right-of-way.
 - (iv) Restoration and repair work shall be the responsibility of the permittee for two (2) years after completion thereof. Such work shall be limited to further restoration or repairs arising out of deficient completion of the initial work but shall not include further restoration or repairs arising out of events not related to the initial completion of the work.
- k. The site and Small Cell Facilities and SCF Support Structures, including all landscaping, fencing and related transmission equipment must be maintained at all times in a neat and clean manner and in accordance with all approved plans. This includes, but is not limited to, mowing, weeding and trimming.
- l. All graffiti on Small Cell Facilities must be removed at the sole expense of the permit holder after notification by the City to the owner or operator of the small cell facilities.
- m. Certificate of Completion
 - (i) A certificate of completion will only be granted upon satisfactory evidence that the SCF was installed in substantial compliance with the approved plans and photo simulations.
 - (ii) If it is found that the SCF installation does not substantially comply with the approved plans and photo simulations, the applicant shall make any and all such changes required to bring the SCF installation into compliance within the timeframe established by the municipality. Failing to obtain a Certificate of Completion within the applicable timeframe shall cause a permit to be revoked.
- n. Compliance: All Small Cell Facilities must comply with all standards and regulations of the FCC and any State or other federal government agency with the authority to regulate small cell facilities.
- o. Applicant Insurance

Each applicant shall secure and maintain liability insurance policies, as accepted by the City, insuring the applicant and including the City, and its elected and appointed officers, officials, boards, commissions, agents, representatives, and employees as additional insureds, as their interest may appear under this Section except workers compensation and employer's liability, which insurance shall be maintained during and for one (1) years after termination of the permit. Expected coverage shall be the same or substantially similar to the following:

- (i) General liability insurance with limits of:
 - 1. \$5,000,000.00 per occurrence for bodily injury (including death); and
 - 2. \$2,000,000.00 for property damage resulting from any one accident; and
 - 3. \$5,000,000.00 general aggregate including premise-operations, products/completed operations, and explosions, collapse and underground hazards.
- (ii) Automobile liability for owned, non-owned and hired vehicles in the amount of \$2,000,000 combined single limit for each accident for bodily injury and property damage.
- (iii) Worker's compensation within State statutory limits and employer's liability insurance with limits of \$1,000,000 each accident/disease/policy limit.

Upon receipt of notice from its insurer(s), Applicant shall provide City with thirty (30) days prior written notice of cancellation of any required coverage.

The applicant shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section.

p. Financial Assurance

Upon approval of an SCF application, the permittee shall post a bond, letter of credit, or other form of surety acceptable to the City.

- (i) The purpose of such financial assurance shall be to:
 - 1. Provide for the removal of abandoned or improperly maintained SCFs, including those that the City determines need to be removed to protect public health, safety, or welfare;
 - 2. Restoration of the ROW in connection with removals as provided for in this Chapter; or
 - 3. Recoup rates or fees that have not been paid by the permittee in over 12 months, so long as the permittee has received

reasonable notice from the City of any of the non-compliance listed above and an opportunity to cure.

- (ii) The amount of the financial assurance shall be \$200.00 per approved SCF permit. For permittees with multiple SCFs within the City, the total amount of financial assurance across all facilities may not exceed \$10,000.00, which amount may be combined into one surety instrument.

7. Relocation

All Small Cell Facilities shall be constructed and maintained so as not to obstruct or hinder the usual travel on or safety of the public right-of-way or obstruct any legal use of the City's right-of-way or uses of the right-of-way by utilities or other providers. If, in the reasonable determination of the City, a Small Cell Facility needs to be relocated for reasons of public health, safety or welfare, or ROW maintenance or construction projects, then the Small Cell Facility shall be relocated at the owner's or operator's expense. If the owner or operator of the Small Cell Facility fails to complete any relocation as required by the City within ninety (90) days of mailing of written notice, the City may commence and complete the relocation and charge the owner or operator of the Small Cell Facility for the actual and reasonable costs of the relocation, including reasonable any attorneys' fees and expenses.

8. Removal of Abandoned Small Cell Facilities, Utility Poles, and other SCF Support Structures

Any SCF, Utility Pole or other SCF Support Structure that is not operated for a continuous period of twelve (12) months or is no longer authorized by a Small Cell Facility Permit, or other permit, shall be considered abandoned, and the owner of such SCF, Utility Pole or other SCF Support Structure shall so notify the City in writing and remove the same within ninety (90) days of giving notice to the City of such abandonment. Failure to remove an SCF, Utility Pole, or other SCF Support Structure within said ninety (90) days shall be grounds for the City to remove the SCF, Utility Pole, or SCF Support Structure, at the owner's expense, including all costs and reasonable attorneys' fees.

If there are two (2) or more users of a single Utility Pole or SCF Support Structure, then these provisions shall not become effective until all users cease using the Utility Pole or SCF Support Structure.

9. General Indemnification

In addition to, and distinct from, the insurance requirements of this Chapter, each Applicant hereby agrees to defend, indemnify and hold harmless the City and its officers, officials, boards, commissions, employees, agents and representatives from and against any and all damages, losses, claims and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from

or alleged to arise out of or result from the acts, omissions, failure to act or misconduct of the applicant or its affiliates in the construction, installation, operation, maintenance, repair, removal or replacement of the SCF. This Section shall not require the Applicant to indemnify or hold harmless the City for any losses, claims, damages, and expenses arising out of or resulting from the negligence or willful misconduct of the City.

10. Appeal Process

If a permit is denied in the administrative review process, then the applicant may appeal that decision to a court of competent jurisdiction or the Federal Communications Commission.

11. Application Fees and Rates

a. Application Fees:

A permit for SCF including a Utility Pole or SCF structure shall be limited to \$500 for up to five SCFs, and \$100 for each additional SCF on the application.

b. Recurring Fees:

A wireless provider authorized under this Chapter to place SCFs upon any related Utility Pole or SCF Support Structure in the ROW shall pay to the City an annual ROW access fee of up to \$270 per site per year to cover all recurring fees, including the cost of ongoing monitoring of each site for compliance with the terms of this Chapter and for the health, safety, and welfare of the general public, and for the attachment of SCF's to City-owned or controlled Utility Poles or SCF Support Structures. Recurring fees shall be paid annually in accordance with the City's standard billing or invoicing procedures, as the case may be. The City Council shall establish and adjust recurring fee rates by resolution.

c. The application fee and the recurring fees under this Section shall be the sole compensation that the Wireless Provider shall be required to pay the City. However, the rates of either the application fee or the recurring fees may be increased due extreme circumstances but in no case may such fees exceed a reasonable approximation of the City's actual and reasonable costs. In addition, such fees must be objectively reasonable, and no higher than charged to similarly-situated competitors in similar situations.

12. Severability

The various parts, sentences, paragraphs, Sections and clauses of this Chapter are hereby declared to be severable. If any part, sentence, paragraph, Section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

13. Conflict

Subject to the limitation set forth in this Chapter, these Small Cell Facilities Regulations are in addition to other regulations in the Municipal Code. In case of a conflict between regulations, and provided the regulation is consistent with federal law, the more restrictive provisions shall apply.

ARTICLE V DEFINITIONS

CHAPTER 5.01 GENERAL TERMS (Ordinance 583)

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

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

Animal unit: One animal unit is equivalent to 1.0 feeder/slaughter cattle, 0.5 horse; 0.7 mature dairy cow; 2.5 finishing swine; 10 nursery swine; 10 sheep/goats; 55 turkeys; 5 ducks/geese; 30 hens, cockerels, capons, broilers.

Apartment House: An apartment house is a detached dwelling designed for, or occupied by, four or more family units.

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

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

Basement: A Basement has more than one-half (1/2) of its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes.

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

1. B & B's shall be limited to residential structures with an overall minimum of one thousand eight hundred (1,800) square feet of floor. Preference will be given to structures with historic or other unique qualities.
2. They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.
3. Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than one (1) square foot in area.

4. Such uses shall be an incidental use with an owner occupied principal dwelling structure provided that not more than four bedrooms in such dwelling structure shall be used for such purpose.
5. Off-street parking requirements shall be one space per guestroom and shall be in addition to parking requirements for the principal use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.
6. The length of stay shall not exceed fourteen (14) days during any one hundred twenty-- (120) day consecutive period.
7. Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.
8. The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

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

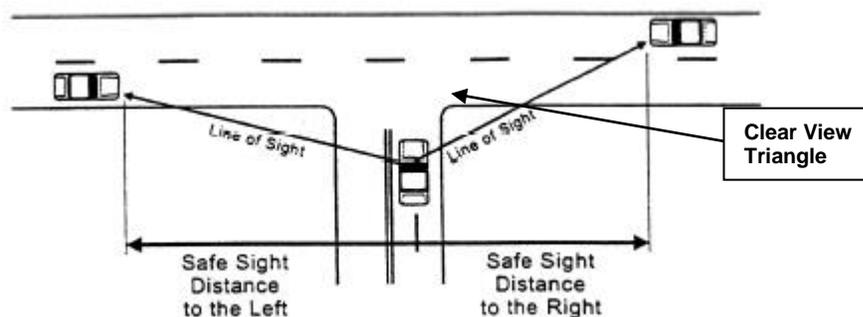
Building Area: The portion of a lot remaining after required yards have been provided.

Building, Principal: A non-accessory building in which is conducted the principal use of the lot on which it is located.

City Council: The governing body of the City of Flandreau.

City Planning and Zoning Commission: The members appointed by the City to serve in an advisory capacity on planning and zoning matters.

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



Comprehensive Plan: The adopted long-range plan intended to guide the growth and development of City of Flandreau.

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

Day Care Center, Licensed: Any operation, which provides childcare services. To be considered a Day Care Center under these regulations, the State of South Dakota must license such operation.

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

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

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

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

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

Eave: The lower edge of a sloping roof that part of a roof which projects beyond the wall.

Eave Height: The vertical dimension from finished grade to the eave.

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

Farm Unit: An area of ten (10) acres or more on which a bonafide business with the purpose or producing agriculture products and the incidental uses of horses, dogs, or other animals and other similar operations; but specifically excluding greenhouses, horticultural nurseries, and kennels and other similar commercial operations. For purposes of this Ordinance, all land in like ownership being operated as a single economic unit shall be considered to be part of a single farm unit.

Feedlot: A feedlot is a lot, yard, corral, building or other area where animals in excess of ten (10) animal units per acre or in excess of animal units per parcel of land have been, are, or will be stabled or confined for a total of 45 days or more during any twelve-month period, and where

crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility.

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

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

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

Home Occupation: An occupation conducted in a dwelling unit, provided that:

1. No person other than members of the family residing on the premises shall be engaged in such occupation;
2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation;
3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding four (4) square-feet in area, non-illuminated, and mounted flat against the wall of the principal building; and
4. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street.
6. Notwithstanding the preceding standards, any operation that provides care for more than 12 children in a 24-hour period shall not be considered a home occupation.

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

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

Kennel: Any premise or portion thereon where more than three (3) dogs, cats, or other household pets are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

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

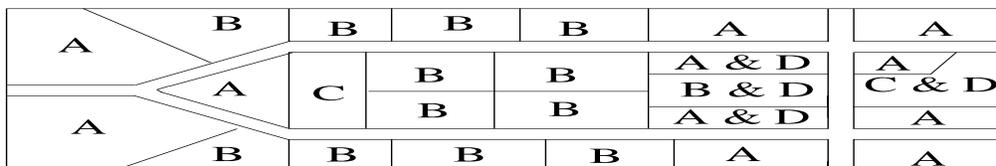
Lot: A lot is any plot or parcel of land of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required.

1. **Lot Area:** The lot area is the land in square feet, within the lot lines.
2. **Lot depth:** The depth of a lot is the mean distance from the street line of the lot to its rear line, measured in the general direction, of the side line of the lot.
3. **Lot Width:** the width of a lot is the mean distance between side lot lines measured at a point of fifty (50) feet from the street line thereof.

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

Lot of Record: A lot which is part of a subdivision recorded in the office of the Moody County Register of Deeds, prior to the adoption of this ordinance.

Lot Types: See figure below:



Corner lot: defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (Lot A and Lot A & D)

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

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

Reversed Frontage Lot: defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (Lot A & D in the diagram), an interior lot (Lot B & D in the diagram) or through lot (Lot C & D in the diagram).

Manufactured Home: See Section 4.11.02

Manufactured Home Park: See section 2.07.05

Modular Home: See Section 4.11.01

Moved-In Building: A building that previously existed on a lot of different location relocated for use as a residence, out-building, commercial, industrial or any building used in relation to these uses shall be recognized as a moved-in building.

Nonconforming Use: Any building or structure, or land lawfully occupied by a use at the time of passage of this ordinance or amendment which does not conform after the passage of this Ordinance or amendment with the use regulation of the district in which it is situated.

Outdoor Advertising Business: Provisions of outdoor displays or display space on a lease or rental basis only.

Parking Space, Off-street: An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with related access to a public street or alley, and maneuvering room. For purposes of rough computation, an off-street parking space may be estimated at three hundred (300) square feet.

Parish House: The primary residence of a clergyman or clergywoman and their immediate family.

Permanent Foundation: (a) an approved wood basement constructed of 2 x 6 framework and treated with water resistant materials; or (b) a foundation shall be constructed with eight inches of poured concrete or concrete block. The foundation shall be to a depth below the frost line.

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

Person: In addition to an individual, includes the following terms: "firm", "association", "organization", "partnership", "trust" "company", or "corporation".

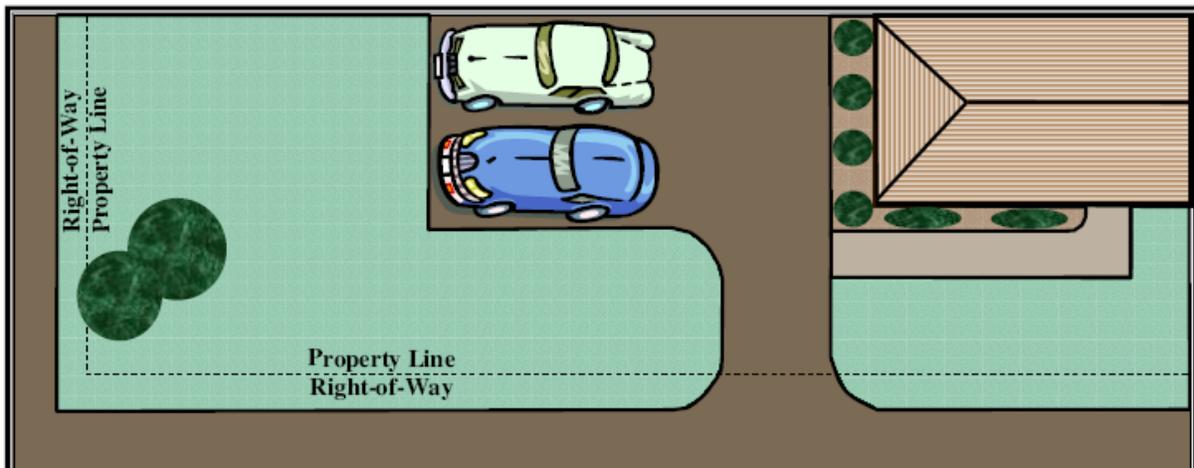
Plat: The map, drawing or chart on which the subdivider's plan of subdivision is legally recorded.

Scale or Auction Yard/barn: A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one day during sale or auction.

Setback: The setback of a building is the minimum horizontal distance between the front line or street line and the nearest edge of any building or any projection thereof, except cornices and unenclosed porches, and entrances vestibules and window bays projecting not more than three and one-half (3 1/2) feet from the building and not more than fifty (50) square feet in area, and which do not extend above the first story of the building.

Should: Means that the condition is a recommendation. If violations of this regulation occur, the County will evaluate whether the party implemented the recommendations contained in this regulation that may have helped the party to avoid the violation.

Street Line: A right-of-way line of a street. (See graphic below)



Street: A right-of-way, dedicated to public use, which affords a primary means of access.

Structure: Anything constructed or erected with affixed location on the ground, or attached to something having fixed location on the ground. Among other things, structures include, but are not limited to, buildings, manufactured homes, walls, fences, billboards, swimming pools, and signs.

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

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

Yard: An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line.

Yard, Front: A yard extending between the side lot lines across the front of a lot adjoining a public right-of-way.

Depth of required front yards shall be measured at right angles to a straight line adjoining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

Yard, Rear: A yard across the whole width of the lot, extending from the rear line of the building to the rear line of the lot. In the case of through lots and corner lots, where there will be no rear yards, but only front and side yards.

Yard, Side: A yard between the building and the adjacent sideline of the lot, which separates it from another lot, extending from the front lot line to the rear yard. In the case of through lots and corner lots, side yards remaining after the full and half-depth front yards have been established shall be considered side yards.

Wetlands: Any area where ground water is at or near the surface at least six (6) months of the year; the boundary of which shall be defined as that area where the emergent aquatic vegetation ceases and the surrounding upland vegetation begins.

Zoning district: A section of the city for which the regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.

